

ARTICLE 100
TITLE, ENACTING CLAUSE, & PURPOSE

SECTION 101 ENACTING CLAUSE

Pursuant to the authority conferred by Article 17 of Village Law, of the State of New York, and for each of the purposes specified therein, the Village Board of the Village of Sinclairville, County of Chautauqua and State of New York, has ordained and does hereby enact the following, regulating, and restricting the location, size and use of buildings and other structures and the use of the land in the Village of Sinclairville.

SECTION 102 SHORT TITLE

This shall be known and may be cited as the “Zoning Law of the Village of Sinclairville, County of Chautauqua, State of New York,.”

SECTION 103 INTENT & PURPOSE

For the purpose of promoting the public health, safety, morals, comfort and general welfare; conserving and protecting property and property values; securing the most appropriate use of land; lessening or avoiding congestion in the public streets and highways; and facilitating adequate but economical provision of public improvements the Village Board finds it necessary and advisable to regulate the location and use of buildings and other structures; lot area; setback building lines; size(s) of yards, courts, and other open spaces; and the use of land for trade, industry, residence, recreation or other purposes, and for such purpose divides the incorporated area of the Village into districts or zones.

SECTION 104 APPLICATION OF REGULATIONS

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with regulations herein specified for the district in which it is located.
- B. No building shall hereafter be erected or altered without the proper permits:
 - 1. To accommodate or house a greater number of families,
 - 2. To occupy a greater percentage of lot area, or
 - 3. to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such building is located.

C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Law shall be included as part of a yard or other open space similarly required for another building.

D. The final responsibility of the conforming of buildings and use to the requirements of this Zoning Law shall rest with the owner or owners of such building or use and the property on which it is located.

E. Any lawfully established use of a building or land, at the effective date of the Text or of amendments thereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal non-conforming use and may be continued, except as otherwise provided herein.

F. The lawful use of land for agricultural purposes and the construction, enlargement, or use of non-residential buildings directly incident to the same agricultural use shall be permitted in rural resource districts and as otherwise established by this Text and no zoning permit shall be required for any such use or non-residential buildings. Provided, however, that such non-residential buildings shall be required to observe the setback and yard requirements specified for the district in which they are located.

G. It shall be the responsibility of each landowner in the Village of Sinclairville to maintain his/her property in a manner that would promote and retain an aesthetically pleasing community, by minimizing nuisances and visually unattractive structures, development, and accumulations, and in a manner that would limit the depreciation in value of surrounding properties within the Village.

H. Other Related Regulations – The following regulations shall, as applicable, be complied with prior to occupancy or where specifically stated prior to issuance of a zoning permit:

1. Subdivision Laws – Existing local and/or State subdivision laws must be complied with in addition to this Zoning Law.

2. National Flood Insurance Program – it shall be the responsibility of the applicant for a zoning/building permit to insure that the National Flood Insurance Regulations in addition to Zoning Regulations shall be complied with for those parcels located within the flood plain as shown on official Flood Insurance Administration maps.

3. Health Department Rules – In areas not served by municipal sewer or water systems, the regulations of the State and County and Local Health Departments with respect to water supply and sewage disposal facilities will apply. The applicant for a building or zoning permit must obtain a copy of the required health department permits for attachment to the applicant's application, before the issuance of local approval.

4. Fire & Building Code – No structure shall be erected, altered, or used unless it complies with the New York State Uniform Fire & Building Code.

5. Wetland – Development taking place within 100 feet of State designated wetlands requires a DEC permit.

6. Right-of-way Crossing – The appropriate Highway superintendent should be contacted and give permission for construction prior to constructing a driveway or any other activity involving a highway right-of-way.

7. Excavation & Utility Lines – Any contractor and/or person excavating shall notify the Municipal Clerk to obtain a current list of operators of underground facilities in accordance with Part 53, Title 12, Rules and regulations of the State of New York. All contractors and/or person excavating shall then notify all “operators” 10 days prior to commencing the excavation.

ARTICLE 200
DEFINITIONS & RULES

SECTION 201 LANGUAGE AND INTERPRETATIONS

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

Words used in the present tense include the future tense.

The singular includes the plural.

The word “person” includes a corporation, partnership, or other business entity, as well as an individual.

The word “lot” includes the word “plot” or “parcel”.

The term “shall” is always mandatory.

The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

SECTION 202 DEFINITIONS

Accessory Structure or Use – A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Agriculture – Land, including necessary buildings and structures, that has as its principal use the raising and keeping of livestock or the growing of crops in the open.

Apartment House – A building arrangement, intended or designed to be occupied by 3 or more families living independently of each other. Condominiums shall be considered to be apartments.

Billboard – Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located. Any sign over two hundred (200) square feet in size shall be considered to be a billboard.

Building – Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or chattels.

Buffer – A wall, hedge, fence, open space, row of trees, or any other appropriate means of separating different uses or districts in order to protect the less intense use from the potential nuisances associated with the more intense use.

Building Line – A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this Law.

By Right – Refers to uses requiring a permit but with no public hearing required.

Campground – Any area designed for transient occupancy by camping in tents, camp trailers, motor homes, truck cap campers, pickup campers or a similar facility designated for a temporary shelter. A campground can not own trailers or structures and rent them to others unless it first obtains a permit for a new commercial use for a tourist accommodation or mobile home park.

Cluster Development – A development of five (5) acres or more where a developer may elect, after Board approval, to cluster or group his development in return for the permanent creation of common areas. Overall, the density of development remains approximately the same as required by the district area requirements.

Commercial – Done or acting for profit.

Day Care Center – A structure, together with its lot, operated on a regular basis, for the purpose of providing daytime care and instruction for 5 or more children up to 5 years of age. Similar uses going under names such as Day Nurseries, shall for the purpose of this Law be considered to be Day Care Centers.

Deck – An unroofed open structure projecting from an outside wall of a structure without any form of enclosure.

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.

Display Face – The portion of the sign structure carrying the advertisement.

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

Dumpster – A refuse receptacle capable of holding one yard or more of refuse.

Duplex – A dwelling arranged, intended, or designed to be occupied by 2 families living independently of each other.

Dwelling Unit – One (1) or more rooms providing living facilities, including equipment and provision for cooking, for a single household including one (1) or more person living as a family. Dwelling units shall be categorized by four (4) construction types:

A. **Conventional** – A permanent single or multiple-family dwelling unit which is built on site using conventional “stick” construction techniques among others.

B. **Modular** – A permanent single or multiple-family dwelling unit which is brought to the building site as two (2) or more units on a transport trailer. Modular dwelling units have no support frames as found on mobile homes but instead are placed on a permanent foundation. Modular dwelling units contain the same utility systems as conventional dwelling units. Modular dwellings units are not designed to be moved after they have been lifted onto a foundation. They are a minimum of twenty-four (24) feet wide. This also includes double-wide mobile dwelling units which are placed upon a permanent foundation.

C. **Prefabricated** – A permanent single or multiple-family dwelling unit which is built on site from pre-cut and partially assembled building members. Prefabricated dwelling units are usually of the same construction techniques as conventional dwelling units but are generally purchased as a pre-designed and pre-cut package for assembly on site.

D. **Mobile Home** – A transportable, fully assembled single-family dwelling unit suitable for year-round occupancy. Mobile dwelling units contain the same systems (water, waste, electricity) as found in conventional dwelling units. Mobile dwelling units are support by a chassis which is an integral part of the unit. Mobile dwelling units are not designed to be lived in except when set up on a lot with proper utilities. This includes double-wide mobile dwelling units, except when placed upon a permanent foundation, but does not include travel trailers which are self-contained. For the purpose of this Law, mobile homes are listed separately as allowed uses and are not considered to be single-family units.

Enforcement Officer – Shall mean the Zoning Officer of the municipality.

Essential Services – The erection, construction, alteration, or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution, or disposal systems necessary for the furnishing of adequate public health, safety or general welfare, but not including buildings.

Exotic Animal – includes those animals defined in both Federal and New York State Law and regulations and includes wolf and wolf-dog hybrids.

Family Day Care Home – In accordance with Sections 390 of the Social Services Law, an individual's home used to care for 3 to 6 children away from their homes for less than 24 hours per day for compensations for more than 5 hours per week. The provider's own children under 6 years old shall be counted toward the maximum number allowed. An annual permit from the Social Service Department is required with the applicant required to verify fitness to care for children, sound health, sufficient finances, and adequate physical plan, etc.

Farm – Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, and/or dairy products. It includes necessary farm structures and the storage of equipment used.

Farm Animals – Livestock, poultry

Farm Market – An operation selling agricultural produce and plant materials which have been grown on- or off-site (edible and nonedible) and other incidental and ancillary items

such as fertilizers, herbicides and pesticides, lawn and garden tools and equipment, and lawn furniture.

Group Camp – Any land or facility for seasonal housing and recreational, education- or business-related use by private groups or semiprivate groups, such as a Boy or Girl Scout Camp, fraternal lodge or university or college conference center.

Heavy Equipment – Automobile wreckers, commercial trailers, semi-trailers, or any vehicle or truck with three or more axles, which is subject to vehicle regulations and state inspections, for use on public highways.

Heavy Vehicles – after three or more axles, and/or dual wheels (four wheels mounted on the rear axle of a commercial vehicle. This definition is intended to include heavy commercial vehicles set forth in Section 613 of the Zoning Law.

Home for Aged – A structure principally used to house senior citizens in which a separate household is established for each family. Nursing homes are not considered to be a home for aged.

Home Occupation – A use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

Industry, General – The manufacture, preparation, processing, milling or repair of any article, substance, or commodity, and which involves no dangerous or toxic product or emissions. Additionally, noise, odors, or other nuisances incidental to productions and processing shall be limited to a level which does not affect the use or enjoyment of property.

Industry, Heavy – A heavy industry is defined as any process of goods or articles by hand or machine in such a manner that 1 or more of the following may carry beyond the boundary of the property upon which the industry is located: fire hazard, radioactivity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution, or glare. The storage of raw material, component parts, and waste materials by necessity must be carried on outside of a building.

Industry, light – A light industry is any processing of goods or articles by hand or machine, conducted within an enclosed building in such a manner that no fire hazard, radioactivity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution, or glare may be detected beyond the boundary lines of the property and all raw material, component parts, finished products, and waste material is within an enclosed building.

Junk Yard and/or Salvage Yard – A lot, land, or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags, or similar materials including storage of two (2) or more inoperative motor vehicles.

Loading & Unloading Space, Off-Street – An open hard-surface area of land other than a street or public way, the principal use of which is for the standing, loading, and unloading of motor vehicles, tractors, and trailers, to avoid undue interference with public streets and alleys. Such

space shall not be less than twelve (12) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height, exclusive of access aisles and maneuvering space.

Lot – A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that is designated as a parcel of land and the customary accessories and open spaces belonging to the same.

Lot Area – The net area contained within lot lines.

Lot Lines – The property lines bounding a lot. In case of a corner lot, the owner may designate either street lot line as the front lot line.

Lot Width – The main horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

Manufactured Home – A portable unit designed and built to be towed on its own, chassis, comprised of a frame and wheels, connected to utilities and designed without permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. Such definition does not include section unit structures, travel trailers, motorized homes, pickup coaches and camping trailers.

Manufactured Home Park – A tract of land a minimum of two acres in size with three (3) or more lots arranged and furnished to provide the space and facilities for mobile homes.

Motor Vehicle Service Station – Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work, or the dismantling or replacing of engines.

Non-conforming Dimensionally – The status of a building or structure that is conforming in use but does not conform to the lot dimension, yard dimension, height, building coverage, off-street parking, loading or similar dimensional requirements of this chapter and which conformed to such dimensional requirements of the zoning chapter in effect at the time of such building or structure was established.

Non-conforming Use – The use of a building, structure or plot of land that does not conform to the use regulations of the district or zone in which it is situated, which use was lawful under the code of the time the use was established. See “non-conforming dimensionally.”

Nuisance – A violation of this Law caused by an offensive, annoying, unpleasant, or obnoxious use of characteristics of said use which produces effects of such a nature or degree that they are detrimental to the health, safety, morals, comfort, general welfare, or property values, thus resulting in harm or odors, noise, smoke, vibration, light, runoff, traffic, development, density, electronic interference, or other unpleasant living conditions.

Nursing or Convalescent Home – A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises of occupants, but not including a hospital or mental health center.

Percolation Rate – The number of minutes it takes for water to drop one inch for two successive percolation tests giving approximately equal results.

Pre-existing Use – Any use, either conforming or nonconforming with this Law that is legally existing at the enactment of this Law.

Principal – The main use of land or buildings as distinguished from a subordinate or accessory use.

Public Use – Public parks, schools, and administrative, cultural and service buildings not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

Public Utility – Any person, firm, corporation, or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation, or water.

Quarry, Sand Pit, Gravel Pit, Top Soil Stripping – A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

Reforestation – Conservation activities aimed at the management of large tracts of land with the express purpose of optimally utilizing timber.

Rest Home – Commonly referred to as homes for the aged. These facilities provide sleeping rooms for ambulatory (able to walk) residents. Generally, rest homes have common eating rooms and provide minimal medical aid to residents. Only incidental convalescent care is provided which does not involve either nurses, physical therapy, or other activities provided in a hospital or nursing home.

Retail Business, General – For the purposes of this Law, whenever a general retail business is listed as an allowed use, it shall signify that any retail business which has minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific retail uses listed as being allowed.

Roadside Stand – A temporary structure for the sale of produce produced on site.

Sanitary Land Fill – A method of disposing of garbage and refuse by spreading, covering, and compacting with earth.

Scrap Yard – Any place of storage or deposit of more than 100 square feet, usually of commercial in nature, where metals, glass, rags, etc., are held, whether for the purpose of

disposal, reclamation, recycling or resale of such, including establishments having facilities for processing iron, steel, and nonferrous scrap for re-melting purposes.

Seasonal Camp – A single building used as a temporary dwelling on a seasonal basis which may not have heat, electric or sewer. Accessory structures may also be present.

Semi-Public Use – Churches, parochial schools, colleges, hospitals, and other institutions of educational, religious, charitable, or philanthropic nature.

Service Business, General – For the purpose of this Law, whenever a general service business is listed as an allowed use, it shall signify that any service business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed, in addition to the specific uses listed as being allowed.

Sign – Any advertisement, announcement, direction or communication produced in whole or part by the construction, erections, affixing or placing on any land or other structure, or produced by painting or posting on or placing, or lighting of a structure any printed, lettered, figured or colored material on any structure or surface, but not including signs placed or erected by a village, town, city, county, or state agency for the purpose of showing street names, directions, regulations, or for other purposes.

Sign, Area – The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four sided (straight sides) geometric shape which most closely outlines the said sign. Only one (1) side of the sign shall be used in measuring the area.

Special Use Permit – A Special Use Permit deals with special permission, granted only by the Zoning Board of Appeals to occupy land for specific purposes when such use is not permitted by right, but is listed as permitted by Special Use Permit.

Street – A public or private way which affords the principal means of access to abutting properties.

Temporary Dwelling Unit (Mobile) – Dwellings intended for temporary occupancy and including, but not limited to: travel trailers, motor homes, truck campers, and tents. (Persons residing in the primary dwelling unit located on the parcel.)

Temporary Use – An activity conducted within a structure or on a tract of land for a specific limited period of time which may not otherwise be permitted by the provision of this Law. For example, a building used in conjunction with new construction which would be removed upon completion of the work.

Tourist Accommodation – Any hotel, motel, bed-and-breakfast, resort or tourist cabin designed to house the general public (not including a travel trailer, travel vehicles or motor homes).

Towers – A structure designed to support Antennas. It includes without limitation free standing Towers, guyed Towers, monopoles, an similar structures which do, or do not, employ camouflage technology.

Tower Height – Vertical distance from normal ground level to the highest point of the antenna.

Trash – Glass, scrap metals, salvaged metals, rags, refuse, garbage, waste paper, salvaged machines, appliances, or similar materials, etc.

Travel Trailer Camp – A parcel of land under single ownership which is designed and improved for use by two or more travel trailers.

Travel Trailer/Camper – A relatively small temporary living quarter designed to be hauled on or behind a vehicle. Travel trailers are not designed as permanent living quarters and generally are used on a seasonal basis. They are supported at all times primarily by their own wheels. Travel trailers generally have self-contained independent utility systems.

Travel Trailer or Travel Vehicle – Any portable vehicle, including a tent camper or motor home, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreation or vacation purposes and which may or may not include one or all of the accommodations and facilities customarily included in a mobile home, provide that any travel trailers used for residential purposes for more than 30 consecutive days or 45 days aggregate in any one calendar year shall be considered a mobile home.

Unregistered Motor Vehicle – A motor vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Use – The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Vehicle Dismantling Yard – Any place of storage or deposit where 4 or more unregistered, old or secondhand vehicles, no longer intended for or in condition for legal use on public highways are held, whether for resale of parts or materials, or used parts and waste materials, which , when taken together equal in bulk 4 or more vehicles, shall constitute a vehicle dismantling yard. This excludes farm vehicles and facilities for processing iron, steel and/or nonferrous materials for scrap.

Variance – Permissive waivers from the terms of the Law, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Law will result in unnecessary hardship or practical difficulty or that the spirit of the Law shall be observed and substantial justice done and granted by the Zoning Board of Appeals.

Yard – An occupied space open to the sky, on the same lot with a building or structure.

Yard, Rear – A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

Yard, Side – The part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

Wholesale Business, General – For the purpose of this Law, whenever a general wholesale business is listed as an allowed use, it shall signify that any wholesale business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific wholesale uses listed as being allowed.

Wildlife Habitat – A publicly owned or quasi-public property retained in its natural state for the benefit of wildlife.

Zoning or Building Permit – The permit issued by the proper authority authorizing the construction, extension, or use of land and/or buildings.

ARTICLE 300
GENERAL PROVISIONS

SECTION 301 ACCESS TO PUBLIC STREET

Except as otherwise provided for in this local law, every building shall be constructed or erected upon a lot, or parcel of land which abuts upon a public street unless a permanent easement of access to a public street was of record prior to the issuance of the permit for said building construction.

SECTION 302 CONTIGUOUS PARCELS

When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they may be treated as one lot for such use.

SECTION 303 CORNER LOTS

Both street sides of a corner lot shall be treated as front yards in the application of bulk and area requirements.

SECTION 304 HEIGHT

The height limitations of this Zoning Law shall not apply to church spires, belfries, cupolas, penthouses and domes, not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulk heads, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such feature, however, shall be erected only to such height as is necessary to accomplish the purpose it is to serve and shall not exceed in cross-sectional area 20 percent of the ground floor area of a building.

SECTION 305 EXISTING SUBSTANDARD SIZED LOTS

The minimum area requirements specified for each type of allowed use shall not prevent the construction of an allowable use on a substandard sized lot which existed and was officially recorded at the time of enactment of this Zoning Law if the following conditions are met:

- A. The substandard lot is not less than 75 percent of all the applicable standards, and
- B. The County Health Department approves the lot.

C. If A. can not be met but B. has been accomplished, the applicant can request an Area Variance from the Zoning Board of Appeals. See Variance, Section 905.

SECTION 306 CORNER VISIBILITY

On a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three feet in height shall be erected, placed, or maintained within 8 feet of the curb or edge of the road and/or 4 feet from in inside edge of the sidewalk. The requirements of this Section shall not be deemed to prohibit the construction of any necessary retaining wall.

