

**VILLAGE OF WESLEY HILLS
ROCKLAND COUNTY, NEW YORK**

LOCAL LAW NO. 14 OF 1984

**A LOCAL LAW REGULATING AND RESTRUCTING THE LOCATION, CONSTRUCTION
AND USE OF BUILDINGS AND STRUCTURES AND THE USE OF LAND IN THE
VILLAGE OF WESLEY HILLS, COUNTY OF ROCKLAND, STATE OF NEW YORK.**

OCTOBER, 1984

(AS AMENDED THROUGH FEBRUARY 28, 2009)

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BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESLEY HILLS, as follows:

ARTICLE 1 - STATEMENT OF PURPOSES

Under the authority granted by Section 7-700 of the Village Law as amended, the Board of Trustees of the Village of Wesley Hills hereby adopts this Local Law to promote the purposes set forth in Section 7-704 of the Village Law.

ARTICLE 2 - DEFINITIONS

2.1 Introduction

For the purpose of this Local Law, certain words and terms used herein are defined in this Article.

2.2 General Construction of Language

The following rules of construction apply to the language of this Local Law:

- 2.2.1 The specific shall control the general.
- 2.2.2 All words used in the present tense include the future tense.
- 2.2.3 All words in the singular number include the plural number, and vice-versa, unless the natural construction of the wording indicates otherwise.
- 2.2.4 Words used in the masculine gender include the feminine and neuter, and vice-versa, unless the natural construction of the wording indicates otherwise.
- 2.2.5 The word "shall" is mandatory; the word "may" is permissive.
- 2.2.6 The word "includes" shall not limit a term to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- 2.2.7 Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:
 - 2.2.7.1 "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2.2.7.2 "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - 2.2.7.3 "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- 2.2.8 The words "building" and "structure" include any part thereof.
- 2.2.9 The words "lot", "plot" and "tract of land" shall one include the other.
- 2.2.10 The word "premises" shall include land and all structures thereon.
- 2.2.11 The words "occupied" or "used" shall be considered to be followed by the words "or intended, arranged or designed to be occupied or used", unless the natural construction of the wording indicates otherwise.
- 2.2.12 References made to officials and official bodies shall mean officials and official bodies of the Village of Wesley Hills, unless the natural construction of the wording indicates otherwise.

2.2.13 In case of any difference of meaning or implication between the text of this Local Law and any caption or illustration, the text shall control.

2.3 Terms Not Defined

Where terms are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

2.4 Definitions

AGRICULTURAL USE - The growing of field crops or raising of livestock, not including the retail sale of the resulting products.

AIRCRAFT - A device used for the transportation of one or more persons or goods through the air, whether heavier than air or lighter than air including airplanes, balloons, dirigibles, helicopters and gliders.

AIRFIELD - An area for the landing and takeoff of aircraft.

New 3-06 ARBORIST SERVICE – A business enterprise primarily engaged in professional tree planting, maintenance, trimming and removal operations and plant care operations, including the indoor or containerized storage of plant health materials generally related to the operation of an arborist service.

AUTOMOBILE REPAIR - An establishment used for major repair, body work, painting, rental, greasing, washing, servicing, adjusting or equipping of automobiles, other motor vehicles or their equipment.

New 2-06 AVERAGE EXISTING GRADE – The sum of the existing grade elevations taken at the extreme front right and left limits of the proposed building as viewed from the street, divided by 2. However, in the event that the existing grade shall be altered to lower the ground, the lowered ground surface shall be used as the existing grade for this calculation. In the event that the existing grade slopes down from the street line to the proposed building, and if fill is to be placed on the lot to raise the grade adjacent to the proposed building, the lower of such raised grade or the grade at the street line shall be used as the existing grade for this calculation.

New 2-06 AVERAGE FINISHED GRADE – For any single side of a building, the sum of the finished grade elevations taken at the extreme right and left limits of that side of the building, divided by 2.

BAR - A business enterprise primarily engaged in the retail sale of alcoholic beverages for consumption on the premises.

BASEMENT - A portion of a building partly underground, but having less than half its clear height below the average grade of the adjoining grade. See also "Cellar".

BOARD OF APPEALS - The Board of Appeals of the Village of Wesley Hills.

BOARD OF TRUSTEES - The Board of Trustees of the Village of Wesley Hills.

BOARDING STABLE - An establishment offering the housing or feeding of horses for gain.

BUILDING - Any structure having a roof, self-supporting or supported by columns or walls, which is permanently affixed to the ground, and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY - A building subordinate to the main building on the lot and used for purposes customarily incidental to that of the main building. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

BUILDING, AIR PRESSURE - Any structure partially or totally supported by air pressure.

New 2-06 **BUILDING, FRONT** – The side of a building facing and most parallel to the front lot line.

BUILDING, MAIN - A building in which is conducted the principal use of the lot on which such building is located.

BUILDING AREA - The maximum horizontal cross-section of a building, including porches, balconies and raised platforms, but excluding cornices, roof overhangs, gutters or chimneys projecting not more than three feet, and steps and terraces not more than three feet above the average adjacent ground elevation.

Rev 1-99 **BUILDING CODE** - The Building Code is the code adopted by the Board of Trustees of the Village of Wesley Hills, or, if none has been adopted, the New York State Fire Prevention and Building Code, promulgated pursuant to Section 377 of the Executive Law, as the same may be amended from time to time.

BUILDING COVERAGE - That percentage of the land area covered by the combined building area of all buildings, excluding any buildings or structures located completely below ground.

Rev. 2-06 **BUILDING HEIGHT** – The vertical distance, measured from the average existing grade at the front of the building adjacent to the exterior wall, to the eave of the largest roof. For buildings with a gable type roof facing the front of the building, the average elevation of the eave of the largest roof and the corresponding ridge shall be utilized in place of the eave of the largest roof.

Rev 5-87 **BUSINESS OR PROFESSIONAL OFFICE** - An establishment offering services to the general public or the business community, except for: an office of a physician, chiropractor, dentist, psychologist, psychiatrist, ophthalmologist, optometrist, optician, speech pathologist, speech audiologist, or other health-related professional; or a veterinary office.

CAMP - An establishment, including facilities for seasonal use, organized for recreational or athletic purposes.

CELLAR - A portion of a building partly or wholly underground, having half or more than half of its clear height below the average grade of the adjoining ground. See also "Basement".

CEMETERY - A place containing graves or tombs for the interment of the dead. Excluded are cemeteries not operated by religious uses, or cemeteries for animals.

New 5-87 **CHANGE OF OCCUPANCY** - A transfer from one person to another person of the right to legal possession, whether by ownership, rental, or otherwise, of any building, structure, or lot or portion thereof.

- New 5-87 CHANGE OF USE - A change in the use of a building, structure or lot or portion thereof which results in a difference in requirements for off-street parking as shown on the Schedule of Parking and Loading Requirements (Section 7.5) of this Local Law.
- COMMERCIAL LIVERY STABLE - An establishment offering the use of horses for compensation.
- CORNER LOT - A lot located at the junction of and fronting on two or more streets intersecting at an angle of less than 135 degrees.
- New 7-88 DAY CARE CENTER - An establishment for providing care for 10 or more children operated in accordance with the Social Services Law of the State of New York. For the purposes of this Local Law, a Nursery School shall be deemed to be a day care center.
- DELICATESSEN - A business enterprise engaged primarily in the retail sale of prepared food and beverages and in which tables, chairs or counters for the consumption of food on the premises are not provided.
- New 3-04 DEER FENCE – a black, dark green, or dark brown plastic or metallic threaded network or grid of at least 90% open construction.
- DIMENSIONAL NON-CONFORMITY - See "Non-Conformity, Dimensional".
- DIMENSIONALLY NON-CONFORMING - See "Non-Conforming, Dimensionally".
- New 4-97 DORMITORY – A building that is operated by a school located on the same lot, the purpose of which is only to provide living accommodations for full-time students attending the school, adult staff residents responsible for the over-night supervision of such students, and members of the families of such adult staff residents.
- New 1-99 DRIVEWAY, SEMI-CIRCULAR – A driveway having two separate entrances onto any street or streets, as approved pursuant to Section 7.8 of this Local Law.
- DWELLING, ONE FAMILY DETACHED - A building containing a single principal dwelling unit and occupied by only one family and located in its own separate building which does not abut any other dwelling unit.
- DWELLING UNIT - A building or portion thereof providing complete housekeeping facilities for one family, including independent cooking, sanitary and sleeping facilities, and physically separate from any other dwelling unit whether or not in the same building.
- New 2-06 EAVE – The lowest point of the roof of a building. However, for a roof where any portion thereof is steeper than 15 on 12, the eave shall be the point in the roof where the roof slope becomes steeper than 15 on 12.
- New 3-86 EFFECTIVE SQUARE - A horizontal square wholly contained within the boundaries of a lot whose
 Rev 2-01 dimensions correspond to the minimum requirements for the district in which it is located, as specified in this Local Law (and within which square there shall be one potential house site which is outside of the area regulated by the Wetlands Law of the Village of Wesley Hills and which conforms to all requirements of applicable laws and regulations, as determined by the Planning Board).
- New 2-06 EXISTING GRADE – The natural surface of the ground as depicted by the topographic data of