SECTION 307 INTERPRETATION OF PERMITTED USES

When a use is not specifically listed as a “Use by Right” or a “Use by Special Use Permit” within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Zoning Board of Appeals that said use is similar to permitted uses and not inherently a nuisance, menace, or danger to the health, safety, or welfare of the residents of the Village of Sinclairville.

SECTION 308 TOP SOIL

A person, firm, or corporation shall not strip, excavate, or otherwise remove top soil for use other than on the premises unless it is replenished or sufficient amounts are left to support future development needs and shall be replaced or replenished within six (6) months of completion of the project. No stripping, excavation, or other removal of top soil shall be such that steep slopes are created, ground water run-off is trapped, or erosion is caused.

SECTION 309 BUFFER ZONES

The Zoning Board of Appeals and Planning Board shall include in their analysis of application (variances, special-use permits, etc.) a consideration for need of an appropriate buffer zone. If such a barrier is deemed necessary then this condition will be included in the written decision and the applicant shall satisfy the Building Inspector that appropriate buffers will be completed within a reasonable time after completion of the construction.

When a business is to be located within 100 feet of an established residential parcel it shall be required that a minimum side yard of twenty-five (25) feet be established.

SECTION 310 ESTABLISHED FRONT YARDS

In an existing neighborhood where structures are not set back from the right-of-way, the distance specified by this Law, it shall be determined by the Building Inspector what appropriate setback will be permitted by new construction or by alterations to existing structures. The varied setback will be based on the average of the setbacks of the two adjacent structures minus up to five feet. Any variation requested which is in greater variation than that permitted by this rule will require an Area Variance.

SECTION 311 NUMBER OF BUILDINGS ON A ZONING LOT

For lots on record at one acre or less in area, no more than one principal detached structure shall be permitted to be located on said lot. This shall not preclude the division of any lot into two or more conforming lots. For lots on record which are greater than one acre in size, more than one principal structure shall be permitted on said lot. However, the structures will be placed in such a manner that it shall be possible to divide the lot and meet all area and other requirements of the Zoning Law (e.g. access to public street, side yards, lot size, etc.)

The purpose of this section is to insure that substandard lots are not created and also that fire and utility services may be adequately provided.

SECTION 312 RESPONSIBILITY OF LOT OWNER

It shall be the continuing responsibility of the owner of a lot to maintain the buildings located thereon, as well as, the yards, courts, and other spaces, in such a way as not to negatively impact or reflect depreciation on adjacent property, in accordance with the terms set forth herein, and with generally accepted standards.

SECTION 313 DITCHES & DITCHING

No alterations or new construction of ditches shall be allowed without approval of the Village Board. This is to insure that flooding, the pooling of water, the direction of water to undesirable locations etc., shall be minimized when an existing ditch is altered or new ditch formed.

SECTION 314 TELECOMMUNICATION TOWERS

A. Purpose – All towers and windmills shall be regulated for the purpose of assuring safe installations which are properly located and which have the least impact on the neighborhood and community.

B. No tower or telecommunication facility shall be sited, located, constructed, erected or modified within the Village of Sinclairville, without the issuance of a special use permit, upon written application to the Zoning Board of Appeals, and as further prescribed herein.

C. The following shall be considered for inclusion in the permit:

1. Location – Towers shall be removed from surrounding residential structures and residential districts sufficiently so as to not cause a nuisance due to appearance or other factors. As a minimum, the base of a tower shall be at least 100 feet or 30 percent of the tower height, whichever is greater, from all property lines.

2. Buffer – The placement or retention of buffers shall be required where they would improve the compatibility of the use with surrounding areas.

3. Safety – The base of a tower shall be sufficiently protected from entry either by tower design or by protective fences, etc.. Where guy wires are utilized, the anchor points shall be sufficiently protected to minimize the possibility of hitting the guy wires with recreational vehicles. Additionally, a sign shall be conspicuously placed near the base of a communication tower and it shall generally state that danger exists and that no access is permitted.

4. Lighting – The minimal amount of lighting necessary to meet State and Federal regulations shall be considered for all towers. The FAA has various lighting options and they shall all be considered. Light pollution or light spillover shall be minimized to the greatest degree possible. The applicant shall fully disclose methods and plans for protecting nearby and distant properties from light spillover.

5. Aesthetic Impact – The base of the tower and any accessory buildings shall be appropriately screened. Consideration will be given to the type and design of uses found in the area of the tower. Landscaping and materials used for accessory building shall be specified. The entire facility must be reasonably compatible with the surrounding environment.

6. Co-location – In order to minimize tower proliferation, applicants must show proof that they have exhausted all reasonable alternatives for sharing space on existing towers.

7. Inspections – Periodic inspections of towers may be required to ensure structural integrity. The frequency of inspections shall be specified with 5 year intervals recommended. Inspections shall be conducted by a licensed engineer. Based on the results of an inspection, repair or removal may be required.

8. Abandonment – Tower owners shall remove all towers that have not been used for a twelve month period. Removal shall be within six months of written notification. Owners may request a Special Use Permit hearing to ask for an extension for just cause.

9. State Environmental Quality Review Act – In complying with SEQRA, the “visual addendum” should be utilized to assist in the review of the tower proposals.

10. Other Regulations – State and Federal regulations governing towers must be complied with.

D. Preexisting Towers – All towers which exist at the time of enactment of this section may be required as necessary to comply with Sub-Section C above. At a Special Use Permit hearing, the conditions to be met will be specified along with a reasonable time for implementation.

E. Performance Bond – Each applicant, upon being granted a permit, shall post a performance and damages bond in the sum of \$5,000.00 (Five Thousand Dollars) which shall be forfeited to the Village, upon owner’s failure to comply with the terms of its permit and upon notification of such violation by the Zoning Enforcement Officer. Owner may within ten days of such notification request a hearing before the Board of Appeals to contest such notice.

F. Exemptions – Antennas used solely for residential household television and radio reception, and single windmills for residential household purposes, are exempt from the provisions of this Section, provided they do not exceed fifty (50) feet in height.

ARTICLE 400
ESTABLISHMENT OF DISTRICTS

SECTION 401 CREATION & ENUMERATION OF DISTRICTS

For the purpose and provisions of this Zoning Law, the Village of Sinclairville is hereby divided into the following types of districts:

Residential District	(R)
Commercial District	(C)
Rural Resource District	(RR)
Flood Plain District	(FP)

SECTION 402 ZONING MAP

The boundaries of the aforesaid zoning districts are hereby established as shown on the map entitled “Zoning District Map of Sinclairville, New York, date January 1, 1979,” which map accompanies and is made a part of this Text and shall have the same force and effect as if the zoning map together with all notations, references, and other information shown thereon, were fully set forth and described herein.

SECTION 403 INTERPRETATION OF DISTRICT BOUNDARIES

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

- A. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines, or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of jurisdiction of the Village unless otherwise indicated.
- E. Any party aggrieved by an interpretation may appeal to the Zoning Board of Appeals, whose decision will be final. However, all decisions of the Zoning Board of Appeals are subject to Court reviews in accordance with applicable laws of the State of New York. The burden of proof shall be on the appellant.

ARTICLE 500
DISTRICT REGULATIONS

SECTION 501 RESIDENTIAL DISTRICT (R)

Purpose – (R) districts are established to provide for the development of residential neighborhoods occupied primarily by single family residences. No building or other structure or land shall be used and no building or other structure shall be built, altered, or erected for any purpose not listed under this section.

A. Uses Permitted by right (Permit Required)

Boarding homes (maximum 4 rental rooms)
Customary accessory use
Duplex – attached
Essential services
Fences/Walls, in accordance with Article 600, Section 610
Garage – accessory
Open porch/deck
Public uses other than public parks/playgrounds
Signs – see Article 600, Section 609
Single-family dwelling-detached (conventional, prefab., modular)
Storage structure (over 120 square feet)

B. Uses requiring a Special Use Permit (Hearing Required)

Church/rectory-quasi-public use
Cluster residential development, as defined in Article 200, Section 202
Daycare center
Funeral Home
Heavy vehicle parking, in accordance with Article 600, Section 613
Home occupation – general, in accordance with Article 600, Section 602
Limited agriculture
Multiple dwellings – attached
Public park/playground
Residential conversions
School – public/private
Signs – see Article 600, Section 609
Swimming Pool
Tennis Court – private

C. No Permit Required (Requires Compliance with Law)

Fences/Walls, in accordance with Article 600, Section 610 (3 feet or under in front and/or back yard)
Horticulture – private
Household sale (garage sale), in accordance with Article 600, Section 604
Outdoor storage – recreational vehicle
Signs – see Article 600, Section 609
Storage structures (120 square feet or less)

SECTION 501 RESIDENTIAL DISTRICT (R)

D. Residential Utility	Municipal Services Primary Use/Accessory Use		No Municipal Services Primary Use/Accessory Use	
Single-Family Units				
Minimum Lot Size – Sq. Ft./Acres	15000		43560	
Minimum Lot Width – Ft.	100		150	
Maximum Lot Coverage - % of lot size	35%		30%	
Minimum Front Yard – Ft. from St. Edge	50	50	50	50
Minimum Side Yard – Ft.	15	5	20	5
Minimum Rear Yard – Ft.	10	5	15	5
Maximum Structure Height-Ft./Stories	2 ½	1 ½	2 ½	1 ½
Minimum Floor Space – Sq. Ft./Living Space	750		750	
Multiple-Family Units				
Minimum Lot Size – Base +Sq.Ft./Unit	20000+6000		25000+7000	
Minimum Lot Width – Base +Ft./Unit	125+6		140+7	
Maximum Lot Coverage - % of lot area	35%		30%	
Minimum Front Yard – Ft. from St. Edge	50	50	50	50
Minimum Side Yard-Base+Ft./Unit	15+1	10	20+1	10
Minimum Rear Yard – Ft.	15	10	20	10
Maximum Structure Height-Ft./Stories	3	1 ½	3	1 ½
Minimum Floor Space-Sq.Ft./Living Space	450		450	
Other Uses – Nonresidential				
Minimum Lot Size-Sq.Ft./Acres	21780		43560	
Minimum Lot Width – Ft.	100		150	
Maximum Lot Coverage-% of lot area	30%		25%	
Minimum Front Yard-Ft. from St. Edge	50	50	50	50
Minimum Side Yard – Ft.	15	5	20	5
Minimum Rear Yard – Ft.	10	5	15	5
Maximum Structure Height – Ft./Stories	2 ½	1 ½	2 ½	1 ½

SECTION 502 RURAL RESOURCE DISTRICT (RR)

Purpose – (RR) districts are established to provide for the development of residential and agricultural uses as well as other conservation related uses which are compatible with rural large lots. No buildings or other structure shall be built, altered, or erected for any purpose not listed under this section.

A. Uses Permitted by Right (Permit Required)

Agriculture
Agriculture Buildings
Agricultural Land Use
Boarding Homes (maximum 4 rental rooms)
Church
Church Parsonage/Rectory
Customary Accessory Use
Duplex (two-family) dwelling
Essential Services
Farm Animals
Fences/Walls, in accordance with Article 600, Section 610
Forestry/Lumbering/Reforestation
Game Farm/Fish Hatchery/Reserve
Garage when accessory to one or two family dwelling
General Agriculture Business
Home Daycare Center
Home Occupation – general in accordance with Article 600, Section 602
Horticulture and Nursery Stock
Manufactured Home in accordance with Article 600, Section 614
Municipal Office
Open Porch/Deck
Outdoor Storage – one of each of the following: Recreation Vehicle (Camper),
Cargo Trailer, Boat, Boat Trailer, Each must be owned for personal use by
resident on the premises
Pond
Public Parks
Public Uses – Library, School, Civic Building, Highway Building, etc.
Roadside Stand – general
Seasonal Camp, in accordance with Article 600, Section 628
Signs – see Article 600, Section 609
Single-family dwelling – conventional, prefab., modular
Storage Building when accessory to single family dwelling and less
than 300 sq. ft.
Swimming Pool – private
Tennis Court – private
Travel trailer, in accordance with Article 600, Section 615
TV Dish Antenna larger than three feet in diameter
Utilities – support buildings and utility lines
Wildlife Habitat

Wind Energy Systems, in accordance to Article 600, Section 618

B. Uses requiring a Special Use Permit (Hearing Required)

Airport/Airstrip/Heliport
Animal Farms (mink, etc.)
Boarding Homes/Bed and Breakfasts
Blacksmith Shop
Cabins/Cottages – commercial
Campground, Group Camps and Camping Vehicles Camp in accordance with
Section 600 Article 629
Cemetery
Cluster Resident Development, as defined in Article 200, Section 202
Commercial campground
Commercial Recreation
Farm Market
Fences/Walls, not in compliance with Article 600, Section 610
Fraternal Meeting Facility
Funeral Home
Golf Course – private or public
Harboring animals, in accordance with Article 600, Section 616
Kennel Business
Landfill
Mobile home parks, in accordance with Article 600, Section 614
Multiple Dwellings – attached
Residential Conversions
Sawmill – commercial
Signs – see Article 600, Section 609
Swimming Pool (over 10,000 gallons), in accordance with Article 600,
Section 607
Temporary Mobile Home
Towers – communication tower and/or similar facilities, in accordance with
Article 300, Section 314
Vehicle Dismantling Yard/Auto Service, in accordance with Article 600,
Section 612

C. No Permit Required (Requires Compliance with Law)

Fences/Walls, in accordance with Article 600, Section 610 (3 feet or under in
front and/or backyard).
Heavy vehicle parking, in accordance with Article 600, Section 613
Household sale (garage sale), in accordance with Article 600, Section 604
Outdoor Storage – recreational vehicle
Signs – see Article 600, Section 609
Storage Structures (120 square feet or less)

SECTION 502 RURAL RESOURCE DISTRICT (RR)

D. Rural Resource Utility	Municipal Services Primary Use/Accessory Use		No Municipal Services Primary Use/Accessory Use	
Single-Family Units				
Minimum Lot Size – Sq. Ft./Acres	21780		43560	
Minimum Lot Width – Ft.	100		100	
Maximum Lot Coverage - % of lot area	35%		20%	
Minimum Front Yard – Ft. from St. Edge	50	50	50	50
Minimum Side Yard – Ft.	15	5	25	10
Minimum Rear Yard – Ft.	10	5	20	10
Maximum Structure Height – Ft./Stories	2 ½	1 ½	2 ½	1 ½
Minimum Floor Space – Sq. Ft./Living Space	750		750	
Multiple-Family Units – Standard				
Minimum Lot Size-Base+Sq.Ft./Unit	20000+6000		40000+8000	
Minimum Lot Width – Base+Ft./Unit	125+6		150+8	
Maximum Lot Coverage - % of lot area	50	50	50	50
Minimum Front Yard – Ft. from St. Edge	15+1	10	20+2	20
Minimum Rear Yard – Ft.	15	10	30	20
Maximum Structure Height-Ft./Stories	3	1 ½	3	1 ½
Minimum Floor Space – Sq.Ft./Living Space	450		450	
Other Uses – Non-residential				
Minimum Lot Size – Sq. Ft./Acre	21780		87120	
Minimum Lot Width – Ft.	100		300	
Maximum Lot Coverage - % of lot area	30%		20%	
Minimum Front Yard – Ft. from St. Edge	50	50	50	50
Minimum Side Yard – Ft.	15	5	25	10
Minimum Rear Yard – Ft.	10	5	20	10
Maximum Structure Height – Ft./Stories	2 ½	1 ½	2 ½	1 ½

SECTION 503 COMMERCIAL DISTRICT (C)

Purpose – (C) districts are created to accommodate general retail, service, and related uses. No building or other structure or land shall be used and no building or other structure shall be altered or erected for any purpose not listed under this section.

A. Uses Permitted by Right (Permit Required)

All uses allowed in Rural Resource District (RR) by right (Section 502) in addition to the following:

- Lab and Research – Commercial
- Parking – commercial lot
- Public uses other than public parks/playgrounds
- Storage Structure (over 120 square feet)

B. Uses Requiring a Special Use Permit (Hearing Required)

- Accessory Apartment
- Amusement Park
- Animal Hospital
- Animal Shelter
- Antique Shop
- Apartment Buildings/Condo/Townhouses/Apartment Houses
- Appliance Repair Shop
- Auto Body Repair Shop
- Auto Sales/Used Car Lot
- Bakery Shop
- Bank
- Bar/Liquor Store
- Barber/Beauty Shop
- Boat Storage Business
- Building Contractor Business
- Building Materials Store
- Car Wash
- Carnival/Circus – Temporary
- Catalog Shop
- Corner Store/Grocery
- Church/Rectory – quasi – public use
- Cluster Residential Development, as defined in Article 200, Section 202
- Commercial Recreation
- Daycare Center
- Department/Variety Store
- Drive-In Business
- Drug Store
- Electronic and Small Parts Manufacturing
- Farm Machinery/Implements Store
- Feed and Seed Shop
- Florist Shop

Food Supermarket
Fraternal Meeting Facility
Funeral Home
Furniture/Appliance Store
Gas Compressor, in accordance with Article 600, Section 622
General Agriculture Business
General Heavy Industry
General Light Industry
General Retail Stores
General Service Business
General Service Shop
Hardware/Glass Paint Shop
Heavy Vehicle, in accordance with Article 600, Section 613
Homes for the Aged
Hospital
Hotel/Motel
Lab and Research Commercial
Laundry/Dry Cleaning Shop
Library/Museum/Gallery
Limited Professional/Business Office including office of Not-For-Profit
Limited Retail Stores
Limited Service Shop
Limited Wholesale Business – Warehouse
Machine Shop
Manufactured Home/Trailer Sales
Manufacturing – General
Manufacturing of Food Products
Mill Structure
Mobile Home Parks, in accordance with Article 600, Section 614
Monument Sales
Multiple Dwellings – attached – 3 or more dwelling units
Nursery/Greenhouses – commercial
Nursing Homes/Rest Homes
Parking – Commercial Lot
Pet Store
Photographic Studio
Plumbing/Heating Supplies Store
Public Park/Playground
Public Swimming Pool
Realty Office
Rental Office
Residential Conversions
Restaurant
Riding Academy/Stable
Sawmill – commercial
School – public/private
Self Storage Business and Rental Space
Shopping Center/Mall

Signs – see Article 600, Section 609
Ski Area – commercial
Sludge Removal, Topsoil Removal, Sludge or other Waste Disposal
Storage of Materials/Fuel – Warehouse
Storage Structures over 300 square feet
Temporary Dwelling Units
Temporary Manufactured Home, in accordance with Article 600, Section 614
Tennis Court – public
Tourist Accommodation
Wholesale Business
Zoo

C. No Permit Required (Requires Compliance with Law)

Fences/Walls, in accordance with Article 600, Section 610 (3 feet or under in front and/or backyard)
Heavy vehicle parking, in accordance with Article 600, Section 613
Horticulture – private
Household sale (garage sale), in accordance with Article 600, Section 604
Outdoor storage – recreational vehicle
Signs – see Article 600, Section 609
Storage Structures (120 square feet or less)

SECTION 503 COMMERCIAL DISTRICT (C)

D. Commercial Utility	Municipal Services Primary Use/Accessory Use		No Municipal Services Primary Use/Accessory Use	
Single-Family Units				
Minimum Lot Size – Sq. Ft./Acres	15000		21780	
Minimum Lot Width – Ft.	65		100	
Maximum Lot Coverage - % of lot area	40%		35%	
Minimum Front Yard – Ft. from St. Edge	50	50	50	50
Minimum Side Yard – Ft.	10	5	15	5
Minimum Rear Yard – Ft.	10	5	10	5
Maximum Structure Height – Ft./Stories	2 ½	1 ½	2 ½	1 ½
Minimum Floor Space – Sq. Ft./Living Space	750		750	
Multiple-Family Units – Standard				
Minimum Lots Size-Base+Sq. Ft./Unit	15000+5000		20000+6000	
Minimum Lot Width – Base+Ft./Unit	110+5		125+6	
Maximum Lot Coverage - % of lot area	40%		35%	
Minimum Front Yard – Ft. from St. Edge	50	50	50	50
Minimum Side Yard – Base+Ft./Unit	15+1	10	15+1	10
Maximum Structure Height – Ft./Stories	3	1 ½	3	1 ½
Minimum Floor Space – Sq. Ft./Living Space	450		450	
Other Uses – Non-residential				
Minimum Lot Size – Sq. Ft./Acres	15000		21780	
Minimum Lot Width – Ft.	65		75	
Maximum Lot Coverage - % of lot area	50%		40%	
Minimum Front Yard – Ft. from St. Edge	20	20	20	20
Minimum Side Yard – Ft.	5	5	5	5
Minimum Rear Yard – Ft.	10	5	10	5
Maximum Structure Height – Ft./Stories	3	1 ½	3	1 ½

SECTION 504 FLOOD PLAIN DISTRICT (FP)

A. Purpose – Certain areas of the Village of Sinclairville have been identified by the Federal Insurance Administration as susceptible to flooding. These areas are identified on a Flood Insurance Rate Map filed in the Village Clerk’s Office. Village of Sinclairville Local Law No. 2 of 1987 entitled Flood Damage Prevention is incorporated by reference into this Zoning Law and given full force and effect.