the Rockland County Aerial 2000 Data based on flight dated April, 2000, or superior quality data such as an actual field survey of existing conditions on or about that date, if available.

- New 2-06 EXPOSED BUILDING HEIGHT – The vertical distance of any single side of a building measured from the highest point of the roof to the average finished grade on that side of the building.
- Rev 5-87 FAMILY - Either (1) a householder plus one or more persons related by blood, marriage or adoption and limited to the spouse, parents or lineal descendants of whatever generation of the householder, or of the householder's spouse, living together as a single, not-for-profit unit sharing housekeeping duties and cooking, eating, living, and recreational facilities; or (2) a group of persons headed by a householder caring for children as the functional equivalent of one family in a single, not-for-profit unit sharing housekeeping duties and cooking, eating, living and recreational facilities; or (3) a maximum of five persons not sharing a relationship described above, but living together as a bona fide single housekeeping unit sharing housekeeping duties and cooking, eating, living, and recreational facilities.
- FARM STAND - An establishment offering agricultural products grown or raised on the premises for retail sale.
- FINISHED GRADE - The elevation of the completed surfaces of lawns, landscaped areas, walks, driveways and parking areas or of the existing ground where it remains undisturbed.
- FRONTAGE - See "Lot Frontage".
- FRONT LOT LINE - See "Lot Line, Front".
- FRONT YARD - See "Yard, Front".
- FRONT YARD IMPERVIOUS SURFACE - All impervious surfaces located within a front yard.
- FRONT YARD IMPERVIOUS SURFACE RATIO - The total amount of front yard impervious surface on a lot divided by the area of the front yard.
- GASOLINE STATION - An establishment used for the sale of motor fuels and which may include the sale of motor vehicle accessories and facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including body work, major repair or painting.
- Rev 1-91 GROSS FLOOR AREA - The total floor area of all floors of all buildings on a lot, including all areas with headroom of 75 inches or more. However, for one-family detached dwellings, the total floor area shall not include the floor area of garages, sheds, and accessory buildings not used as a residence.
- New 7-88 GROUP FAMILY DAY CARE HOME - An establishment providing day care services for children within a single-family dwelling unit in accordance with Section 390 of the Social Services Law of the State of New York.
- Rev. 2-06 HALF STORY – The uppermost story of a building under a sloping roof with a minimum pitch of 8 vertical to 12 horizontal and in which the floor area with a ceiling height of 7-1/3 feet is one-third or less of the floor area of the story below it.
- New 1-99 HOME BUSINESS – Any business, professional, artistic or educational activity conduct within
Rev 1-01 a main building or an accessory building on a lot by any of the residents of the dwelling unit on such lot, directed toward the generation of a fee or other income (whether or not such use is carried on for profit), which activity is clearly incidental and subordinate to the use of such dwelling

unit for dwelling purposes and to the principal use of such lot for residential purposes, and which activity does not change the character thereof.

Rev 1-99
Rev 1-01

HOME OCCUPATION - A home business that is conducted without generating any trips or requiring any visits (for any purpose, including pick-ups or deliveries other than regular mail, commercial mail service, and next-day courier service) by non-residents of the dwelling unit on the lot upon which the home business is located.

New 5-87

HOUSEHOLDER - An individual who resides in a dwelling unit and who owns, rents or otherwise has legal possession of the unit.

IMPERVIOUS SURFACE - Impervious surfaces are those surfaces which do not absorb storm water. All buildings, parking areas, driveways, roads, sidewalks and any areas in concrete, asphalt or packed stone shall be considered impervious surfaces within this definition. In addition, other areas determined by the Village Engineer to be impervious within the meaning of this definition will also be classed as impervious surfaces.

IMPERVIOUS SURFACE RATIO - The total amount of impervious surface on a lot divided by the lot area.

New 3-06

LANDSCAPE SERVICE – a business enterprise primarily engaged in professional plant and lawn health care operations, including the indoor or containerized storage of plant health materials generally related to the operation of landscape services and maintenance, and seasonal snow plowing services.

LOADING SPACE - An off-street space available for the loading or unloading of goods, not less than 15 feet wide, 40 feet long, and with a minimum overhead clearance of 14 feet.

LOT - A parcel of land, not divided by streets, together with such yards as are required by the provisions of this Local Law, and having its principal frontage on a street or on such other means of access as may be deemed in accordance with the provisions of law to be suitable as a condition of the issuance of a building permit on the lot.

LOT AREA - The total horizontal area included within the boundaries of the lot.

LOT FRONTAGE - The horizontal distance measured along the full length of the front lot line of a lot.

LOT LINE - A property line bounding a lot.

LOT LINE, FRONT - Any lot line separating the lot from the street.

LOT LINE, REAR - The lot line which is generally opposite and parallel to the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front lot line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINE, SIDE - Any lot line other than a front lot line and the rear lot line.

LOT WIDTH - The distance measured along a line drawn parallel to the front lot line at a distance equal to the minimum front yard requirement.

MAIN BUILDING - A building in which is conducted the principal use of the lot on which such building is situated.

Rev 7-88 MAJOR ROAD - The following roads located within or adjacent to the Village of Wesley Hills:
Rev 3-90 Route 202, Route 306, Grandview Avenue, New Hempstead Road, Union Road, Forshay Road,
Rev 2-91 Wilder Road, Pomona Road (New Pomona Road), Lime Kiln Road, Willow Tree Road, East Willow
Rev 1-99 Tree Road, Mc Namara Road (between New Hempstead Road and East Willow Tree Road only),
Rev. 3-06 and Spook Rock Road.
Rev. 1-09

New 1-09 MINOR NEIGHBORHOOD GATHERING – The use of a single-family residence, on a regular basis, subordinate to its use as a single-family residence, for an assembly of people, provided that the portion of the building used for the gathering (1) does not exceed the lesser of 750 square feet or fifteen percent of the floor area of the building containing said residence and (2) does not exceed the percentage of use that would cause the building to be out of compliance with all applicable building code of New York State, including, without limitation, the Residential Code of New York State and the Existing Building Code of New York State, and further provided that there is no intent thereby to generate fees for such use of the premises. For the purpose of this definition, the phrase “on a regular basis” shall mean such use for three or more days in a week for more than two weeks in a year.

New 2-97 MONOPOLE – A free-standing pole having a single point of location on the ground comprising a part of a wireless communication services facility. For purposes of this Local Law, the term monopole shall include, in addition to the pole, all other components of the wireless communication services facility.

Rev 7-88 NEIGHBORHOOD FACILITY - A group of property owners organized for recreational, athletic, social or cultural purposes and including land, buildings, and facilities located in the neighborhood in which the members reside.

New 1-09 NEIGHBORHOOD GATHERING – The use of a building on a regular basis for an assembly of people, which does not qualify as a minor neighborhood gathering. In the event that a single-family residence is being used for the neighborhood gathering, such use must be without any intent to generate fees for such use of the premises. For the purpose of this definition, the phrase “on a regular basis” shall mean such use for one or more days in a week for more than two weeks in a year.

New 2-97 NIER – Non-Ionizing Electromagnetic Radiation.

New 1-99 NON-CONFORMING LOT – A lot which does not conform to the dimensional requirements of this Local Law with respect to minimum lot area, minimum lot frontage, minimum lot width, or minimum effective square.

NON-CONFORMING USE - A use of a building, structure or land that does not conform to the use regulations of this Local Law, which use was lawful under the Zoning Ordinance in effect at the time the use was established.

NON-CONFORMING, DIMENSIONALLY - See "Non-Conformity, Dimensional".

NON-CONFORMITY, DIMENSIONAL - 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, floor area ratio, off-street parking, loading or similar dimensional requirements of this Local Law, and which conformed to such dimensional requirements of the Local Law in effect at the time such building or structure was established.