ARTICLE 600
SUPPLEMENTAL REGULATIONS

SECTION 601 DEVELOPMENT CONDITIONS

A. Purpose – Development conditions shall be attached to permits or variances when necessary or advisable to reduce or eliminate conflicts between uses or to protect the health, safety, and general welfare.

B. Areas of Concern – the following checklist shall be considered by the appropriate Boards and Administrators in their reviews of request for Zoning Permits, Special Use Permits, and Variances. The checklist is not intended to be all inclusive and does not limit the areas of concern over which conditions may be imposed:

1. Traffic – safety of ingress/egress from roadway, intersection, visibility, level of anticipated new traffic generation in relation to existing road capacity and traffic, adequacy of off-street parking and loading, pedestrian safety, and/or location of structures in relation to all of the above.

2. Business Entrances – All business uses shall face, have entrances, and display goods such that they are oriented to the greatest degree possible toward Business Districts and not toward adjacent Residential Districts.

3. Safety – Trash disposal, steep slopes, open pits, toxic and/or flammable fluids.

4. Health – Sewers/water, sunlight, air movement, junk vehicles and/or trash storage.

5. Character of Neighborhood – Development density, traffic volume, lot sizes, compatible uses, and/or buffers

6. Public Costs – Road damage, need for new roads, and/or need for new utilities.

7. Environmental Protection – Flood plain, wetlands, and/or natural features.

8. Nuisances – Noise, odor, dust, lights, hours of operation, lot size, buffers, and/or nuisance location.

9. Land Use Preservation – Agriculture and/or open space.

10. Aesthetics – Restoration, appearance, scenic views, and/or buffers.

C. Failure to comply – Applicants who have received Variances/Special Use Permits with conditions attached shall be responsible for continual compliance with the specified conditions. Noncompliance with any conditions shall result in revocation of the Variance/Special Use Permit.

SECTION 602 HOME OCCUPATION

- A. In districts where allowed Home Occupations shall meet the following conditions:
1. Not more than one-third of the floor area of the first story in the principal building is so used.
 2. No non-residents are employed.
 3. Only customary household appliances and equipment are used.
 4. There is no outside display of commodities.
 5. No advertising except as allowed by Supplemental Sign Section. See Article 600, Section 609
 6. No offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced.
 7. Examples of acceptable uses include art studio, dressmaking, musical instruction to a single pupil.
 8. Sufficient off-street parking in accordance with Article 600, Section 608.

SECTION 603 DRIVE-IN ESTABLISHMENTS

- A. Definition – drive-in establishments shall include those businesses designed to either wholly or partially provide services to customers while in their automobiles parked on the premises. Example: included but are not limited to drive-in theaters, restaurants, films shops, etc.
- B. Regulations – drive-in establishments shall be allowed by Special Use Permits in districts where they are listed and the following conditions shall be considered prior to granting the permit:
1. Supplemental Regulations, Section 601; and
 2. Traffic Safety:
 - a. Provisions for traffic to “back up” off of public streets shall be provided.
 - b. Safety entry and exit shall be provided with separate entry and exit Points clearly designated.
 - c. Proper parking, which allows convenience and safety shall be provided.
 3. Hours of operation.
 4. The need for buffers, especially when situated near residential structures.

SECTION 604 GARAGE AND LAWN SALES

Garage and/or lawn type sales, including flea markets shall be limited to three (3) household sales of no more than three (3) days each per year, per property owner. More frequent sales shall require a special-use permit. The Village Wide Sales are excluded.

SECTION 605 VEHICLE REPAIR SHOP/AUTO BODY REPAIR SHOP

A. Purpose – Vehicle Repair Shops and/or Auto Body Repair Shops are regulated to promote safe and properly located shops which are visually attractive to the greatest extent possible.

B. Conditions – The following conditions shall be met:

1. Vehicle Storage – Any vehicle stored outside shall be enclosed within an appropriate fence.
2. Hours of Operation – The hours of operation shall be derived so as to limit the noise during the hours of 9 p.m. to 7 a.m.
3. Area Requirements – The shop shall be allowed only if it is to be located at least 200 feet from existing residential structures located on adjacent parcels.
4. Trash – All trash shall be stored such that it is not visible from adjacent parcels.
5. Other conditions – Refer to General Provisions, Article 300, and Supplemental Regulations, Article 600.
6. Repair & Sales Facilities – must satisfy NYS criteria and be licensed and registered in accordance with NYS law.

C. Pre-Existing Uses

1. Expansion and Enlargements – All expansions or enlargements of repair shops in existence prior to enactment of this Law shall be subject to the above conditions and all other general conditions of this Law.

SECTION 606 SERVICE STATIONS

A. Conditions – The following conditions shall be met:

1. No public garage or motor vehicle service station or private garage for more than five cars shall have a vehicular entrance closer than 200 feet to an entrance to a church, school, theater, hospital, public park, playground, or fire station. Such measurement shall be taken at the shortest distance between such entrances across the street and along the street frontage if both entrances are on the same side of the street or within the same square block.

2. All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed, as to require all servicing on the premises and outside the right-of-way; and no gasoline pump shall be placed closer to any side property line, than fifty feet.

3. No unlicensed motor vehicles shall be kept on the premises of motor vehicles service stations for longer than six months.

4. All waste material, motors, motor parts, and tires will be stored in an orderly fashion, and so much as possible so as not to be visible from off the property or enclosed within fencing.

SECTION 607 SWIMMING POOLS

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

OUTDOOR SWIMMING POOLS:

1. PUBLIC SWIMMING POOL – A facility for swimming operated by the Village of Sinclairville.

2. COMMERCIAL SWIMMING POOL – A facility for swimming operated for gain or in conjunction with any commercial enterprise and open to the public.

3. CLUB SWIMMING POOL – A facility for swimming operated for members and their guests.

4. PRIVATE SWIMMING POOL – A facility for swimming which is an accessory use to a residential building. Such pool shall be for the exclusive use of the occupants of the principal residential building and their guests.

B. Limitations. Except for the public swimming pool, all pools are required to meet the following regulations:

1. A building permit shall be required for all swimming pools over 24 inches in depth. The applicant shall provide the Building Inspector with plans and specifications in detail to be determined by said Building Inspector.

2. All pools shall be completely enclosed by a chain link fence or approved substitute. Fence height shall be a maximum of six feet for a private pool, seven feet for club or commercial pools, and of suitable type to prevent accidental or unauthorized entry, subject to the approval of the Building Inspector.

3. Site, lighting and plumbing plans for any pool shall be submitted to the Village of Sinclairville Building Inspector for approval. Drainage shall be only into an approved storm sewer or suitable substitute to be approved Department.

4. No pool wall, pave terrace, fence or related structure may be located within 10 feet of an adjoining residentially zoned lot.

5. Swimming pools and related structures shall comply with the area, yard and other requirements of the Zoning and Planning Code for that district.

6. Club swimming pools shall be permitted only as an accessory structure to a membership club in the zoning district where said club is permitted use and subject to the area and yard requirements of that district.

7. Private pools shall not be located within a front yard in any residential district.

SECTION 608 OFF STREET PARKING

A. Requirements – In all districts, in connection with every residential, commercial, industrial, institutional, or other use, there shall be provided at any time any building or structure is erected, enlarged, or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

1. Size – Each off-street parking space shall have an area of not less than 162 square feet exclusive of access drives or aisles and shall be of usable shape and condition.

2. Entry and Exit – There shall be adequate provision for entry and exit to all parking spaces. Where a lot does not abut on a private or public access drive, an access drive of not less than 10 feet in width in the case of a dwelling and not less than 18 feet in width in all other cases leading to the parking area shall be required.

3. Front Yard – No parking space nor portion thereof established on the same zoning lot with a building shall be located within a required front yard. No parking spaces nor portion thereof established on a zoning lot without a building shall be located closer to any street line than the front yard setback required for the district in which the parking lot is located.

4. Number of Spaces – The following parking spaces shall be provided and satisfactorily maintained by the owner of the property, for each use which, after the date when this Law becomes effective, is erected, enlarged, or altered for use for any of the following reasons:

Uses	Minimum of One Space Per:
Bowling Alley	½ Alley
Church	Five Fixed Seats
Eating & Drinking Establishments	Four Seats or One for Each 200 Square Feet Floor Space (whichever is more)
Elementary School	20 Students
Food Market	200 Square Feet Floor Area
High School	12 Students
Homes for Aged	Three Residents
Library	100 Square Feet
Mortuaries	1/8 Viewing Room – one for every employee

Multi-family Residence	Dwelling Unit
Offices, Banks	100 Square Feet Floor Area
Single-family Residence	Dwelling Unit
Places of Assembly, incl. Convention Hall Dance Hall Club, & Lodge (without sleeping accommodations)	200 Square Feet – Four Members
Places Providing Sleeping Accommodations. Incl. Hotel, Motel, & Tourist Homes Sleeping Unit	
Two-family Residence	Dwelling Unit
Other Commercial Use Not Listed Above	300 Square Feet Sales Area
Other Uses Not Listed Above	500 Square Feet Floor Area

SECTION 609 SIGNS & OUTDOOR ADVERTISING STRUCTURES

A. Sign Regulations by Sign Type – with the exception of public road and highway signs, no sign or bill board shall be permitted in any district except as hereafter provided:

1. Real Estate Signs – Real Estate signs not exceeding 12 square feet in area and advertising the sale, rental or lease of the premises on which the sign is located shall be permitted on any property with no permit required.

2. Home Occupation Signs – Announcement or professional signs for legitimate home occupations and professional activities and name of resident signs not exceeding more than 10 square feet in area shall be permitted in any district where such activities are permitted, with no permit required.

3. Semi Public Signs – Bulletin boards and signs for a church, school, community, or other public or semi-public institutional building shall be permitted provided that the area of such sign does not exceed 15 square feet in area and such signs are set back a minimum of 15 feet from the established right-of-way.

4. Temporary Signs – Temporary signs not exceeding 50 square feet, announcing the erection of a building, the architect, builders, etc., may be erected for the period of 60 days plus the construction period, provided, however, the same shall be removed from the premises upon the completion of the building.

5. Business Signs – For business uses, each business shall be permitted to erect one flat wall sign for the purpose of permanent advertising. The area of such sign for any single business enterprise shall be limited according to the frontage width of the building, or the frontage width of the part of the building occupied by such enterprise. In computing the maximum size, each area equivalent to 1 ½ square feet of sign area shall be permitted for each lineal foot of freestanding pole sign of symbolical design not over 30 feet in height and not in excess of 40 square feet in sign area may also be permitted for each business providing that:

- a. No part of such sign shall project into or over any public right-of-way.
- b. The pole support of such sign shall be not less than 40 feet from any lot in

any Residential District.

6. Industrial Signs – For industrial uses, a sign or billboard may be erected which pertains to the specific use of the property upon which it is erected. The area of such sign shall not exceed more than 100 square feet in area, except that the Zoning Board of Appeals may approve signs of up to 200 square feet in area, provided they be at least 35 feet from any street line and 50 feet from any other lot line.

7. Advertising Bench – a bench for public use which is painted or otherwise covered with advertisement, or to which any sign is attached.

a. Advertising Benches shall only be permitted in the Commercial District and on the premises of an ongoing business.

b. A maximum of four (4) advertising benches shall be permitted at each business location and said benches must be situated entirely within the premise of the business.

c. It is required that advertising benches be affixed to building where practicable. If that is not possible then near the building but attached to the ground.

B. General Regulations:

1. Condition –

a. Every permitted sign must be constructed of durable materials and kept in good condition and repair.

b. Any sign which is allowed to become dilapidated may be removed by the municipality at the expense of the owner or lessee of the property on which it is located after appropriate notice and hearing.

2. Location –

a. Traffic –

I. No sign shall be so located that the sign might interfere with traffic, be confused with or obstruct the view or effectiveness of any official traffic sign, signal or marking.

II. No sign shall be stapled, pasted, or otherwise attached to utility poles or trees within a road or street right-of-way.

b. Ingress, Egress –

I. No sign shall be located which shall prevent free ingress or egress from any window, door, or fire escape.

II. No sign shall be so placed that it will obscure light and/or air

movement from a building.

c. Located near Residential District – all signs within 100 feet of a Residential District shall be by Special Use Permit.

3. Illumination –

a. Illuminating arrangements for signs shall be such that the light is concentrated on the sign with a minimal spill-over cast on the street, sidewalk, or adjacent properties.

b. Signs which contain, include or are illuminated by any flashing intermittent or moving lights are prohibited.

4. Moving Parts – No sign shall use moving parts.

C. Cessation -

1. If a property use ceases for a period of one year, all detached signs pertaining to said use must be removed.

2. Such signs may be removed by the municipality after appropriate notice and hearing at the expense of the owner or lessee of the property on which the sign is located if the sign has not been removed after 30 days notice.

D. N.Y.S. Regulations -

1. New York State Highway regulations related to outdoor advertising shall also apply where applicable.

SECTION 610 FENCES AND WALLS

Fences and walls shall be allowed in accordance with the following conditions:

A. Height – Except as otherwise provided in this Zoning Law, fences, or walls shall be permitted in any district, but not to exceed the following heights:

Seven feet where located anywhere behind the front wall of the principal building; four feet in front of the front wall, and subject to conformance with Article 300, Section 306, Visibility.

B. Location and standards – In all cases fences, hedges and walls shall be located on or within the property and must be setback a minimum of two feet from the property line. The finished side of the fence or wall must face the closest neighboring property. The fence or wall shall be fixed permanently in the ground to insure its stability.

C. Fire Hazard – Any fence or wall which may cause a fire hazard or a dangerous condition shall be prohibited. This does not include customary farm fencing used for limited agricultural activities.

D. Maintenance – All fences will be maintained in such a manner that they will not devalue adjacent properties or cause unsafe conditions. Fences shall be both structurally and visually maintained.

E. Screening – Any use which is adjacent to a residential district and is deemed to be offensive to existing or allowed residential uses shall be buffered by either a solid fence, hedge, or other appropriate method as determined by the Zoning Board of Appeals.

SECTION 611 UNREGISTERED MOTOR VEHICLES AND UNREGISTERED SEMI TRAILERS REGULATIONS

A. Unregistered Vehicles:

1. Unregistered Motor Vehicles are defined in Article 200 Section 202 as a motor vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

2. In all Districts a maximum of one (1) unregistered vehicle shall be allowed to be maintained outdoors.

3. Unregistered vehicles shall be stored out of sight of adjacent properties and roadways to the greatest degree possible.

4. Two (2) unregistered vehicles shall constitute a junk yard. Junk yards are permitted within the Village when properly licensed and when operated and maintained in conformity with the rules and regulations of Vehicle Dismantling Junk Yards.

B. Intermodal Shipping Containers and Pods

1. Definition – A container or pod which is usually unregistered and may be used in the shipment of materials by rail, sea or land.

2. Placement of a single shipping container or pod on a lot shall be permitted on a temporary basis for a continuous period of thirty (30) days for each calendar year. The placement of additional shipping containers or pods on that lot or the continued placement of a single shipping container or pod beyond thirty (30) days in a calendar year shall require a Special Use Permit.

SECTION 612 SALVAGE YARDS OR JUNK YARDS

Conditions – Except as provided herein, the development, extension, maintenance or use of an automobile, salvage or junk yard shall be prohibited. When permitted as a special use permit with Zoning Board of Appeals approval, all automobile, salvage and junk yards shall conform to the following requirements:

1. An annual license fee of \$25.00 shall be paid to the Village Clerk at the time the application is made and annually thereafter in the event of renewal. In the event the application is

not granted, the fee shall be returned to the applicant. "Licensee" as used in this Section Shall mean an approved applicant requesting and paying for an annual license described above.

2. The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.

3. The licensee must maintain an office and sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.

4. The licensee must erect and maintain in good condition a fence eight feet in height, made of acceptable material, adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the licensee, and if such area abuts a residential area or public street or highway, such fence shall be at least 50 feet from the boundary line or right-of-way thereof. In addition to the approved fence, an adjacent sight barrier hedge or perennial trees or shrubs shall be established and maintained. All of the materials dealt in by the licensee shall be kept within such fence at all times.

5. When the area is not supervised by the licensee or employees, the fence shall be locked at a sure gate in a secure manner.

6. The area of the licensee's activity or business shall not be used as a dump area nor as a place for the burning and disposal of junk or trash.

7. Open fires are prohibited, and unattended fires shall not be permitted.

SECTION 613 HEAVY COMMERCIAL VEHICLES

A. Purpose – This section has as its main purpose the preservation of densely developed neighborhoods and particularly the elimination of noise from diesel engines and air conditioning units caused by large commercial truck parking. Visual intrusion into residential neighborhoods is also a primary concern.

B. Permit required

1. Parking of any heavy commercial vehicle including trailers overnight anywhere in the Village shall be by permit only. A permit will be required for both licensed and unlicensed vehicles.

2. The permit shall be issued by the Building Inspector for a period of one year. The permit shall be renewed by application to the Building Inspector thirty (30) days in advance of the one year anniversary of the initial issuance of the permit. The fee for the issuance of a permit and its renewal shall be set by the Village Board and stated in the schedule of fees.

3. Under no circumstance shall a heavy commercial vehicle parking permit be issued for the parking of a vehicle on a road, street, Village property or a public road right of way.