NOT-FOR-PROFIT CORPORATION - A corporation formed or existing under the Not-For-Profit

Corporation Law of New York State.

Rev 7-88 NURSERY SCHOOL - See "Day Care Center".

ONE-FAMILY DWELLING - See "Dwelling, One Family".

Rev 1-91 PARKING SPACE - An off-street space available for the parking of one motor vehicle on a transient basis.

PARKING SPACE, INDOOR - A parking space located in a fully enclosed structure.

PATRON - A person using the services of an establishment.

PERSON - Any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

PERSONAL SERVICES - Establishments that offer a service to the public, including dry cleaners, barber shops, hairdressers, shoe repair shops, tailors, and seamstresses, but not including repair of automobiles or other vehicles, Laundromats, or betting parlors operated by the State of New York.

PLANNING BOARD - The Planning Board of the Village of Wesley Hills.

New 3-06 PLANT HEALTH MATERIALS – Fertilizers, pesticides, and insecticides, including beneficial insects, bacteria and fungi used to improve nutrient uptake, plant/soil symbiosis, and the control of harmful pests and diseases related to the operation of an arborist service, landscape service, or wholesale nursery use.

PRIVATE MEMBERSHIP CLUB - A not-for-profit corporation organized to cater exclusively to its members and their guests, including land, buildings, and facilities for recreational, athletic, social, professional and cultural purposes. The members of the organization shall have a financial interest in, and method of control of, the assets and management of the private membership club.

PUBLIC SCHOOL - An educational institution operated by a public school district in accordance with the Education Law of the State of New York.

PUBLIC UTILITY - Any person duly authorized to furnish to the public, under public regulation, electricity, gas, water, sewage treatment, steam, cable TV or telephone or telegraph service.

REAR LOT LINE - See "Lot Line, Rear".

REAR YARD - See "Yard, Rear".

Rev 2-07 RECREATIONAL VEHICLE - A vehicle, such as a camper or a motor home, used for traveling or recreational purposes.

RECREATION FACILITIES - Facilities designed and used for active and passive participatory athletic and general recreation activities, such as health clubs, gymnasium, dance halls, skating rinks, swimming pools, tennis courts, ball fields, bowling alleys and billiard rooms; excluded are facilities intended for spectator activities, such as stadium and arenas, and any structure in which is maintained for the amusement, patronage or recreation of the public more than three electronic games.

RESTAURANT - A business enterprise not including a bar, or offering any entertainment of any sort, engaged in serving and preparing food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter or waitress, and consumed on the premises. Alcoholic beverages may also be sold for consumption on the premises.

RESTAURANT, FAST-FOOD - A business enterprise primarily engaged in the retail sale of food and beverages served in disposable containers and selected by patrons from a limited number of prepared, specialized items such as, but not limited to, hamburgers, chicken, fish and chips, pizza, ice cream, tacos and hot dogs, for consumption either on or off the premises, in a facility where a substantial portion of the sales to the public is by stand-up service and does not include drive-in service. The term "fast-food restaurant" shall not include bakeries, delicatessens, or similar types of retail establishments.

RETAIL SALES - Establishments that deal in the sale of goods directly to the public, not including gasoline stations or the sale of pornographic literature.

ROOMER - An occupant of a rooming unit.

ROOMING UNIT - One or more rooms, with or without private bathroom facilities, but without cooking facilities, which are rented or available for rent, and which are located within a dwelling unit.

New 1-02

SATELLITE DISH – A device, generally parabolic in shape, the purpose of which is to transmit and/or receive communication, data, or other signals from satellites and/or land-based sources, but which does not include conventional antenna intended to receive signals from television broadcast stations or radio.

SCHOOL - An educational institution licensed by the New York State Department of Education.

New 1-91

SHOPPING CENTER - A group of architecturally unified commercial establishments with a total gross floor area in excess of 25,000 square feet, and with at least 10 independent tenants, built on a site that is planned, developed, owned, and managed as an operating unit related in its location, size, and type of shops to the traveled area that it serves. The unit provides on-site parking in definite relationship to the types and total size of the stores.

SIDE LOT LINE - See "Lot Line, Side".

SIDE YARD - See "Yard, Side".