4 Other conditions:

a. A vehicle must be parked far enough away from a dwelling or business so as to minimize the noise, dust, lighting, fumes and other nuisances associated with heavy commercial vehicles.

b. Heavy commercial vehicles shall only be allowed to idle for the time periods set forth in the New York State Department of Environmental Conservation regulations.

c. Natural and man made buffers may be required to minimize the nuisance factors set forth at a & b above.

d. The Building Inspector shall impose whatever reasonable conditions that may be required to reduce or otherwise eliminate the nuisance factors set forth in paragraph b.

e. Heavy commercial vehicle parking permit issued by the Building Inspector shall set forth the days and hours that parking is permitted and any special conditions referred to in paragraph d that are applicable to that permit.

f. A heavy commercial vehicle parking permit shall be required for each vehicle and trailer.

g. The applicant for a heavy commercial parking vehicle shall be allowed to appeal to the Zoning Board of Appeals any denial of any heavy commercial vehicle parking permit or reasonableness of the conditions set forth in the permit. The appeal must be filed within thirty (30) days from either the date of the written denial of the permit or the issuance of the parking permit with conditions.

h. The Building Inspector shall notify the applicant by written letter informing the applicant of either the issuance or denial of the heavy commercial vehicle parking permit. The notification shall be sent to the address given by the applicant in the application for the parking permit.

SECTION 614 MANUFACTURED HOMES & MANUFACTURED HOME PARKS

A. MANUFACTURED HOMES – General Provisions

Manufactured Homes must meet the following conditions prior to the granting of a permit for the placement or replacement, it shall be required that all regulations (except floor area requirements) required of single-family structures shall be complied with in addition to the following:

1. Manufactured Homes shall be permitted in rural resource district by Special Use Permit in accordance with Article 500 Section 502. Such manufactured homes shall have a minimal depreciating effect on contiguous property.

2. Manufactured Homes are defined in Article 200 Section 202 as a portable unit designed and built to be towed on its own chassis, comprised of a frame and wheels, connected to utilities and designed without permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. Such definition does not include section unit structures, travel trailers, motorized homes, pickup coaches and camping trailers.

3. Dependent manufactured homes shall not be permitted within the Village. A dependent manufactured home is defined as one that is not connected to a municipal water or sewer system nor is it connected to an approved well or septic system.

4. Non-conforming manufactured homes – Article 700 shall be applicable to manufactured homes which were legal uses prior to the passage of this Law but do not comply with certain standards of the present Zoning Law. A non-conforming manufactured home may be replaced only by a conforming one.

5. Adequate parking must be available in accordance with Article 600 Section 608.

6. Skirting materials shall be installed, weather permitting, within 30 days from the date of placement on the lot.

7. The minimum size manufactured home allowed to be placed on a lot after the enactment date of this Law shall be 720 square feet (manufactures advertised size.)

8. All manufactured homes, new or used, shall comply with all HUD construction and safety requirements, prior to being allowed to be placed on a lot.

9. Prior to placing a used manufactured home within the Village, the landowner must provide the Zoning Officer with a written, certified statement by a NYS registered manufactured home dealer, or equivalent, that the manufactured home meets all HUD construction and safety requirements.

10. Any other reasonable conditions as deemed necessary by the permitting board shall be complied with.

B. MANUFACTURED HOME PARKS

1. Area and Setback Requirements:

a. Size of Park – Parks shall be created on a parcel(s) of land totaling at least 20 acres.

b. Buffer – An appropriate vegetation or open space buffer shall be located around the perimeter of the park. The type and size of the buffer shall be determined by the density and type of adjacent uses and the need for separating the uses. As a minimum, a 25 foot buffer (open space or vegetation) shall be required with the Zoning Board of Appeals determining the need for a greater buffer.

c. Lot Size – Each manufactured home lot shall consist of a lot of a

minimum of 6,000 square feet and a minimum of 70 feet at the narrowest point. Overall, the density of the park shall average not more than 4 manufactured homes per acre. Parks shall be divided (exclusive of internal roads, open spaces or common areas) and marked off into sites numbered consecutively which correspond to the site shown on the site plan submitted.

2. Drainage – The park shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnate pools of water.

3. Streets/Walkways/Parking

a. Parking – Space for parking of 2 automobiles must be provided for each manufactured home lot adjacent to it.

b. Park Roadways – Park roadways shall be a minimum of 20 feet in width and shall have at least two unobstructed accesses to a public street or highway.

c. Walkways – Walkways of not less than 2 feet in width shall be provided to the service buildings.

d. Grade and Surface Composition – All driveways and walkways within the park shall be of suitable grade and shall be surfaced with gravel as minimum.

4. Lighting and Utilities – All driveways and walkways within the park shall be lighted at night with electric lamps of such candle power and so situated as may be directed by the Zoning Board of Appeals. It is recommended that consideration in each instance be given to the construction of all utilities underground. It shall be required that all lines between the meter and lot be underground.

5. Patios and Porches – All lots may have a patio convenient to the entrance of each manufactured home. All porches must be self-supporting.

6. Park Design – It is recommended that the design of the park not be barracks-like in nature and not designed on the gridiron pattern with identical rectangular spaces. The angling of spaces and the clustering of manufactured homes around cul-de-sacs could be considered. Should this latter type of design be hampered by the minimum space size of 6, 000 feet and space width of 70 feet, the Zoning Board of Appeals shall have the authority to waive either or both of those 2 requirements.

7. Applicants for Special Use Permit under this Section shall first ascertain the regulations of the State and County Health Departments with respect to the proposed project. A site plan shall be submitted to the Zoning Board for review with the application for a Special Use Permit.

SECTION 615 TRAVEL TRAILERS (INCLUDES MOBILE HOMES)

Travel trailers shall be defined as vehicles designed for recreational uses and not for permanent living quarters. Additionally travel trailers are engineered for highway travel. They may contain independent utility and facility systems.

Travel trailers may be stored (parked) within the Village as long as they are owned for personal use by a resident on the premises where they are located. No more than one such travel trailer/camper shall be permitted to be stored on the premises.

SECTION 616 FARM ANIMALS

Conditions – Keeping of farm animals shall be regulated in other than rural resource districts where they are listed as allowable in the following manner:

1. Commercial Operations Prohibited – Farm animals, poultry, and birds shall not be raised for profit or as a commercial venture. They shall only be allowed when kept for personal recreational use or for home consumption of its product.
2. Nuisances – Farm animals which create a nuisance due to odor, noise, etc., shall be prohibited.
3. Fences – Farm type animals where allowed shall be fenced so as not to be able to come within 50 feet of adjacent residential structures nor within 10 feet of any boundary line.
4. Farm Animals – Farm animals in districts where allowed shall be allowed for noncommercial use if over 10 continuous acres of pasture are present. The maximum number of farm animals allowed shall be based on the acres of pasture available with one acre being required per horse or cow.

SECTION 617 SLUDGE AND SEWAGE OPERATIONS

- A. Purpose – to promote the safety and general welfare of the public by:
1. Preventing the contamination of surface water and ground water used for residential, commercial and industrial purposes.
 2. Preventing the contamination of pastures and croplands.
 3. Preventing the contamination of grazing animals.

B. Administration – A “Special Use Permit” shall be required before any sludge operation may commence. A fee for this Special Use Permit will be assessed pursuant to the Village of Sinclairville fee schedule.

- C. Conditions
1. The landowner upon whose land the sludge operation is to be carried out must comply with all Federal, State and Local Laws, rules, regulations and permits governing the application of sludge to land and/or other operations involving sludge.
 2. Sludge operations may not occur within 500 yards of existing water wells, springs or stream channels.
 3. Sludge operations may not occur within 500 yards of an existing residence or outbuilding used to house animals.
 4. Sludge operations may not occur within 500 yards of the boundary of a pasture or cropland upon which animals have been grazed or crops have been grown within one (1) year of the filing of an application for a Special Use Permit to allow a sludge operation.

5. A permanent fence must completely enclose the area wherein the sludge operation is to occur. The fence must be chainlink in construction and six (6) feet in height at all points. The fence must also be equipped with locking gate.

6. A sludge operation may only occur in a Rural Resource (RR) District.

7. All sludge operations must be carried out in strict conformity with the conditions set forth in the permits issued by the State of New York and its agencies as well as those permits issued by the Village of Sinclairville.

8. The generator of Sludge or Sewer Sludge must provide a “Performance Security Bond” to the Village of Sinclairville in the amount of \$1,000,000.00 to insure compliance with all aspects of New York State and Local laws, rules, regulations and permits.

9. A negative buffer zone, with minimum width of 100 feet separating the application side and any surface water stream channel (intermittent or perennial).

10. The generator of Sludge or Sewage Sludge must, prior to application for the Special Use Permit, establish and submit with the Permit, base line data of parameters for the heavy metal cadmium, nickel, copper, chromium, lead and zinc also testing for all known toxic chemicals. Testing is to be conducted on all water wells or water sources that are located down slope of the application site. Water testing is to be conducted on an annual basis with a copy of all test results being submitted to the Village Clerk of the Village of Sinclairville within ten working days of sampling.

D. Definitions

1. Sludge – Means any solid, semisolid or liquid waste generated from a wastewater treatment plant, water supply treatment plant, or air pollution control facility but does not include the treated effluent from a wastewater treatment plant.

2. Sewage Sludge – Means the accumulated semisolids or solids resulting from treatment of wastewaters from publicly or privately owned or operated sewage treatment plants.

3. Sludge Operations – The storage and/or application of sludge or sewage sludge.

4. Water Wells and Water Sources – Potable water for human and animal consumption.

5. Grazing Animals – Those domestic animals that use the method of grazing ground cover to maintain body, strength, vital organs and produce animal products such as milk or meat.

6. Contamination – Anything that prohibits safe water and/or ground usage.

7. Generator – That treatment plant whether private or public owned.

8. Negative Buffer Zone – A strip of land bordering a stream channel that is inhabited by a variety of plant life, trees, shrubs, grasses, etc. for the purpose of restricting surface water runoff and providing nutrient uptake.

SECTION 618 MODULAR HOMES

All modular dwelling units must be placed upon a permanent, poured concrete or cement block foundation.

SECTION 619 WIND ENERGY CONVERSION SYSTEMS

I. WIND ENERGY FACILITIES

A. Definitions – As used in Section 619 the following terms shall have the meanings indicated:

1. AGRICULTURAL OR FARM OPERATIONS – means the land and on-farm buildings, equipment, manure procession and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding operation, as defined in New York Agriculture and Markets Law §301 and “timber processing,” as defined in subdivision fourteen of New York Agriculture and Markets Law §301. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

2. EAF – Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

3. PRIMARY STRUCTURE – A structure that one or more persons occupies for personal or business reasons. Primary structures include residences and commercial buildings

4. SEQRA - the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

5. SOUND PRESSURE LEVEL – means the level which is equaled or exceeded a stated percentage of time. An L₁₀ –50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedures.

6. SMALL WIND ENERGY CONVERSIONS SYSTEM (“Small WECS”) – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

7. SITE – The parcel(s) of land where the Wind Energy Facility is to be placed. The Site could be publicly or privately owned by an individual or group of

individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility or has entered an agreement for said Facility or a setback agreement and received the required variance shall not be considered off-site.

8. TOTAL HEIGHT – The height of the tower and the furthest vertical extension of the WECS.

9. WIND ENERGY CONVERSION SYSTEM (“WECS”) – A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”).

10. WIND ENERGY FACILITY – Any Wind Energy Conversion System, including Small Wind Energy Conversion Systems, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

11. WIND MEASUREMENT TOWER – A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

12. WIND OVERLAY DISTRICT – A district which encompasses part or parts of one or more underlying districts and that establishes requirements for Wind Energy Facilities.

B. Permits and Rezoning Required

1. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Village of Sinclairville except in compliance with this Article and shall require a Building Permit Application.

2. No WECS including Small WECS shall be constructed, reconstructed, modified, or operated in the Village of Sinclairville except in a Wind Overlay District, pursuant to an application for rezoning and for special use permit approved pursuant to this Article.

3. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Village of Sinclairville except pursuant to a Special Use Permit issued pursuant to this Article, except for subdivision 8 of this Section.

4. Notwithstanding any other provision of this Zoning Local Law, Special Use Permits for Wind Energy Facilities shall be issued by the Zoning Board of Appeals.

5. Exemptions – A WECS utilized solely for agricultural operations in a state or county agricultural district, as long as the facility is set back at least one and a half times its Total Height from a property line, and does not exceed 120 feet in height. Towers over 120 feet in Total Height utilized solely for agricultural operations in a state or county agricultural district shall apply for a special use permit in accordance with this Local Law, but shall not require a height variance. Prior to the construction of a WECS under this exemption, the property owner or a designated agent shall submit a building permit application and comply with §505 Site Plan Review.

6. This Article shall apply to all areas of the Village of Sinclairville.

7. Transfer – No transfer of any Wind Energy Facility or Special Use Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sale of shares on a public exchange), will occur

without prior approval of the Village, which approval shall be granted upon written acceptance of the transferee of the obligations of the transferor under this Article, and the transferee's demonstration, in the sole discretion of the Zoning Board of Appeals, that it can meet the technical and financial obligations of the transferor. No transfer shall eliminate the liability of the transferor nor any other party under this Article unless the entire interest of the transferor in all facilities in the Village is transferred and there are no outstanding obligations or violations.

8. Notwithstanding the requirements of this Article, replacement in kind or modification of an existing Wind Energy Facility may occur without Zoning Board of Appeals approval when (1) there will be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the WECS; (5) no change in the location or size of the access road.

C. Applicability

1. The requirements of this Article shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Article.

2. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Article, shall not be required to meet the requirements of this Article; provided, however, that

a. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve months shall meet the requirements of this Article prior to recommencing production of energy.

b. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Article.

c. Any Wind Measurement Tower existing on the effective date of this Article shall be removed no later than twenty-four (24) months after said effective date, unless a Special Use Permit for said Wind Energy Facility is obtained.

3. Wind Energy Facilities may be either principal or accessory uses. A different existing use or an existing structure on the same Site shall not preclude the installation of a Wind Energy Facility or part of such facility on such Site. Wind Energy Facilities constructed and installed in accordance with this Article shall not be deemed expansions of a nonconforming use or structure.

D. Wind Overlay District Rules

1. Wind Overlay District may be created in the Rural Resource (RR) District.

2. Initial requests for Wind Overlay Districts shall be submitted with applications for WECS Special Use Permits. No Wind Overlay District may be initially created without specific requests for WECSs.

3. Once a Wind Overlay District has been created, new WECSs or accessory structures or facilities may be added in that District by grant of a Special Use Permit pursuant to the requirements of this Article.

E. Applications for Wind Energy Conversion Systems and Wind Overlay District

1. A joint application for creation of a Wind Overlay District and Special Use Permit for individual WECS shall include the following:

a. Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the application authorizing the representation.

b. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed and notarized by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

c. Address, or other property identification, of each proposed tower location, including Tax Map section, block, and lot number.

d. A description of the project, including the number and maximum rated capacity of each WECS.

e. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

1. Property lines and physical dimensions of the Site.
2. Location, approximate dimensions, and types of major existing structures, including all residences, and uses on Site, public records, and adjoining properties within five hundred (500) feet of the boundaries of the proposed Wind Overlay District.

3. Location and elevation of each proposed WECS.
4. Location of all above ground utility lines on the Site or within a radius equal to the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.

5. Location and size of structures above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas, and slender or open lattice towers are not considered structures.

6. The zoning designation of the subject and adjacent properties as set forth on the official Village Zoning Map.

7. Proposed boundaries of the Wind Overlay District

8. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to:

(i) One and a half times the tower height radius.

(ii) Five-hundred foot radius.

(iii) One-thousand foot radius.

9. Location of primary structures within one thousand two hundred feet of each proposed tower. The distance from the center of the tower to any primary structure within one thousand feet shall be noted.

10. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.

f. Vertical drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point

of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.

g. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.

h. List of property owners, with their mailing addresses, within 500 feet of the boundaries of the proposed Wind Overlay District. The applicant may delay submitting this list until the Zoning Board of Appeals calls for a public hearing on the application.

i. Decommissioning Plan – The applicant shall submit a decommissioning plan, which shall include: 1) the anticipated life of the WECS; 2) the estimated decommissioning costs in current dollars; 3) how said estimate was determined; 4) the method of ensuring that funds will be available for decommissioning and restoration; 5) the method, through re-estimates every five (5) years by a licensed engineer, that the decommissioning cost will be kept current; and 6) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation to original condition at the time the Wind Overlay District was established, less any fencing or residual minor improvements requested by the landowner. The Plan shall include the Decommissioning Bond required by this Article.

j. Complaint Resolution – The application will include a complaint resolution process to address complaints from nearby residents. The process will utilize non-binding arbitration and include a time limit for acting on a complaint.

k. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:

1. A construction schedule describing commencement and completion dates; and

2. A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.

l. Completed Part 1 of the Full EAF.

m. Applications for Special Use Permits for Wind Measurement Towers subject to this Article may be jointly submitted with the WECS.

n. For each proposed WECS, include make, model, picture, and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants, and coolants.

o. If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Village Board of the Village of Sinclairville shall issue a positive declaration of environmental significance.

p. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement ("DEIS") prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted with application:

1. Shadow Flicker – The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be

caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with primary structures and describe measures that shall be taken to eliminate or mitigate the problems.

2. Visual Impact – Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system’s components and any visual screening incorporated into project and that is intended to lessen the system’s visual prominence.

3. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Wind Overlay District.

4. Noise Analysis – a noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and at the nearest residence outside wall not on the Site (if access to the nearest residence is not available, the Zoning Board of Appeals may modify this requirement). The noise analysis shall provide pre-existing ambient noise levels and include low frequency noise.

5. Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties adjoining WECS Sites, including properties across public roads from the Site.

6. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, and other wireless communication.

q. Written certification by a licensed professional engineer that the foundation and WECS design are within accepted professional standards, given all local conditions.

r. Tower design information sufficient to demonstrate compliance with wind-loading requirements.

s. Analysis of potential ice-throwing and damage from blade throw impacts.

t. A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

F. Application Review Process

1. Applicants may request a pre-application meeting with the Zoning Board of Appeals, or with any consultants retained by the Zoning Board of Appeals for application review.

2. Six copies of the application shall be submitted to the Village Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

3. The Village or Village-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application.

4. If the application is deemed incomplete, the Zoning Board of Appeals or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECSs proposed is increased.

5. The applicant shall post the completed application and any accepted environmental impact statements on the Internet and continue the posting until such time as the Wind Overlay District is approved or disapproved. The application shall be referred to the Zoning Board of Appeals in accordance with this Local Law.

6. The Zoning Board of Appeals shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 500 feet of the boundaries of the proposed Wind Overlay District, and published in the Village's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Zoning Board of Appeals to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Village, and shall submit an affidavit of service. The assessment roll of the Village shall be used to determine mailing addresses.

7. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.

8. Notice of the project shall also be given, when applicable, to (1) the Chautauqua County Planning Board, if required by General Municipal Law §§239-l and 239-m, and (2) to adjoining Villages under Village Law.