SIGN - Any structure, or part thereof, or any device attached thereto or painted thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, work, model, banner, emblem, light, device, trademark or other representation used as an announcement, designation, direction, display or advertisement of any person, firm, group, organization, commodity, service, profession or enterprise when placed in such a manner that it provides visual communication to the general public out-of-doors.

SIGN AREA - The area which results from the multiplication of the outside dimensions of a sign; the vertical, horizontal or diagonal supports which may affix the sign to the ground or to a structure shall not be included in determining these dimensions unless such supports are clearly a part of the message of the sign. Where a sign is on a plate or outlined or framed, all of the area of such plate or the area enclosed by such outline or frame shall be included. Where the sign consists of individual letters or symbols attached to or painted on a surface, the area shall be considered to be that of the smallest single rectangle which encompasses all of the letters or symbols. Where the

sign consists of multiple plaques or parts, the sign area shall be the total area of all such parts. The area of all signs that can be seen from more than one side shall be considered to be the area of the largest side on which the message appears.

New 3-90 SINGLE-FAMILY RESIDENCE - The use of a one-family dwelling as a place where one family actually resides.

SITE PLAN - A map showing the design for the layout, arrangement and use of buildings and land, including accessory uses, facilities and services, and meeting the requirements of Article 10 of this Local Law.

SOLAR ENERGY COLLECTOR - A device or combination of devices which relies upon solar radiation as an energy source that is employed for the purposes of the heating or cooling of a building, the heating of water or the generation of electricity.

Rev 5-87 STORY - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the average finished floor level directly above a basement or cellar, measured along each exterior wall at four-foot intervals, is more than 6 feet above the approved finished grade, such basement or cellar shall be considered a story.

STREET - An existing State, County, Town or Village highway or road, or a way shown on a subdivision plat approved by the Planning Board of the Village of Wesley Hills or Town of Ramapo, or on a plat duly filed and recorded in the Office of the County Clerk prior to the appointment of the Planning Board of the Town of Ramapo and the grant to such Board of the power to approve subdivision plats, including all of the land within the right-of-way.

Rev 1-99 STRUCTURE - Anything constructed or erected, the use of which requires location on the ground or attachment or something having location on the ground. Included are swimming pools and tennis courts, but not anything requiring only simple paving or surfacing of the ground such as parking lots, driveways or sidewalks.

New 1-99 STRUCTURE, ACCESSORY – A structure (other than an accessory building) subordinate to the main building on the lot and used for purposes customarily incidental to that of the main building.

Rev 1-02 SWIMMING POOL - A man-made body of water or receptacle for water having a depth of more than 20 inches and a water surface area of more than 80 square feet, and constructed, installed or maintained in or above ground outside of any building. For purposes of yard requirements, a "swimming pool" shall include adjacent decks, patios, diving boards, slides, equipment, machinery, and other appurtenances extending above ground but shall not include fences.

TERRACE OR PORCH - A terrace is a flat platform covered with a surface material. A terrace which has a roof and which is attached to a building shall be considered a porch.

USE - The specific purpose for which land, water, a building or a structure is designed, arranged, intended or for which it is or may be occupied or maintained.

USE, ACCESSORY - A use which is customarily incidental and subordinate to the principal permitted use on the lot and located on the same lot therewith, except that where specifically provided, accessory off-street parking need not be located on the same lot. An accessory use may not be accessory to another accessory use.

USE, PRINCIPAL - The main use of a structure or lot.

USE, SPECIAL PERMIT - A use allowed in a district, subject to the issuance of a Special Permit by the Planning Board in accordance with the provisions of Article 6 of this Local Law.

New 3-06 WHOLESale NURSERY – A business enterprise primarily engaged in wholesale nursery sales and inventory maintenance, including, but not limited to, plants, plant materials, mulch, stone, and other materials (including the indoor or containerized storage of plant health materials) generally related to the operation of a wholesale nursery.

New 2-97 WIRELESS COMMUNICATION SERVICES – The provision of wireless communication services, including those more commonly referred to as “cellular telephones”, which services are regulated by the Federal Communications Commission (FCC) in accordance with and as the term “personal wireless service” is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 § (7) ©, or as hereafter amended.

New 2-97 WIRELESS COMMUNICATION SERVICES FACILITY – Any equipment used in connection with the commercial operation of wireless communication services, as defined herein, and as the term “personal wireless services facility: is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7) (C), or as hereafter amended, to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures.

New 2-97 WIRELESS COMMUNICATION SERVICES FACILITY (MINOR) – A wireless communication services facility located within a public right-of-way in which a cluster of antennas is structurally-mounted to an existing utility pole, roadway sign, bridge or other similar type of structure, not exceeding the height of such structure by more than 3 feet, together with associated equipment to be located on the ground.

YARD - Open space on the same lot as a building or structure which open space lies between the building or structure and the nearest lot line. A yard shall be measured as the shortest distance between the building or structure and the lot line.

YARD, FRONT - A yard extending the entire length of the front lot line and lying between the front lot line and the nearest part of the main building.

YARD, REAR - A yard extending the entire length of the rear lot line and lying between the rear lot line and the nearest part of the main building.

YARD, SIDE - A yard between a side lot line and the nearest part of the main building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front and rear lot line, as the case may be.

ARTICLE 3 - ESTABLISHMENT OF DISTRICTS

Rev 1-07

3.1 District Classification

The Village of Wesley Hills is hereby divided into the following classes of districts:

| | |
|------|-----------------------|
| R-50 | One-Family Residence |
| R-35 | One-Family Residence |
| R-20 | One-Family Residence |
| R-15 | One-Family Residence |
| NS | Neighborhood Shopping |

3.2 Zoning Map

The boundaries of these districts and special building lines are hereby established as shown on a map entitled Zoning Map, Village of Wesley Hills, New York, dated October 22, 1984, and as may be amended from time to time and certified by the Village Clerk, which map accompanies and with all explanatory matter thereon is hereby made a part of this Local Law. The Official Copy of this map is kept by the Village Clerk. Copies at a reduced scale are included with copies of this Local Law.

3.3 Interpretation of District Boundaries

Where uncertainty exists as to the locations of any boundaries shown on the zoning map, the following rules shall apply:

- 3.3.1 District boundary lines follow lot lines, streets, municipal boundaries, rights-of-way, railroad rights-of-way or watercourses, or are parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions, as shown on the Zoning Map.
- 3.3.2 Where district boundaries are shown approximately following streets, rights-of-way, railroad rights-of-way or watercourses, the centerlines thereof shall be such boundaries.
- 3.3.3 Where district boundaries are shown approximately following municipal boundaries or lot lines, such municipal boundaries or lot lines shall be the district boundaries.
- 3.3.4 Where district boundary lines divide a lot, the location of any such boundary, if not indicated by dimensions, shall be determined by use of the map scale appearing thereon.
- 3.3.5 If the district classification of any property is in question, it shall be deemed to be in the most restrictive adjoining district.

3.4 Order of Restrictiveness

Where zoning districts are referred to as more restrictive or less restrictive the designations shall refer to the order in which the districts are named in Section 3.1, the first named being the most restrictive.

3.5 Lots In Two or More Districts or Municipalities

Where a lot in one ownership of record is divided by one or more district boundary or municipal line, the following shall apply:

- 3.5.1 Uses permitted in one district may not extend into another district where they would not otherwise be permitted.
- 3.5.2 Dimensional requirements shall be measured from lot lines and not from zoning district lines.

ARTICLE 4 - GENERAL REGULATIONS

4.1 Application of Regulations

- 4.1.1 Conformity Required: No building shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water or building be used, designed or arranged to be used for any purpose except in conformity with this Local Law.
- 4.1.2 Minimum Requirements: In interpreting and applying this Local Law, the requirements contained herein are declared to be the minimum requirements necessary for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare.

4.2 Relation to Other Regulations

- Rev 4-06 4.2.1 Other Applicable Codes, Standards and Regulations: There are many other applicable codes, standards and regulations of the Village of Wesley Hills in addition to this Zoning Law. These include the Land Subdivision Regulations, Wetlands Regulations, and the Building Code.
- 4.2.2 Conflicting Standards: This Local Law shall not be deemed to affect in any manner whatsoever any easements, covenants, or other agreements between parties, provided, however, that where this Local Law imposes a greater or lesser restriction upon the use of buildings or land, or upon the erection, construction, establishment, movement, alteration or enlargement of buildings than are imposed by other Local Laws, rules, regulations, licenses, certificates or other authorizations, or by easements, covenants or agreements, the more restrictive requirements shall prevail.