9. SEQRA Review – Applications for WECS are deemed Type I projects under SEQRA. The Village Board of the Village of Sinclairville shall conduct its SEQRA review in conjunction with other agencies, and the record of review by said agencies shall be part of the record of the Village's proceedings. The Village Board of the Village of Sinclairville may require an escrow agreement for the engineering and legal review of applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Village Board of the Village of Sinclairville shall issue a Statement of Findings, which Statement may also serve as the Village's decision on the applications.

10. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), and the report of the recommendation of the Zoning Board of Appeals (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Zoning Board of Appeals may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

G. Standards for WECS

1. The following standards shall apply to all WECS and related infrastructure, unless specifically waived by the Zoning Board of Appeals as part of a permit.

a. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.

b. No television, radio, or other communication antennas may be affixed

or otherwise made part of any WECS, except pursuant to the telecommunications provisions of the Village Zoning Code. Applications may be jointly submitted for WECS and telecommunications facilities.

c. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

d. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Site plan. Security lighting shall be designed to minimize light pollution, including the use of light hoods, low glare fixtures, and directing lights at the ground.

e. All applicants shall use measures to reduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECSs within a Wind Overlay District shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the District, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No letter, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.

f. The use of guy wire is prohibited.

g. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Special Use Permit for the specific WECS or WECS causing the interference.

h. All solid waste and hazardous waste and construct debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

i. WECS shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.

j. WECS shall be located in a manner that minimizes significant negative impacts on animal species in the vicinity, particularly bird and bat species.

k. WECS and related infrastructure shall be located in a manner consistent with all applicable local, state and Federal wetlands laws and regulations.

l. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable local, state and Federal laws and regulations.

m. The maximum Total Height of any WECS shall be 500 feet.

n. Construction of the WECS shall be limited to the hours of 7 a.m. to 8 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Zoning Board of Appeals.

o. Substations required to serve WECS are an Essential Public Service

under this Zoning Code. Substations shall be screened from public view to the extent possible.

p. The Village of Sinclairville shall be named as an additional insured under the general liability policy of the applicant, the amount of which insurance shall be no less than an amount to be determined by the Zoning Board of Appeals given the nature and scope of the project proposed by the applicant.

q. Any construction or ground disturbance involving agricultural land shall be done in accordance to NYS Department of Agriculture and Markets' publication titled Guidelines for Agricultural Mitigation for Wind Power Projects.

H. Required Safety Measures

1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

2. If the property owner submits a written request that fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications as safety needs dictate.

3. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hours, 7 day a week coverage. The Zoning Board of Appeals may require additional signs based on safety needs.

4. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole.

5. The minimum distance between the ground and any part of the rotor or blade system shall be twenty (20) feet.

6. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.

7. Accurate maps of the underground facilities shall be filed with the Village Clerk and with "Dig Safely New York (1-800-962-7962)" or its successor.

I. Traffic Routes

1. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS related traffic during time of school bus activity; (3) minimizing wear and tear on local roads; (4) minimizing impacts on local business operations. Permit conditions may require remediation during construction, limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public, and all applicable state, county, and municipal highway authorities and superintendents whose roads are included in the WECS traffic routes plan.

Notification to all applicable highway authorities and superintendents will include the number and type of vehicles and their size, their maximum gross weight, the number of round trips, and the dates and time periods of expected use of designated traffic routes.

2. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Zoning Board of Appeals, sufficient to compensate the Village for any damage to local roads.

3. If the applicant uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway including but not limited to snow plowing. No act of maintenance on a seasonal use highway by an applicant shall be considered as Village maintenance of that highway for purposes of determining the seasonal use status of the highway.

J. Setbacks for Wind Energy Conversion Systems

1. The statistical sound pressure level generated by a WECS shall not exceed L₁₀₋₅₀ dBA measured at the closest exterior wall of any primary structure existing at the time of completing the SEQRA review of the application. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement. The sound pressure level measurement period shall be seven (7) days for a total continuous time period of one hundred sixty-eight (168) hours.

2. In the event audible noise due to WECS operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph 1) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

3. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project Site are sufficient to all Wind Turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

4. Any noise level falling between two whole decibels shall be the lower of the two.

5. Each WECS shall be setback for Site boundaries, measured from the center of the WECS, a minimum distance of:

- a. 500 feet from the nearest Site boundary property line, except

the setback shall be 500 feet where the boundary is with state, county, Village or village-owned property.

- b. 500 feet from the nearest public road.
- c. 1,000 feet from the nearest primary structure existing at the time of application, measured from the foundation of primary structure.
- d. 100 feet from the edge of state-identified wetlands. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds.
- e. 500 feet from gas wells, unless waived in writing by the property owner.
- f. 1,000 feet from any other WECS.

6. Other wind Energy Facility structures and improvements shall comply with the underlying zoning district regulations.

K. Noise, Height and Setback Easements; Variances

1. In the event the noise levels resulting from a WECS exceed the criteria established in this Article, or a setback requirement is not met, a waiver may be granted from such requirement by the Zoning Board of Appeals in the following circumstances:

a. Written consent from the affected property owners has been obtained stating that they are aware of the WECS and the noise and/or setback limitations imposed by this Article, and that they wish to be part of the Site as defined herein, and that consent is granted to (1) allow noise levels to exceed the maximum limits otherwise allowed or (2) allow setbacks less than required; and

b. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, shall be recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and may not be revoked without the consent of the Zoning Board of Appeals, which consent shall be granted upon either the completion of the decommissioning of the benefited WECS in accordance with this Article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.

c. In any case where written consent is not obtained, a variance from the Zoning Board of Appeals shall be required.

L. Creation of Wind Overlay Districts and Issuance of Special Use Permits

1. Upon completion of the review process, the Zoning Board of Appeals shall, upon consideration of the standards in this Article and the record of the SEQRA review, issue a written decision setting forth the reasons for approval, conditions of approval, or disapproval.

2. If approved, the Zoning Board of Appeals will direct the Village Clerk to modify the Official Map to reflect the creation of the Wind Overlay Districts, and authorize Village staff to issue a Special Use Permit for each WECS upon satisfaction of all conditions for said Permit, and direct the building inspector to issue a building permit,

upon compliance with the Uniform Fire Prevention and Building Code and other conditions of this Article.

3. The decision of the Zoning Board of Appeals shall be filed within five days in the office of the Village Clerk and a copy mailed to the applicant by first class mail.

4. If any approved WECS is not substantially commenced within two years of issuance of the permit, the special use permit shall expire.

M. Abatement

1. If any WECS remains non-functional or inoperative for a continuous period of 1 year the applicant agrees that, without any further action by the Zoning Board of Appeals, it shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Village that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Village's ability to order a remedial action plan after public hearing.

2. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA, or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Zoning Board of Appeals all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect proprietary information.

3. Decommissioning Bond or Fund – The applicant, or successors, shall continuously maintain a fund or bond payable to the Village for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Village for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York –licensed financial institution. All costs of the financial security shall be borne by the applicant.

N. Limitations on Approvals; Easements on Village Property

1. Nothing in this Article shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Article shall be deemed a guarantee against any future construction or Village approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

2. Pursuant to the powers granted to the Village to manage its own property, the Village may enter into noise, setback, or wind flow easements on such terms as the Zoning Board of Appeals deems appropriate, as long as said agreements are not otherwise prohibited by state law or this Article.

O. Permit Revocation

1. Testing fund – A Special Use Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequently upon request of the Zoning Board of Appeals in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Article and shall also include an evaluation of any complaints received by the Village. The applicant shall have 90 days after written notice from the Zoning Board of Appeals, to cure any deficiency. An extension of the 90 day period may be considered by the Zoning Board of Appeals, but the total period may not exceed 180 days.

2. Operation – A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Zoning Board of Appeals. The applicant shall have 90 days after written notice from the Zoning Board of Appeals, to cure any deficiency. An extension of the 90 day period may be considered by the Zoning Board of Appeals, but the total period may not exceed 180 days.

3. Notwithstanding any other abatement provision under this Article, and consistent with Sections M(1) and O(2), if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Village may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the Special Use Permit for the WECS and require removal of the WECS within 90 days. If the WECS is not removed, the Zoning Board of Appeals shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

II. WIND MEASUREMENT TOWER APPLICATION

Wind Site Assessment – The Zoning Board of Appeals acknowledges that prior to construction of a WECS, a wind Site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also known as anemometer (“Met”) towers, shall be permitted as a Special Use in the Rural Resource (RR) District.

A. Applications for Wind Measurement Towers

1. An applicant for a Wind Measurement Tower shall include:
 - a. Name, address, and telephone number of the property owner. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - b. Name, address, and telephone number of the property owner. If the

property owner is not the applicant, the application shall include a letter or other written permission signed and notarized by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

- c. Address of each proposed tower Site, including Tax Map section, block and lot number.
- d. Site plan
- e. Decommissioning Plan, based on the criteria in this Article for WECS, including a security bond or cash for removal.

B. Standards for Wind Measurement Towers

1. The distance between a Wind Measurement Tower and the property line shall be at least the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

2. Special Use Permits for Wind Measurement Towers may be issued by the Zoning Board of Appeals for a period of up to two years. Permits may be renewed if the Facility is in compliance with the conditions of the Special Use Permit.

III. SMALL WIND ENERGY CONVERSION SYSTEMS

A. Purpose and Intent – The purpose of this Article is to provide for small wind energy conversion systems designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

B. Permitted Areas – Small Wind Energy Systems may be permitted in any zoning district upon issuance of a Special Use Permit.

C. Applications

- 1. Applications for Small WECS special use permits shall include:
 - a. Name, address, and telephone number of the applicant. If the applicant will be represented by an agent, the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
 - b. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed and notarized by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
 - c. Address of each proposed tower Site, including Tax Map section, block and lot number.
 - d. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
 - e. A line drawing of the electrical components of the system in sufficient

detail to allow for a determination that the manner of installation conforms to the Electric Code.

f. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

g. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.

h. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the systems' components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

D. Development Standards – All small wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

1. A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.

2. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Article.

3. Small Wind energy systems may be used primarily to reduce the on-Site consumption of electricity.

4. Tower heights may be allowed as follows:

a. 65 feet or less on parcels between one and five acres.

b. 120 feet or less on parcels of five or more acres.

c. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11 of Title 14 of the Code of Federal Regulations regarding installations close to airports).

5. The maximum turbine power output is limited to 100 kW.

6. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

7. The systems shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible a small wind energy system:

a. Shall not project above the top of ridgelines.

b. If visible from public viewing areas, shall use natural landforms and existing vegetation for screening.

c. Shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

8. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

9. All on-site electrical wires associated with the system shall be installed underground except for “tie-ins” to a public utility company and public company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

10. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of this system.

11. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower’s manufacturer’s logo may be displayed on a system generator housing in an unobtrusive manner.

12. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

- a. Tower-climbing apparatus located no closer than 12 feet from the ground.
- b. A locked anti-climb device installed on the tower.
- c. A locked, protective fence at least six feet in height that encloses the tower.

13. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

14. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.

15. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

16. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.

17. All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

E. Standards – A Small Wind Energy System shall have the following standards:

1. Setback requirements – A Small WECS shall not be located closer to a property line than one and a half times the Total Height of the facility.

2. Noise – Except during short-term events including utility outages and severe wind storms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the exterior wall closest exterior wall of the neighboring inhabited dwelling.

F. Abandonment of Use

1. Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Zoning Board of Appeals.

2. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

IV. MISCELLANEOUS

A. Village of Sinclairville Fee Schedule – The fees associated with establishing a wind overlay district, special use permits, wind measurement towers and renewals are set forth in the Village of Sinclairville fee schedule. The status of these charges as refundable or nonrefundable is also determined in the fee schedule.

A. Building Permits

1. Village of Sinclairville has determined that the review of building and electrical permits for wind energy facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall reflect the increase in administrative cost plus the amount charged to the Village of Sinclairville by any outside consultants employed by the Village of Sinclairville to review the plans and inspect work. In the alternative, the Village of Sinclairville and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Village of Sinclairville and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certification or conduct inspections as agreed by the parties.

2. The applicant shall prior to the receipt of the building permit demonstrate that the proposed facility meets the system reliability requirements of New York Independent System Operator, or provide proof that it has executed an interconnection agreement with the New York Independent System Operator and/or the applicable transmission owner.

B. Host Community Agreements – Nothing in this article shall be read as limiting the ability of the Village of Sinclairville to enter into host community agreements with any applicant to compensate the Village for expenses or impacts on the community. The Village shall require any applicant to enter into an escrow agreement to pay the engineer and legal costs of any application review, including the review required by SEQRA.

C. The Amendment of Fees – The Village Board of the Village of Sinclairville may amend the fee amount upon resolution after a properly noticed public hearing.

SECTION 620 ADULT ENTERTAINMENT FACILITIES

A. Purpose – It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the Village of Sinclairville, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village. The provision of this Law have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Law to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this law to condone or legitimize the distribution of obscene materials.

B. Findings – Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Village Board and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini-Theaters*, 426 U.S. 50 (1976), *F.W./PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theater, Inc.*, 511 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 120 Supreme Court 1382 (2000), and on studies in other communities including, but not limited to Phoenix, Arizona; Minneapolis/St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin, the Village Board finds:

a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operation of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

b) Certain employees of sexually oriented businesses defined in the law as adult theaters and adult cabarets engage in higher incidents of certain types of illicit sexual behavior than employees of other establishments.

c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, video, or live sex shows.

d) Offering and providing such space encourages such activities, which creates unhealthy conditions.

e) Person frequent certain adult theaters, adult arcades, and other sexually oriented businesses.

f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiosis, salmonella infections and shigella infections.

g) That here in Chautauqua County we have, in recent years, had an HIV-AIDS outbreak which has caused the County to become aware of the inherent problems.

h) The development and proliferation of adult entertainment facilities without regulations as to sitting, concentrations and location may result in the deterioration of residential neighborhoods and business districts. In addition, if these types of businesses are located near schools, churches and/or others residing in the Village of Sinclairville.

i) The findings noted in Subsections “a” through “h” raise substantial governmental concerns.

j) Sexually oriented businesses have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns.

C. Definitions -

ADULT BOOK/VIDEO/MEDIA STORE – An establishment having as its stock-in-trade, books, magazines, videos and other periodicals which are distinguished or relating to specified sexual activities or specified anatomical areas, as defined herein, or an establishment with a segment or section devoted to the sale and display of such material.

ADULT ENTERTAINMENT FACILITIES – Means and refers to “adult new-racks”, “adult book stores”, adult motion picture theaters, and “exotic cabarets”.

ADULT MOTION PICTURE/VIDEO THEATER – An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by persons within the use.

ADULT NEWS RACK – Any machine or device, whether coin operated or not, which dispenses material which is distinguished or characterized by emphasis depicting, describing or relating to the “specified sexual activities” or “specified anatomical areas” defined herein.

EXOTIC CABARET – A night club, bar or restaurant or similar commercial establishment which regularly features 1) persons who appear nude or semi-nude; or 2) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities” or 3) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or specified anatomical areas”.

SPECIFIED SEXUAL ACTIVITIES – a) human genitals in a state of sexual stimulation or arousal; b) acts of human masturbation, sexual intercourse or sodomy; c) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

SPECIFIED ANATOMICAL AREAS – a) less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the areola; b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

D. Location – The following provisions shall apply to the location of adult entertainment facilities: a) adult entertainment facilities shall be permitted only in the Commercial - Industrial District, as defined in the Zoning Law of the Village of Sinclairville, upon approval of a special use permit; b) no adult entertainment facility shall be permitted within 500 feet of any lot with a residential use; c) no adult entertainment facilities shall be permitted within 1000 feet of any:

1. school,
2. religious institution, or
3. public park or public recreation facility;

d) additional sign requirements – the following provision shall apply to signs erected or maintained in connection with adult entertainment facilities: a) no off-site signs shall be permitted.

E. Public Display of Certain Matter Prohibited – Materials offered for sale from “adult news-rack” shall not be displayed or exhibited in any manner which exposes to the public view any picture or illustration depicting any “specified sexual activity” or any “specified anatomical area”. Material offered for sale or viewing at any adult entertainment facility shall not be displayed or exhibited in a manner which exposes any depiction of “specified sexual activity” or “specified anatomical areas” to the view of persons outside the building or off the premises on which such store or theater or use is located.

F. Restrictions Cumulative in Nature – The restrictions set forth in this Law are in addition to any applicable provision of the Zoning Law of the Village of Sinclairville. In the event of any conflict between any such provisions, the more restrictive provisions shall be applied.

SECTION 621 UNSAFE BUILDINGS

The intent of this section is to promote and preserve a clean, wholesome, and attractive environment within the Village of Sinclairville, which is declared to be of importance to the health, safety and welfare of residents and owners of property located within the Village of Sinclairville, by providing a method of removal or repair of buildings or structures within the limits of the Village that from any cause may now be or shall hereafter become dangerous or unsafe to the public. It is further declared that the unrestrained allowance of unsafe buildings and structures is a hazard to such health, safety and welfare of the inhabitants of said Village, necessitating the regulation and restraint and elimination thereof.

A. Unsafe buildings prohibited - No person, firm, corporation or association owning, possessing or controlling a building or structure in the Village of Sinclairville, County of Chautauqua and State of New York, shall permit, suffer or allow said building now or hereafter to be or become dangerous or unsafe to the public from any cause whatsoever.

B. Unsafe structure and equipment – For the purposes of this section definition of unsafe structure and equipment as set forth in the New York State Uniform Fire Prevention and Building Code will be utilized.

C. Inspection, Notice and Order – In the event that this shall come to the attention of the Village Board that any building or structure in the Village of Sinclairville may be dangerous or unsafe to the public, the Board shall direct the Code Enforcement Officer to inspect the alleged unsafe building. If the Village Board adopts the Zoning Enforcement Officer’s report as to an unsafe building or a dangerous building, then the Board shall cause notice to be served on the owner or some one (1) of the owners, executors, legal representative, agents, lessees or any other person having a vested or contingent interest in the same, either personally or by certified mail, addressed to the last known address of the owner or some one (1) of the owners, executors, legal representatives, agents, lessees, or some other person having a vested or contingent interest in the same, as shown by the records of the receiver of the taxes and/or in the office of the County Clerk, containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order requiring same to be made safe and secure or removed. The owner or his legal representatives shall commence said repair or the removal of said building or structure within thirty (30) days of the service of notice, and complete the same within sixty (60) days of the service of notice.

D. Disregard of Notice; Survey – In the event of the neglect or refusal of the person served with the notice to fully comply with the same, a notice of survey shall be served upon such person, notifying such person that a survey of the premises will be made at the time and place specified in such notice by the Zoning Enforcement Officer and a practicing builder, engineer or architect to be named by the Village Board and designated in the notice. The notice shall also state that a practicing building, engineer or architect may also be appointed by the person served with the notice, and that in the event of refusal or neglect of said person so notified to appoint said builder, engineer or architect and to cause his attendance at the designated time and place, then the surveyor named by the Village shall make the survey and report. The notice shall also state that in the event the building or other structure shall be reported as unsafe or dangerous under such survey, then an application shall be made at a term of the Supreme Court in this judicial district for an order determining the building or structure or any party thereof to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

E. Issuance of Search Warrant – In the event that person, firm, corporation or association owning, possessing or controlling a building or structure in the Village of Sinclairville refuses to allow the appointed Code Enforcement Officer or surveyor as herein provided to make the inspection or survey, then the Code Enforcement Officer shall file an affidavit of the facts showing a probable violation of this chapter with the Town Justice, and if after examination of said Code Enforcement Officer, the Town Justice shall make a written finding that there appears to be a probable cause that there is a violation of this chapter which is creating a dangerous or unsafe building in the Village then the Town Justice shall issue a search warrant to the Code Enforcement Officer authorizing a search of the premises to determine if there is a violation of this section.

F. Standards for Repair, Vacation or Demolition – The following standards shall be followed in conducting the survey of the structure or building by the surveyors to determine the condition of the said structure or building:

1. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of this section, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to health, safety or general welfare of its occupants, it shall be ordered to be vacated.
3. In any case where a dangerous building is fifty percent damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building can not be repaired so that it will no longer exist in violation of the terms of this section, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of any law of the Village or statute of the State of New York, it shall be demolished within 60 days of notification of the unsafe condition.

G. Assessment of Costs and Expenses

1. All costs and expenses incurred by the Village in connection with the inspection, removing, demolition, repairing or vacating of any dangerous building or structure, as determined pursuant to this chapter, including surveyor's costs or fees, attorney's fees, advertising costs, title searches, costs of actually removing or securing said building or structure and all other expenses, shall when properly certified to and by the Board, be audited and paid by the Village the same as any other claim against the Village.
2. A bill for such expenses shall be presented to the owner or person notified pursuant to the foregoing sections of this chapter, or if the same cannot be so served or notified, then by posting the same in a conspicuous place on the premises.
3. If the owner shall fail to pay the same within ten (10) days thereafter, the Village Board shall file a certificate of the actual expenses incurred as aforesaid, together with a statement as to the property in connection with which expenses were incurred, with the Village Assessor, who shall, in the preparation of the next assessment roll of the general Village taxes, assess such amount upon such property and against such building or structure and the lot or land upon which the same is situated, and said bill or amount so levied is to be collected and enforced in the same manner, by the same proceedings at the same time, have the same penalties and have the same lien effect upon such property as the general Village tax and as a part thereof.

H. Emergency Conditions – In cases of great emergency where the delay of the proceedings as herein before provided would result in probable loss of life or property, the Village Board shall have the power to proceed at once to take such action as is needed to guard the safety of person and property. In such cases, the Board shall have full power and authority to provide all necessary means therefore, and all expenses therefore shall be paid and collected as provided above.

SECTION

622 GAS COMPRESSORS, GENERATORS, AND RELATED EQUIPMENT

A. Purpose – To promote the safety and general welfare of the public and to maintain the quality of neighborhoods by reducing continuous or frequent unreasonably loud noises associated with the operation of gas compressors, generators, and equipment connected thereto. The conditions specified in this section are to be enforced for all gas compressors, generators, and equipment connected thereto not already subject to New York State Law and regulations.

B. Administration -

1. Permit Requirement – A Special Use Permit shall be required for the placement of a gas compressor, generator, and all equipment connected thereto.

2. Pre-existing Gas Equipment – All gas compressors, generators, and equipment connected thereto in place or being placed on real property at the time of enactment of this section and for which a permit has not been issued by the Code Enforcement Officer shall be subject to the following specific conditions: C-1, Location, C-2, Noise Levels, C-3, Certification of Noise Levels, C-4, Buffers, C-5, Identification Signs, and C-6, Protective Fencing. Notification to comply must be given by the Code Enforcement Officer and compliance shall take place within 60 days after notification. A longer compliance period may be granted by the Permitting Officer after appropriate public hearing if the cost of the alterations are significantly high.

C. Conditions – All gas compressors, generators, and equipment connected thereto shall be located and designed such that noise associated with the use shall be mitigated to the standards set forth herein. It shall be unlawful for any person or firm owning or operating gas compressors, generators, and related motorized equipment to make, continue or cause to be made or continued any noise in excess of the standards specified herein. The following specific conditions shall be met:

1. Location – The equipment and appropriate mechanical silencing apparatus shall be appropriately located with consideration given to predominant wind direction, topography, location of dwelling units and other relevant physical factors, including ambient noise levels and natural acoustical buffers. The equipment shall be located on land owned or leased by the operator of the equipment and placed no closer than 500 feet (as a safety factor only) from any dwelling unit which is present on the date the permit is granted and all proposed residential construction for which a Building Permit has been received and substantial work has been completed within 1 year from the granting of the permit.

2. Noise Levels –

a. Decibel level (existing equipment) – The compressors, generators, and equipment connected thereto shall be designed, operated, and maintained by the owner or operator so that the sound level produced by the equipment does not exceed 40 decibels (A-weighted) (express as 40 dBA) sound level at the exterior of any presently existing residence and all proposed residential construction for which a Building Permit has been received and substantial work has been completed within 1 year from the granting of the permit.

b. Decibel level (proposed equipment) – The compressor,

generator, and equipment connected thereto shall be designed, operated and maintained with good engineering practices and shall not emit noise at a level exceeding 40 dBA at the distance from the compressor predicted by the inverse square law and atmospheric attenuation at standard conditions to yield 40 dBA when the criteria ($52 + 10 \log \text{HP}$) (dBA at 50 feet on-axis to the heat-exchanger fans) is involved.

c. The compressor, generator, and equipment connected thereto shall not be operated except for daytime testing until the owner or operator demonstrates that the compressor meets the performance standards expressed in Paragraphs C2a and C2b above. It is the responsibility of the owner or operator of the equipment to satisfy these standards.

d. The same standards of performance described in Paragraphs C2a above shall be required for any continuously operating power source and meeting this requirement shall be the responsibility of the owner and/or operator of the source.

3. Certification of Noise Level – Prior to being granted a permit for the placement of equipment, the owner or operator of the equipment proposed to be placed shall be responsible for verifying that the equipment and quieting devices (silencer, low speed fan, building, buffers, etc.) as proposed will meet the specified DB level requirements. An ambient noise study conducted by a qualified expert in acoustical engineering must be submitted in writing with the permit application for the ambient noise level of the location and at occupied dwelling units located in proximity thereto. Additionally, after placement of the equipment is completed along with the specified quieting devices, the same noise consultant must verify that the Decibel requirements are complied with.

4. Buffers – Where it is deemed necessary, either a natural or man-made acoustical buffer may be required for the purpose of minimizing the nuisances associated with the equipment. In extreme cases where no alternative is available, a fully enclosed and muffled structure may be required.

5. Identification Sign – Each piece of equipment shall be identified with a sign conspicuously placed at the intersection of the access road and the public highway, identifying the equipment, its location and the name of the person/company responsible for the unit and a 24 hour emergency telephone number.

6. Protective Fencing – All compressors, generators, and related equipment not surrounded by a building constructed to bring the equipment in compliance with the decibel levels herein specified shall be surrounded by a protective fence of suitable construction as a safety factor.

SECTION 623 TRASH STORAGE IN RESIDENTIAL YARDS

A. Quantity Allowed (New Trash)

1. Small Dumpsters – A residence may utilize a small dumpster to store trash generated only at the residence utilizing that dumpster. A small dumpster has a maximum capacity of 8 cubic yards. The dumpster must be equipped with an operating lid that securely covers the entire opening area of the dumpster. All refuse must be entirely contained within the dumpster when the lid is completely closed. The dumpster must be emptied regularly and in a manner that minimizes odors and spillage. The dumpster must be utilized in such a way as to minimize public health risks associated with outdoor storage of refuse. The dumpster shall be set back from the right-of-way a

minimum of 100 feet. Placement of the dumpster will be such that it has a minimum, if any adverse effect on neighboring property and shall utilize natural screenings such as trees and shrubbery. In the event natural screen is not readily available a fence of suitable height and materials will be substituted.

2. Large dumpsters – Trash originating from the parcel on which it is placed shall be allowed to be stored temporarily in a dumpster with a capacity of greater than 8 cubic yards. The dumpster will be allowed on the property for a period of sixty (60) days in a single calendar year. The presence of a dumpster on the parcel for a period exceeding sixty (60) days in a calendar year will require a Special Use Permit.

1. Trash originated from outside of the Village shall not be allowed to be dumped on any parcel within the Village.

B. Definition of Trash – Glass, scrap metals, salvage metals, rags, refuse, garbage, wastepaper, salvaged machines, appliances, or similar materials, etc., but not to include woodpiles, lumber, building materials, compost, used farm machinery.

C. Buffers (locations)

1. All new accumulations of trash created after the enactment of this Law shall be out of sight of highways and adjacent properties to the greatest degree possible. Additionally, new accumulations of trash shall be placed a minimum of 200 feet from any parcel boundary of public roadways.

SECTION 624 EXOTIC ANIMALS

A. Purpose – The purpose of this section is to promote the health, safety and general welfare of the residents of the Village of Sinclairville by protecting them from disease or attack and possible injury caused by exotic animals as defined by the federal and New York State Law.

B. Regulations

1. Definition – the term “exotic animals” includes those animals defined in both Federal and New York State Law and Regulations and includes wolf and wolf-dog hybrids.

2. It shall be a violation of this law to possess an exotic animal in the Village of Sinclairville whether as a pet or for exhibition purposes.

SECTION 625 TIRE DUMPS

A. No person shall establish, keep or maintain or permit to be maintained on property owned, leased, rented, or used by such person, a place for the dumping and/or storage of used tires within the Village of Sinclairville.

B. Any accumulation of ten or more used and unmounted tires, other than within a fully enclosed building structure, shall constitute presumptive evidence of a violation of this ordinance.

C. Any violation hereof shall be abated within ten days of service, by certified mail to the occupant or record owner of the affected premises, of a notice to cease and desist. Thereafter, the penalty for continuing such violation shall be \$100.00 per day or \$10.00 per tire, whichever is greater.

D. The Village Board may, upon written application therefore, issue a variance permit for any amount of tires exceeding eight to be stored or used for appropriate purposes.

E. This shall be enforceable by any peace officer whose jurisdiction encompasses the Village or by any person specifically designated by the Village Board for this purpose.

SECTION 627 MINING OPERATIONS

Mining operations as defined by the New York State Law are prohibited within the Village of Sinclairville.

SECTION 628 SEASONAL CAMPS

For the purpose of preserving rural character and providing protection for existing uses, a Special Use Permit shall be required for a seasonal camp to be created.

Prior to the granting of the Special Use Permit, the Zoning Board shall consider the following conditions:

1. Lot Size – A minimum lot size of 10 acres shall be required.
2. Structure Location – A minimum front, side and rear setback of 200 feet shall be required.
3. Construction – The type, size and method of construction shall be considered. If a manufactured home is to be used, it must meet floor space requirements of the district.
4. Buffer Zones – Existing natural buffers should be retained to the greatest degree possible and new buffers should be considered where it is apparent that they are necessary.
5. Year-Round Conversion – The conversion of seasonal camps to a year-round housing or any other allowed uses shall be allowed only by Special Use Permit.
6. Access to Public Road – Seasonal camps must have access to public streets in accordance with the section on “Access to Public Streets” or a 50 foot right-of-way shall be required.

SECTION

629

**CAMPGROUNDS, GROUP CAMPS AND CAMPING
VEHICLE CAMPS**

A. Standards

1. General – Creation and expansion, extension or alteration of any campgrounds, group camps or recreational vehicle (RV) camps shall be in accordance with the minimum requirements hereinafter set forth.

2. Site considerations shall be as follows:

a. Any recreational campgrounds involving lands designated as flood hazard area by the Federal Insurance Administration of the United States Department of Housing and Urban Development, as depicted on the Zoning Map(s), or any other land subject to repeated flooding or deemed by the Zoning Board of Appeals to be subject to flood hazard shall be reviewed by the Board in accordance with applicable provisions of the site plan review of these regulations.

b. The campground shall be located in areas where grades and soil conditions are suitable for location of recreational living units. The campground shall be located on a well-drained site which is properly graded to ensure proper drainage and be free at all time from stagnate pools of water.

c. These sites shall be at least two acres in size or as otherwise stipulated and have access to a public highway.

3. Unit Area – Each campground shall have defined and identifiable camping site areas. The total number of unit areas in such campground shall not exceed 10 per gross acre. Each unit area shall have a total area of not less than 3,000 square feet with a minimum dimension of 30 feet. Only one recreational living unit shall be permitted to occupy any one camp area. Two tents may be allowed per site, or one tent plus recreational living unit.

4. Improved Unit Area – Each designated lot shall have an improved area which will provide for the placement and removal of recreational living units and for the retention of each in a stable condition. This improved area shall be of sufficient size to accommodate the dimensions of all anticipated recreational living units, and shall be suitably graded to provide proper surface drainage.

5. Location of Units – A recreation living unit shall be located at a minimum distance of:

- a. Twenty-five feet from an adjacent unit, in any direction.
- b. Twenty-five feet from an adjacent property line.
- c. One hundred seventy-five feet from the edge of the pavement or improved surface of a public roadway.
- d. Twenty feet from the edge of any paved or improved surface area of any roadway within the campground.

6. Accessibility – Accessibility shall be as follows:

- a. Each campground shall be easily accessible from an existing public roadway.
- b. Location and number of points of entry and exit shall be approved by the Zoning Board of Appeals according to the terms under which the permit is authorized. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the campground, and to minimize conflicts with the movement of traffic on the public roadway. Ease of access and egress and turning movements shall be considered in the design of the roadway system.
- c. Each campground shall have approved roadways to provide convenient access to all camping unit areas and other important facilities within the site. In addition:

- 1. Internal roadways within a campground shall have minimum rights-of-way and improved surface are as follows:
 - a. One-way traffic movement.
 - i. Right-of-way: 20 feet
 - ii. Surface or pavement width: 10 feet
 - b. Two-way traffic movement.
 - i. Right-of-way: 28 feet
 - ii. Surface or pavement width: 18 feet
- 2. All roadways shall be 15 feet for one-way roads and 20 feet for two-way roads, with six inches of rubble or gravel for drainage where necessary.
- 3. No parking shall be allowed on any roadway, and there shall be no dead-end roadways in any campground, except that a cul-de-sac or wye turnaround may be provided in accord with those provisions set forth in Chapter 150, Subdivision of Land.
- 4. Adequate access shall be provided to each improved camping site area.

7. Utilities and Service Facilities – All sewer, water and public accommodation facilities provided in any campground shall be in accordance with the regulations of the New York State Department of Environmental Conservation or Department of Health, as is applicable. In addition, the following utilities and service facilities shall be provided in each campground:

- a. An adequate supply of pure water for drinking and domestic purposes shall be supplied.
- b. Waste from all service buildings and individual lots shall be discharged into an approved public or private sewer system in compliance with New York State Department of Environmental Conservation and New York State Department of Health, and in such a manner so as not to present a health hazard.
- c. If other service buildings and facilities are to be provided, as deemed necessary for the normal operation of the campground, all such buildings shall be maintained in a sanitary and safe condition.
- d. Refuse disposal shall be the responsibility of the operator of the campground and such refuse shall be disposed of daily, off site and in a covered can with a plastic bag liner at each site.
- e. Where electrical connections or services are provided, they shall be

weatherproof connections and outlets which are of a type approved by the New York State Uniform Fire Prevention and Building Code. Proposed electrical service shall be shown on the plan.

8. Recreation; open space area – Each campground shall provide common open space for the use of the occupants of such campgrounds. Such open space shall be conveniently located in the campground and shall constitute a minimum of 20% of the total campground area, such area to be designated on the site plan in such manner as to be an integral part of any proposed recreational campground.

9. Fireplaces; campfires – All fires in any campground shall be in a designated approved location with at least a stone or other fireproof enclosure demarcating the usable area from which all vegetative growth or other flammable material which might contribute to the accidental spread of the fire shall be removed.

10. After review of the proposed site by the Zoning Board of Appeals additional landscaping may be required if there is inadequate trees, shrubbery and other vegetation already present on the premises. This analysis will be done on a case by case basis with the understanding that additional landscaping may not always be required. The following provisions are to be considered by the Zoning Board of Appeals in addressing this issue:

a. Lawn and ground cover shall be provided on those areas not used for the placement of individual recreational living units and other buildings, walkways, roads and parking areas.

b. Planting shall be provided to the extent needed in order to screen objectionable views, provide adequate shade and to provide suitable settings for the recreational living units and other facilities. Views which shall be screened include laundry facilities, other nonresidential uses, refuse storage and collection areas, and in all abutting yards of adjacent properties.

c. Other planting shall be provided along those areas within the campground which front upon or are visible from existing roadways so as to substantially screen the campground from public view at all seasons of the year.

11. Removal of Wheels – It shall be unlawful to remove wheels from any recreational living unit or otherwise permanently affix such unit to the ground. Such removal shall be grounds for the revocation of the operating permit for such campground.

12. Length of Stay – No recreational living unit shall be permitted as an occupied unit to remain in the campground for an aggregate period of more than six months in any one calendar year.

13. Related Requirements – Issuance of an operation permit hereunder for the use of the premises as a campground shall not be construed to eliminate the necessity of complying with all other applicable ordinances, resolutions, health regulations and other regulatory authorities or measures.

14. Parking Space – Off-site parking will be allowed at a ratio of one space for every five campsites.

15. Storage of recreational living units may be permitted on the campground in an area that does not allow occupancy by a registered guest of the campground. This area will not have any utilities or service facilities that will allow a recreational living unit to be occupied. A unit may be stored on the premises for no longer than 15 consecutive months.

B. Administration and Enforcement

1. Special Use Permit

a. Permit required – No recreational campground shall be established in the Village until a Special Use Permit therefore has been issued by the Zoning Board of Appeals. All Special Use Permits required under the provisions of these regulations shall be considered according to the following:

a. For the establishment of a recreation campground, the permit shall be authorized by the Zoning Board of Appeals in accordance with the conditional use process of these regulations; and

b. Any alteration or improvement of the site made shall meet the requirements.

b. Application – Plans and information shall be as required according to respective process called for above and set forth in Article 900, Section 907 Site Plan Review, which is part of these regulations, and such other information as may be necessary in the judgment of the Zoning Board of Appeals or other instrument of the Village to render a determination under and provide for the administration and enforcement of these regulations.

c. A site plan review/permit issued under these regulations shall be valid for a period of two years from the date of issuance.

SECTION 630 GROUNDWATER PROTECTION OVERLAY DISTRICT (GP)

A. Statement of Intent – The purpose and intent of the Groundwater Protection Overlay District is, in the interest of public health, safety and general welfare, to preserve the quality and quantity of the Village’s groundwater resources in order to ensure a safe and healthy drinking water supply. This is to be accomplished by regulating land uses which might contribute to the contamination of any aquifer identified as necessary for the present and future water supply of the residents of the Village of Sinclairville.

B. General Scope and Authority – The Groundwater Protection Area shall be considered as overlaying other zoning districts. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of the protection area. In any cases where conflicts arise between these supplemental regulations and any other existing regulations, the more restrictive regulations shall apply.

The annexed map entitled: Sinclairville, NY Well Head Protection Areas revised October 26, 1996 depicts the Groundwater Protection Overlay District. The boundaries of the Groundwater Overlay District reflects the best hydrogeologic information available as of the date of the map. Boundary delineation does not imply that specific

hydrogeologic testing has been performed or that specific information is available. Rather, it indicates that 1) based on best estimates and professional judgment these areas are more critical to protect and 2) require stricter standards than outlying areas. Where these bounds are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where the boundaries should be properly located. At the request of the owner(s), the Town may engage a professional geologist, hydrogeologist, engineer, or other qualified expert trained and experienced in hydrogeology to determine more accurately the location and extent of an aquifer or recharge area, and may charge the owner(s) for the entire cost of the investigation.

C. Establishment and Delineation of Groundwater Protection Areas

For the purposes of this protection area, there are hereby established within the Village of Sinclairville, certain groundwater protection areas which consist of any aquifer, the land above such aquifer, and the aquifer's most significant recharge areas as follows:

Zone I: Primary Protection Zone

The Primary Protection Zone, as delineated, shall include those permeable geologic deposits that allow surface water, either from streams or precipitation, to enter into the aquifer flow system. Most notably these are the deltaic areas of Hatch Creek, Folsom Creek, Mill Creek and Towerville and Kimball Stand areas in the vicinity of the Cassadaga Creek Valley, including a five hundred (500) foot buffer zone. It will also include those geologic deposits that have an areal extent greater than one (1) square mile, are composed of highly permeable material, and can be used as a future source of public and private water supply.

Zone II: Secondary Protection Zone

The Secondary Protection Zone is identified as the watershed areas tributary to the deltas comprising Zone I. As delineated, these areas shall include land outside the aquifer that may contribute runoff overland and/or through surface streams for groundwater recharge.

Zone III: Tertiary Protection Zone

The Tertiary Protection Zone, as delineated, shall include all land comprising the floor of the Cassadaga Creek Valley.

D. Permitted Uses in Groundwater Protection Areas

The following uses are permitted within the Groundwater Protection Areas provided that all necessary permits, orders or approvals required by local, state, or federal law shall have been obtained:

- (1) Zones I, II, III: Primary, Secondary and Tertiary Protection Zones

All uses currently permitted under the Zoning Law of the Village of Sinclairville are permitted in the Groundwater Protection Overlay Districts subject to the provisions of this Section.

(2) Nonconforming Uses

Notwithstanding any other provision herein, a nonconforming use within the Groundwater Protection Area may be continued and maintained so long as it remains otherwise lawful. No such use shall be enlarged, altered, extended, or operated in any way which increases its threat to groundwater quality or otherwise contravenes with the purpose and intent of this Section.

In the event that a nonconforming use has ceased for a consecutive period of one (1) year or eighteen (18) months during any three (3) year period, such nonconforming use may not be resumed except in conformity with the provision of all district within which it is located.

E. Restrictions and Requirements in Groundwater Protection Areas

(1) Prohibited Uses and Activities

- a. The discharge, land application or disposal of any hazardous material, toxic substance or radioactive material is prohibited in all three zones.
- b. The production or processing of bulk quantities of any hazardous material or toxic substance is prohibited in all three zones.
- c. The open storage of pesticides, herbicides and fungicides is prohibited in Zones I and II; all storage of such material is prohibited unless necessary authorization has been obtained from the New York State Department of Environmental Conservation as provided in Article 33 of the New York State Environmental Conservation Law.

The open storage of pesticides, herbicides, fungicides and artificial fertilizers within seventy-five (75) feet linear distance of any watercourses in Zone III is prohibited.

- d. The dumping or disposing of snow or ice collected offsite from roadways, or parking areas is prohibited in Zone I; dumping or disposing of snow or ice collected offsite from roadways or parking areas is prohibited within 100 feet of any watercourse in Zone II.
- e. The bulk storage of coal or chloride salts is prohibited in Zones I and II except in a water-tight ventilated structure constructed on an impervious surface. Any outside area used for loading, handling, or mixing shall be designed so as to prevent seepage and runoff from entering the groundwater or any watercourse.

- f. Any form of underground injection of hazardous materials or toxic substances is prohibited in all three zones.
- g. Gas stations are prohibited in Zone I; gas stations are prohibited within Zone II within 500 feet of any watercourse and are subject to review and approved by the Chautauqua County Health Department; gas stations are subject to review and approval by the Chautauqua County Health Department in Zone III.
- h. Solid waste disposal facilities and junkyards are prohibited in Zone I; these activities are subject to review and approval by the Chautauqua County Health Department in Zones II and III and must be in compliance with all New York State Department of Environmental Conservation rules and regulations.
- i. The minimum lot size for single-family and two-family houses, or houses with 10 or fewer people, and a flow of less than 1,000 gallons per day shall be 20,000 square feet; all septic systems must comply with Article IV of the Sanitary Code of the Chautauqua County Health District and requires the review and approval of the Chautauqua County Health Department.
- j. The use of septic system cleaners which contain toxic substances ore hazardous materials is prohibited in all three zones.
- k. The disposal of toxic substances or hazardous materials by means of discharge to a septic system is prohibited in all three zones.
- l. The spreading of sewage sludge and food byproducts is prohibited in Zone I; in Zone II the spreading of sewage sludge is prohibited in accordance with Section 617 of the Village of Sinclairville Zoning Law.
- m. All permitted industrial and commercial uses are subject to review by the Village of Sinclairville.

(2) Other requirements for Groundwater Protection Zones

- a. Petroleum Bulk Storage Facilities installed above and below ground require permits and are subject to compliance with those standards described under 6 NYCRR Parts 612, 613 and 614 as administered by the New York State Department of Environmental Conservation and in compliance with the County Sanitary Code.
- b. Bulk storage of toxic substances or hazardous materials is subject to compliance with 6 NYCRR Parts 595, 596 and 597 as administered by the New York State Department of Environmental Conservation.
- c. Quarries, gravel mining and excavations are permitted in accordance with 6 NYCRR Part 420 and the State Environmental Quality Review Act as administered by the new York State Department of Environmental Conservation; all on-site activities of these operations are subject to the provisions of Sections

622, 630 and 907 herein; mining and excavation activities must be reviewed and exhibit that appropriate protective measures will be taken and may be permitted upon special approval of the Village of Sinclairville.

All mining activities may be subject to a review by the Chautauqua County Health Department.

Operations which commence on or after the effective date of these regulations shall install a minimum of one (1) groundwater monitoring well in a direction upgradient from on-site activities and one (1) groundwater monitoring well in a direction downgradient from on-site activities. The specific location of these groundwater monitoring wells shall be determined by a professional geologist, hydrogeologist engineer, or other qualified expert trained and experienced in hydrogeology.

Frequency of required water quality sampling from monitoring wells shall be determined on a site-specific basis.

Access to monitoring wells shall be provided to employees of the Village of Sinclairville for purposes of any additional water quality sampling deemed appropriate.

- d. Vehicular servicing, including but not limited to, automotive repair stations, body shops, car washes, rustproofing operations, dealerships and maintenance garages and barns, is allowed within the Groundwater Protection Areas provided that the following requirements are met:
 - i. Floor drains must be connected to a holding tank or sanitary sewer equipped with an oil and grit separating tank;
 - ii. Wastes collected in a holding tank must be disposed of through a licensed waste hauler;
 - iii. Waste degreasing solvents must be stored in drums or a holding tank and disposed of through a licensed waste hauler;
 - iv. Waste oil must be stored properly in tanks or drums for disposal by a licensed waste hauler;
 - v. Storage facilities for tanks and/or drums require coated concrete floors and dikes to retain accidental spills or leaks; a permanent roof to protect tanks or drums and to prevent precipitation from entering dikes. Drums should be sealed, and tanks and drums must be located away from floor drains;
 - vi. Large drip pans should be kept beneath drums which have spigots and are stored in horizontal position on racks;
 - vii. Potentially contaminated scrap including but not limited to scrap parts,

batteries and used filters shall be stored in proper containers to prevent environmental release of contaminants;

- viii. Activities must be in compliance with the State Drinking Water Act Underground Injection Control regulations.
- e. Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacture and in accordance with Chautauqua County Soil and Water Conservation District and Soil Conservation Service recommended best management practices.

Property owners who enlist the services of a commercial pesticide, fungicide, or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Environmental Conservation.

This provision applies also to golf courses and farms.
- f. Conversion of a one-family house using a septic tank to a two-family house using a septic tank requires the approval of the Chautauqua County Health Department.
- g. Site plans for all proposed industrial and commercial uses shall be accompanied by a detailed and complete description of the anticipated uses and their operations.
- h. Dry wells connected to drains from buildings must comply with Safe Drinking Water Act Underground Injection Control regulations and require approval from the Village of Sinclairville; floor drains must also comply with these regulations if applicable.
- i. Stormwater management plans must be developed in accordance with federal and state regulations.
- j. Activities which have potential to contaminate groundwater in the Groundwater Protection Areas must have contingency plans approved by the Village of Sinclairville and must ensure these plans are easily accessible to appropriate personnel and that copies of plans have been distributed to appropriate emergency entities.
- k. Parking lots and other large impermeable surfaces which may impede recharge of groundwater are restricted in Zone I subject to review by the Chautauqua County Health Department.
- l. Oil and gas wells in all zones must comply with all applicable New York State Department of Environmental Conservation requirements, including drilling, maintenance and closure.
- m. Whenever there is a question as to the groundwater contamination potential of a proposed use, the expert opinion of the United States Environmental Protection

Agency, the new York State Department of Environmental Conservation, and the State and County Health Departments may be requested.

F. Special Permits in Groundwater Protection Areas

Any use of property within the Groundwater Protection Areas shall be permitted only upon obtaining a special permit from the Village of Sinclairville when the use:

- (1) Violates or does not meet any provisions of Section 630 herein;
- (2) Is a development, other than residential, of real property exceeding \$50,000.00 in development cost;
- (3) Is a use that anticipates an average daily on-site water consumption exceeding 1,000 gallons per day (gpd).

G. Application for Special Permit in Groundwater Protection Areas

Applicants for a special permit to develop in the Groundwater Protection Areas shall submit the following:

- (1) Name, address and telephone number of the applicant.
- (2) If the applicant is a corporation, the name, address and telephone number of all the corporate officers and directors.
- (3) A map and report showing the location of the premises for which the permit is sought and plans prepared by a licensed professional engineer or architect showing all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of sanitary wastes, storm water wastes, process wastes, toxic substances and hazardous materials, solid wastes and incidental wastes within the property boundaries of the business or commercial establishment.
- (4) When the use of toxic substances or hazardous materials averages an amount equal to or in excess of 55 liquid gallons per month or 500 pounds dry weight per month, the applicant must provide for any design features, operating plans, and any other protection measures as the Village of Sinclairville deems appropriate and sufficient to prevent and/or monitor groundwater contamination especially in the event of a potential leak or spill of these substances and must develop a contingency plan.
 - a. When the use of toxic substances or hazardous materials averages less than 55 liquid gallons per month or 500 pounds dry weight per month, and when the project is determined to have a potential negative impact on groundwater quality, the Village of Sinclairville may demand the applicant to provide for any and all design features, operating plans, contingency plans and/or such other protection measures as per this Section.
- (5) When storage of toxic substances or hazardous materials at any one time is equal to

or exceeds a total of 220 liquid gallons or a total of 2000 pounds dry weight, the applicant must provide for any and all design features, operating plans, contingency plans and such other additional protection measures as the Village of Sinclairville may require to prevent and/or monitor and/or remediate groundwater contamination especially in the event of a potential leak or spill of these substances.

- a. When storage of toxic substances or hazardous material at any one time is less than a total of 220 liquid gallons or a total of 2000 pounds dry weight, the Village of Sinclairville may demand the applicant to provide for any and all design features, operating plans, contingency plans and such other additional protection measures as per Section 630 above.
- (6) Such other nonproprietary information as the Village of Sinclairville shall request in order to have all facts before it prior to making their decision.
 - (7) Copies of any applications to/permits from any other government agencies.
 - (8) List of all toxic substances or hazardous materials known to be used or stored on the premises together with sufficient detail to appraise the Village of Sinclairville of the method of storage and the amount of toxic substances or hazardous materials on the premises.
 - (9) Method of disposal of toxic substances or hazardous materials.
 - (10) A full report regarding the use and storage of all toxic substances and all hazardous materials.

H. Requirements of Water Well Drillers

All water well drillers must submit a uniform well log as per the specifications of the Chautauqua County Health Department; permits, to be issued by the Chautauqua County health Department, are required of drillers to ensure receipt of this data. The information required in the well logs is as follows:

- (1) types of sediments and the order in which encountered
- (2) depth of well
- (3) depth to water table
- (4) location of well
- (5) pumping rate
- (6) water quality of well water
- (7) problems encountered

SECTION 631 SMALL SCALE SOLAR ENERGY SYSTEMS

A. PURPOSE – The provisions of this Section shall be interpreted as providing minimum requirements for small-scale solar energy systems adopted for the purpose of promoting the health, safety, morals and general welfare of this community.

B. INTENT – It is not intended by this Section to repeal, except as herein stated, abrogate

or impair existing conditions previously made or permits previously issued relating to the use of building or premises or to impair or interfere with any easements, covenants or agreements existing between parties. Except as otherwise provided herein, whenever this Section imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance, regulations or permits or by such easements, covenants or agreements, the provisions of this Section shall control.

C. SOLAR ENERGY SYSTEMS

1. Installation of solar energy systems and equipment is encouraged on all preexisting structures; however, access to sunlight which is necessary therefore cannot be obtained through the provisions of this Section. The installation of a solar collector, whether attached to the main structure or as a detached accessory structure, shall require a building permit. Solar collectors are subject to the minimum setbacks, offsets and lot area coverage for whatever use district in which they are proposed to be installed. Height limitations for solar collectors in the Agricultural Residential District shall be five feet above the level of the permitted building height. Height limitations in all other use districts shall be in accordance with the limitations for signs in each district. All solar collectors and their associated support elements shall be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migrations of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

2. Other alternative natural energy conservation devices shall be considered structures and shall require a building permit. All permit applications for such devices will be reviewed for compliance with applicable laws.

3. All solar energy systems located in the Agricultural Residential District are only permitted to contain solar collectors located on the rooftops of principal or accessory buildings. The solar collectors must be completely contained within the limits of the building roof. All other equipment and components of the solar energy system shall be located within the rear yard only and are subject to setbacks for accessory structures.

D. MORE RESTRICTIVE PROVISIONS TO PREVAIL

1. Whenever the regulations made by this Section require width or size of yards or courts or require a lower height of building or less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than required in any other ordinance or regulation, the provisions of the regulations made by this Section shall govern.

2. Whenever the provisions of any other ordinance or regulation require a greater width or size of yards and courts or require a lower height of building or less number of stories or require a greater percentage of the lot to be left unoccupied or impose other higher standards than are required by the regulations of this Section, the provision of such other ordinance or regulation shall govern.

ARTICLE 700
NON-CONFORMING USES

SECTION 701 CONTINUATION

The lawful use of any building or land existing at the time of the enactment of this Local Law may be continued although such use does not conform with the provision of the Law, except as otherwise provided herein.

SECTION 702 ABANDONMENT

Whenever a non-conforming use has been voluntarily discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this Law.

Where no enclosed building is involved, discontinuance of a non-conforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

SECTION 703 ADDITIONS AND ENLARGEMENTS

- A. A non-conforming building may be enlarged or extended only if the entire building is thereafter devoted to a conforming use, and is made to conform to all the regulations of the district in which it is located.
- B. No building partially occupied by a non-conforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such non-conforming use.
- C. No non-conforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed at the effective date of this Text or to displace any conforming use in the same building or on the same parcel.

SECTION 704 PRIOR APPROVED CONSTRUCTION

Nothing herein contained shall require any change in plan, construction, or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently undertaken within three months of the date of such permit.

SECTION 705 RESTORATION

All lawful non-conforming uses which are damaged or destroyed by fire or other causes may be repaired, rebuilt, or re-established if a building permit is applied for within six months after such damage or destruction; however, the non-conforming shall not be increased or extended beyond the extent to which is existed on the effective date of this Law.

SECTION 706 UNSAFE STRUCTURES

Any non-conforming structure or portion thereof declared unsafe by a proper authority must be restored to a safe condition, or removed.

SECTION 707 SIGNS

All non-conforming signs, billboards, commercial advertising structures, and statuary and supporting members shall be completely removed from the premises not later than three years from the effective date of this Law. This provision for removal shall not apply to permissible types of signs which are properly located on a lot or building.

SECTION 708 NON-CONFORMING YARD CHARGES

An allowed use which is not conformance with yard requirements (e.g., setback, etc.) may be removed and replaced with another structure (same use) which is more in compliance with the yard requirements without going through area variance procedures. The Building Inspector shall determine the applicability of this section to specific cases.

SECTION 709 USE CHANGES

Once changed to a conforming use, no building or land shall be permitted to revert back to a non-conforming use.

A legal non-conforming use may be changed to another non-conforming use which is of such a character so as to be less of a nuisance and more in conformance with the Zoning Law requirements. Once changed, the use will not be allowed to return to the original use. The Zoning Board of Appeals shall make all determinations as to what new non-conforming uses will be allowable through normal use variance procedures.

ARTICLE 800
ADMINISTRATION BY BUILDING INSPECTOR

SECTION 801 ENFORCEMENT

This Law shall be enforced by the Building Inspector who shall be appointed by the Village Board of Trustees. No building permit or certificate of occupancy shall be issued by the Building Inspector except where there is compliance with all of the provisions of this Law.

SECTION 802 DUTIES OF THE BUILDING INPSECTOR

It shall be the duty of the Building Inspector in connection with this Law to do the following;

- A. Make a record of non-conforming uses.
- B. Issue building permits or refuse to issue the same and give the reasons for such refusal to the applicant.
- C. Keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved.
- D. Keep the Village Board, Zoning Board of Appeals, and Planning Board informed and advised of all matters.
- E. Submit such reports as Village Board, Zoning Board of Appeals, and/or Planning Bard may deem necessary, including formal written reports of periodic inspections.
- F. Whenever possible to advise and assist persons applying for building permits, special use permits, and variances with the preparation of applications.
- G. Issue Order to Remedy and Failure to Comply.
- H. Serve all notices that may be required to be served in connection with this Law.
- I. Make recommendations for keeping the Zoning Law and accompanying map up-to-date.
- J. Bring appropriate applications to the Village Board, Zoning Board of Appeals, and/or Planning Board for their review.
- K. Inspect and insure compliance with building permits which are issued.
- L. Assist the Village Clerk in the preparation of the public notices required by this Law.
- M. Inspect new construction or changes of use during and/or after construction or change in use to insure conformity with the provisions of this Law and other applicable laws.

- N. To review and make recommendations on proposed Zoning Law amendments prior to action by the Village Board.
- O. To inspect the Village quarterly, and include relevant findings in a written report to the Village Board.
- P. Act on new permits, zoning and building code violations and signed complaints.

SECTION 803 BUILDING PERMITS

No building or structure shall be erected, added to, or structurally altered until a permit has been issued by the Building Inspector. No building permit shall be issued for any building where said construction, addition, or use thereof would be in violation of any provisions of this Law, unless so granted by written approval of the Zoning Board of Appeals.

The application for a building permit shall be made on a form obtained from the Building Inspector. It shall include a statement of the materials to be used, an estimate of cost, the location, the proposed use, and the sanitation facilities to be provided (if any are needed). A copy of the required Health Department permits must be attached to building permit application.

Building permits shall be valid for a one year period only; however, they may be extended for an additional one year period with the approval of the Building Inspector. Within one year from the date the building permit is granted the exterior of the structure shall be completed, back-filling and rough grading will be accomplished and no building materials will be stored outside. Should the construction not be completed upon expiration of the two year period, a Use Variance will be required in order not to be in violation of the Zoning Law.

All applications for building permits will include, but not be limited to, the following:

- One copy of a layout or plot plan drawn to scale and showing the actual dimensions of the lot to be build upon.

- The exact size and location on the lot of all existing buildings and accessory buildings or any buildings that are to be erected.

- The location of adjoining highway right-of-way lines, and

- Such other information as may be necessary to determine and provide for the enforcement of this Law.

All applications for building permits for commercial buildings submitted to the Building Inspector must contain information detailing drainage and landscaping plans, off-street parking, off-street loading and any other data necessary.

It shall be the duty of the Building Inspector to issue a permit within 15 days after a properly submitted written request for the same has been made, provided that the Building Inspector is satisfied that the proposed use, change, construction, enlargement, or alteration fully conforms with all the requirements of this Text.

ARTICLE 900
ZONING BOARD OF APPEALS

SECTION 901 CREATION

The Village Board shall appoint a Zoning Board of Appeals consisting of five (5) members as prescribed by the Village Law of the State of New York.

The members of the Zoning Board of Appeals shall be removable for cause by the appointing authority upon written charges and after public hearing.

The Village Board shall designate the chairperson and deputy chairperson of said Zoning Board of Appeals.

No member of the Zoning Board of Appeals shall hold other elective or appointive offices in the Village government.

SECTION 902 POWERS AND DUTIES

With due consideration for the purpose and intent of the Zoning Text, the Zoning Board of Appeals shall:

- A. Hear and decide all appropriate matters referred to it, or upon which it is required to pass under this Text.
- B. Interpret the meaning of the Zoning Law when called upon to do so. (See Article 900, Section 903.)
- C. Hear and act upon applications for special use permits, pursuant to Article 900, Section 904.
- D. Hear and act upon application for variances, pursuant to Article 900, Section 905.
- E. Decide appeals from a person who feels aggrieved by a decision of the Building Inspector. The Board may reverse, affirm, or modify the decision made by the Building Inspector.

SECTION 903 INTERPRETATION

The Zoning Board of Appeals shall have the power to interpret the meaning of this Zoning Law whenever called upon by the Village Board, Building Inspector, or an aggrieved party who has been denied a building permit. This interpretation power shall include the determination of district boundary lines.

SECTION 904 SPECIAL USE PERMITS

A. General Procedure – The Zoning Board of Appeals may issue a special use permit for any of the special uses listed in this Text, provided such special use complies with the general standards set forth in this Text and with special requirements enumerated elsewhere herein.

1. Legal Requirements – The Zoning Board of Appeals shall act in strict accordance with procedures specified by law and by this Zoning Law with regard to public hearings, notices, publications, etc.

2. Plan – A plan for the proposed development of a site for a designated special use shall be submitted with an application for a special use permit, and such plan shall show the location of all buildings, lots, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that the Zoning Board of Appeals deems necessary.

3. Permit – A special use permit shall be deemed to authorize only one particular use and shall expire if the special use shall cease for more than one year for any reason.

No special use permit shall be issued for a property where there is an existing violation of this Law.

4. Planning Board Recommendations – At least 15 days before the date of the hearing required by Law on an application or appeal to the Zoning Board of Appeals, the Board may, at their discretion, transmit to the Planning Board a copy of said application or appeal, and the Planning Board shall submit a report of its advisory opinion prior to the date of such hearing. If the Planning Board fails to submit such report within the specified period, the Zoning Board of Appeals may act on the application, without such report.

5. Decisions – Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Zoning Board of Appeals of the particular case. Decisions shall be made within 30 days from the hearing date and failure to decide in this time span shall result in automatic approval of the permit.

B. General Standards

A special use permit shall only be granted when the proposed use is of such character, size, and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent parcels or districts.

The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it shall be such that it will be in harmony with the orderly development of the district, and the location and/or size, nature and height of the building, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. Operations in connection with any special use shall not be more objectionable to nearby

properties by reason of noise, fumes, vibration or lights, than would be the operations of any permitted use.

Upon finding that such general standards and the special standards set forth herein have been fully met, the Zoning Board of Appeals may issue such special use permit and in so doing may impose any conditions that it may deem necessary to accomplish the reasonable application of said standards. Furthermore, it may deny any such application which in its judgment is not in accordance with said general or special standard. Said Board may require as a condition of the issuance of any special use permit, that it shall be periodically renewed, or said Board may issue a temporary special use permit, subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by the Board, provided that any such renewal or extension shall be subject to the same procedure as specified herein for the original issuance of the special permit involved and shall be in conformity with aforesaid general and special standards.

C. Standard For Creating Substandard Size Lots:

For single-family units: An applicant who desires to create a lot which does not meet the lot size and width requirements found in Article 500, Section 501 (D) may apply for a special use permit. In determining whether to allow a substandard sized lot to be created, the following specific standards (in addition to the general standards of Article 900, Section 904 (A & B)) shall be considered:

1. The following table must be complied with as attested by a licensed engineer or other appropriate person:

Percolation Rate (minutes)	Minimum Lot Area (square feet)	Minimum Lot Width (feet)
45 or more	43,560	150
40	41,000	144
35	38,000	138
30	35,000	131
25	32,000	125
20	29,000	119
15	26,000	113
10	23,000	106
5 or less	20,000	100

2. The possibility of the parcel being served by either municipal sewer or water systems in the future shall be considered. The proximity to existing municipal systems, the size of adjacent lots, etc., shall be evaluated.

3. Appropriate permits from the County Health Department are mandatory prior to the issuance of any special use or building permits.

4. The affects the proposal could have on the character of the neighborhood shall be considered.

5. If the Zoning Board of Appeals turns down the special use permit request for any reason, an area variance may be applied for in accordance with Article 900, Section 905.

SECTION 905 USE AND AREA VARIANCES

A. Reasons for Variances – The Zoning Board of Appeals has the authority to vary or modify the strict letter of this Zoning Law where a literal interpretation would cause practical difficulties (Area Variances) or unnecessary hardships (Use Variances).

B. Applicability and Limitations – The Zoning Board of Appeals has absolutely no power to amend the Zoning Law or establish a precedent, not in conformity therewith.

C. The Zoning Board of Appeals has the power to grant use variances provided that the applicant demonstrates that the applicable zoning regulation causes unnecessary hardship as applied to the applicant’s property. In order to prove unnecessary hardship the applicant must demonstrate that all of the following apply:

1. Under the applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence.
2. That the hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood.
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the hardship has not been self-created.

The Zoning Board of Appeals, in the granting of use variances, is obligated to grant only the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. The Zoning Board of Appeals has the power to grant area variances. In making its determination, the Zoning Board of Appeals must weight the benefit (which will be accorded the applicant by the granting of the variance), against the detriment to the health, safety and welfare of the neighborhood or community. In making such determination the Board must also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;

3. Whether the requested area variance is substantial;

4. Whether the difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in the granting of area variances, is obliged to grant only the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

E. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable. The decision must be written in the form of a resolution and must state, in detail, the reasons for granting or denying the variance and the conditions imposed.

SECTION 906 MANDATORY REFERRAL (GENERAL MUNICIPAL LAW 239 (I) (M))

A. Before granting a Variance or Special Use Permit affecting any real property lying within a distance of 500 feet of the boundary of this Municipality, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, the matter shall be referred to the Chautauqua County Planning Board.

B. Within 30 days after receipt of a full statement of such referred matter, the Chautauqua County Planning Board to which referral is made or an authorized agent of said agency shall report its recommendations thereon to the Zoning Board of Appeals, accompanied by a full statement of the reasons for such recommendations. If the Chautauqua County Planning Board fails to report within such period of 30 days, the Zoning Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproves the proposal, or recommends modification thereof, the Zoning Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

Within seven days after final action by the Zoning Board of Appeals, which results in modifications or disapproval of a referred matter, the Zoning Board of Appeals shall file a report of the final action it has taken with the Chautauqua County Planning Board which had made the recommendations, modifications, or disapproval.

SECTION 907 SITE PLAN REVIEW

A. Intent – The intent and purpose of a site plan review are to evaluate specified land uses in terms of their suitability to natural site conditions, their compatibility with surrounding land uses and their conformance with overall plans for the community, thus minimizing possible adverse effects on the health, safety and welfare of local residents. The following uses are subject to site plan review: all uses requiring the issuance of a building permit in any

district, except for one- or two-family dwellings and related accessory uses or a general farming use, shall require the preparation of a site plan.

The Code Enforcement Officer shall refer the site plan to the Zoning Board of Appeals for its review and approval in accordance with the standards and procedures set forth in this article.

B. Statutory Authority – The power to approve, approve with conditions or deny site plans for specified uses as required by this chapter is vested in the Zoning Board of Appeals. Section 274-a of the Village Law provides the legislative authority for the Village Board to designate the Zoning Board of Appeals to review site plans. Prior to the issuance of a building permit for the construction of a specified use, the Code Enforcement Officer shall refer the site plan and supporting documentation to the Zoning Board of Appeals for its review and approval in accordance with the standards and procedures set forth in this article. All site plans shall be prepared by a licensed architect or engineer unless specifically waived by the Zoning Board of Appeals. The waiver shall depend upon the complexity of the site and the structure(s) as related to the land use.

In reviewing an application for site plan approval, the Zoning Board of Appeals must find that the application meets the following criteria:

1. A harmonious relationship between such land use activity and uses located on adjacent lots and in adjacent zoning districts.
2. The safety of vehicular access and egress from the site to existing and proposed roads.
3. The effectiveness of on-site circulation and parking facilities with particular attention to pedestrian and vehicular safety.
4. The adequacy of landscaping and setbacks as a way of mitigating adverse environmental impacts and achieving compatibility with adjacent property.
5. An adequate solution to the question of surface water drainage and the provision of water and sewer services.
6. Compliance with rules and regulations of subdivision and any special requirements unique to a particular site or land use, as those might be specified by the Zoning Board of Appeals or listed in Article VI of this chapter.

C. Procedure

1. Pre-submission conference – Prior to the preparation of a site plan for presentation to the Zoning Board of Appeals in its final form, the applicant may prepare a sketch plan and meet informally with a member(s) of the Board or designee to consider the specifics of the proposed use or development, the character of the neighborhood, special features of the site and any environmental concerns. Such sketch plan should be submitted five calendar days prior to a Zoning Board of Appeals meeting, with sufficient information to enable a clear understanding of the proposal.

2. Final site plan
 - a. A final site plan shall be submitted to the Zoning Board of Appeals

at least 21 calendar days prior to the meeting at which consideration of such plan is to be given if the plan has County implications. The plan shall contain the following information, as applicable:

1. Location, name and address of the owner; name of the plan designer and engineer (if any) working the proposed project.
2. Identification map showing the location of the site in the Village of Sinclairville and relationship of the existing road system.
3. Scale, North arrow and date and present zoning and setback requirements.
4. Identification of property owners and existing land uses for all abutting sites and showing existing property lines, rights-of-way and easements.
5. Existing and proposed buildings, including the approximate location of parking on and access to the proposed site and to abutting properties. Common drives on property lines are encouraged.
6. The location of all wetlands and land located in the one-hundred-year floodplain.
7. Indication of existing proposed topography and drainage systems for the site. When this is a consideration due to topography of low land, a topographic survey and drainage plan may be required by the Zoning Board of Appeals before action is taken.
8. Any engineering drawings or documentation that may be required for utility hookups, septic tank installations or public improvements.
9. Proposed landscaping treatment including, size, number, and approximate location of plantings.
10. Drawings or sketches that illustrate the height, bulk and design characteristics of any proposed buildings in District shall indicate exterior color and primary materials to be used, for information purposes only.
11. Narrative description of how the proposed building, land use or site design will fit into the surrounding neighborhood.
12. Sketches indicating the location, size and design of any sign or site lighting to be used on the proposed site.
13. Any other information that may be reasonably required by the Zoning Board of appeals.

b. Any of the above final plat requirements may be waived or modified by the zoning Board of Appeals when conditions warrant. Documentation of such waivers shall be included, in writing, in the records of the application.

D. Zoning Board of Appeals Review – The Zoning Board of Appeals shall review the application, in accordance with the procedures required by New York State Village Law provisions, to determine the compliance of the plans with the requirements set forth in this Section.

E. Standards for Approval of Site Plans

3. In reviewing the applications for approval of site plans, the Zoning Board of Appeals will be guided by the existing characteristics and conditions of the site and its surroundings and the particular requirements of the applicant. Elements of concern will include but not limited to the following:

- a. Movement of vehicles and people.
- c. Public safety and the adequacy of public utilities services needed at the site.
- d. Off-street parking and the access and egress thereto, including the adequacy of existing roads to serve the proposed project.
- e. Lot size, density, setbacks, building size, coverage and height.
- f. Site drainage, landscaping, buffering, views or visual character.
- g. Signs and site lighting.
- h. Architectural features, materials and colors.
- i. Compatibility with general character of the neighborhood.
- j. Other considerations that may reasonably be related to health, safety and general welfare.

4. Other performance standards may be established by the Zoning Board of Appeals from time to time to be used as guidelines in the site plan review process. Such standards will be applicable to all applications for site plan review.

F. Environmental Assessment – If, in the judgment of the Zoning Board of Appeals, approval of a proposed land use activity over which it has jurisdiction for site plan approval could have a significant environmental impact, no final approval shall be given until the environmental requirements set forth in Part 617 of the State Environmental Quality Review Act have been complied with.

G. Changes in Final Plan

No changes may be made in the approved final plan during the construction of the planned development except by application under the procedures set forth below:

1. Minor changes in the location, size and height of buildings, width and depth of lots, road alignment or stormwater drainage provisions may be approved by the Code Enforcement Office if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this section may increase the size or square footage of any building by more than 10%.

2. any changes in land use, any rearrangement of lots, blocks or buildings tracts, any changes in the provision of common open space and any other significant change in the final development plan must be approved by the Village Board in the same manner and following the same procedures as were applied to the original development plan.

ARTICLE 1000
PLANNING BOARD

SECTION 1001 APPOINTMENT

The Village Board shall appoint a Planning Board consisting of 5 members as prescribed by the Village Law of the State of New York. In the event there is not a Planning Board appointed then the responsibilities of the Planning Board will be assumed by the Village Board of Trustees.

SECTION 1002 DUTIES

The Planning Board for the Village of Sinclairville shall have the following duties with respect to this Zoning Law:

- A. To investigate, study, and submit reports on all appeals and matters referred to it by the Zoning Board of appeals, Building Inspector, or Village Board of Trustees.
- B. To submit written reports within 15 days after reference to it of any appeal or other matter unless the time shall be extended by the Building Inspector or Board making the reference.
- C. To review and make recommendations on proposed Zoning Law amendments prior to action by the Village Board.

ARTICLE 1100
AMENDMENTS

SECTION 1101 PROCEDURE

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

The Village Board by resolution adopted at a scheduled meeting shall set the time and place of a public hearing on the proposed amendment and cause notice to be given in accordance with Village Law.

SECTION 1102 MANDATORY REFERRAL

General Municipal Law 239 (1) & (m) must be followed when amending a Zoning Law.

SECTION 1103 REFERRAL TO VILLAGE PLANNING BOARD

Prior to acting on any Zoning Law or Zoning Map amendments, the Village Board shall advise the Village Planning Board of the proposed amendment. The Village Planning Board will then review the proposal and make recommendations to the Village Board prior to the public hearing.

ARTICLE 1200
VIOLATIONS AND PENALTIES

SECTION 1201 VIOLATIONS

Whenever a violation of this Law occurs, any person may file a complaint in regard hereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate. The Building Inspector may, on his own, also file and record a complaint of a violation of this Law.

SECTION 1202 PERMITS AND PENALTIES

A. Permits for use. No person, association or corporation shall hereafter erect, structurally alter, change, reconstruct, move or demolish or change the use or purpose of any building or structure within the Village of Sinclairville, nor shall any premises within the Village of Sinclairville be used except where the use has been established until a permit therefore shall have been issued.

B. Permits for occupancy.

1. Upon the completion of any structure erected, structurally altered, reconstructed or changed within any residential district, such structure shall not be occupied, nor shall such premises be used until a permit of occupancy shall have been issued by the Building Inspector, except where the use has been previously established.

2. Such permit for occupancy shall not be issued unless the applicant has fully complied with the terms and conditions of the permit previously issued for such construction, alteration or change, and unless the purposes for which such structure or premises are to be used are the same as stated in such application for permit and in conformity with the provision of this section.

C. Application for permits. Applications for permits prescribed under the provisions of this section shall be presented to the Building Inspector. Such application shall contain sufficient information to enable the Building Inspector to determine the design, site purposes and bearings of the proposed structure or changes therein and shall be accompanied by a map or plan thereof, and such other information as shall be required pursuant to the rules and regulations of the Board of Appeals. The Building Inspector shall make and file his decision upon such application within 10 days after its receipt.

D. Enforcement. It shall be the duty of the Village of Sinclairville, or such officials authorized by it, to enforce the provisions of this section, or any determination of the Building Inspector or Board of Appeals.

E. Violations. It shall be unlawful for any person, firm, or corporation to construct, alter, repair, move or remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof, in violation of any provision of this section or to fail in any manner to comply with a notice, directive or order of the Building Inspector, or to construct, alter or use and

occupy any building or structure or part thereof in a manner not permitted by an approved permit or certificate of occupancy.

F. Penalties.

1. Any person who fails to comply with any provision of this section or fails to comply with any notice, order or directive of the Building Inspector or his/her representative after expiration of the time for compliance established in accordance with this section shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or both, for such violation. In the event of any failure to so comply, each and every day that such violation continues shall constitute a separate offense, and the penalties prescribed above shall be applicable to each such separate offense.

2. An action or proceeding in the name of the Village of Sinclairville may be commenced in any court of competent jurisdiction to compel compliance with, or restrain, by injunction, the violation of, the New York State Uniform Fire and Building Code, this section, rules and regulations adopted pursuant to this section, or a violation order, or to vacate the occupancy or building in the case of imminent danger to the life of property. Such remedy shall be in addition to penalties otherwise prescribed by law.

G. Abatement of violation. Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises, or to prevent illegal acts or conduct of business in or about any premises; and these remedies shall be in addition to the penalties prescribed in this preceding section.

H. Time limitation of permits. Any permit issued by the Building Inspector or by the Board of Appeals for any new construction or alteration of any structure shall indicated thereon the expiration date thereof, not to exceed one year from the date of issuance. Such time limitation may be extended by the Board of Appeals after public hearing upon showing of reasonable grounds for such extension and upon such terms and conditions as the Board shall approve.

I. Fees. Pursuant to resolution by the Village Board of Trustees, the fee schedule to be charged by the Village Building Inspector in relation to his duties and the fees shown thereupon shall replace all previously adopted fees.

ARTICLE 1300
LEGALITY

SECTION 1301 CONFLICT

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

SECTION 1302 SEPARABILITY

The invalidity of any provision of this Zoning Law shall not invalidate any other part thereof.

SECTION 1303 EFFECTIVE DATE

This Zoning Law shall take effect 10 days after the date of its publication and posting as required by Village Law.