4.3 Non-Conforming Uses and Other Non-Conformities

4.3.1 Continuing Existing Uses, Buildings and Structures:

- 4.3.1.1 Except as otherwise provided herein, the lawfully permitted use of lands or buildings, and the lawfully permitted existence of buildings or structures at the time of the adoption of this Local Law may be continued although such use, building or structure does not conform to the standards specified in this Local Law for the district in which such lands, buildings or structures are located. Similarly, whenever a zoning classification or the restrictions affecting property within a district shall be changed hereafter so as to render non-conforming a use, building or structure then presently or heretofore lawfully existing, such use, building or structure may nevertheless continue subject to the conditions set forth below. Said uses shall be deemed non-conforming uses and said buildings and structures shall be deemed dimensionally non-conforming.

- Rev 1-99 4.3.1.2 Any use in existence as of the effective date of this Local Law which is by this Local Law made a special permit use in the district in which it is located shall be presumed to have a special permit if such use was legally conforming, with respect to all use and dimensional requirement applicable thereto, as of November 13, 1984.

4.3.2 Non-Conforming Use of Land, Buildings or Structures:

- 4.3.2.1 The non-conforming use of land may be continued, provided however that no such non-conforming use shall be physically enlarged or intensified, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this Local Law, unless specifically allowed by other provisions in this Local Law, nor shall any such non-conforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of the adoption of this Local Law.
- 4.3.2.2 A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged, extended or altered structurally unless the use therein is changed to a conforming use, or to conform to an order of the Building Inspector to either correct an unsafe condition or to conform to the requirements of applicable laws or ordinances.
- 4.3.2.3 No non-conforming use of a building or structure shall be enlarged or extended, except that any such non-conforming use may be extended throughout any parts of the building or structure which were obviously or manifestly arranged or designed only for such use at the time of the adoption or amendment of this Local Law.
- 4.3.2.4 No non-conforming use shall be changed to another non-conforming use, except as provided in Section 4.3.5.
- 4.3.2.5 If a non-conforming use ceases for any reason for a total of 6 months during any 12 month period, or is changed to a conforming use, any future use of the land, building or structure shall be in conformity with the provisions of this Local Law. Substantial cessation of activities consistent with or required for the operation of such non-conforming use, or substantial vacancy of the building or structure in which the non-conforming use was conducted together with substantial cessation of activities consistent with or required for the operation of such non-conforming use shall be deemed to constitute a discontinuance thereof within the meaning of this Local Law irrespective of whether an intention to abandon the non-conforming use may exist. On application however, the Board of Appeals may extend the period upon a finding that it is not reasonable in its application to be particular premises, taking into consideration the characteristics of the use, the investment which has been made in it, the circumstances of the discontinuance and the suitability of the structure for a permitted or special permit use.
- 4.3.2.6 If any building or structure in which any non-conforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building or structure was located, and the subsequent use of any building or structure thereon, shall be in conformity with the standards specified by this Local Law for the district in which such land is located.

- 4.3.3 Dimensional Non-Conformity: 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 Local Law, shall be deemed to be dimensionally non-conforming. No permit shall be issued that will result in the increase of any such dimensional non-conformity, but any building or structure or portion thereof may be altered to maintain or decrease its dimensional non-conformity.
- New 1-99 4.3.4 Merger of Non-Conforming Lots: A non-conforming lot shall merge with an adjacent conforming or non-conforming vacant lot which is held in the same ownership as the first lot at any time after the effective date of this Local Law. Lots will be deemed to be adjacent if they abut for a common course of 50 feet or more in distance.
- Rev 1-99 4.3.5 Reconstruction:
- Rev 1-99 4.3.5.1 Should a building or structure, the use of which or the use of a portion of which is non-conforming, or which is dimensionally non-conforming, be destroyed or damaged by any means to an extent of more than 75 percent of the replacement cost of the building or structure as determined by the Building Inspector at the time of the reconstruction, it shall not thereafter be reconstructed or used except in conformity with the provisions of this Local Law.
- Rev 1-99 4.3.5.2 Should a building or structure, the use of which or the use of a portion of which is non-conforming or which is dimensionally non-conforming, be destroyed or damaged by any means to an extent of 75 percent or less of the replacement cost of the building or structure as determined by the Building Inspector at the time of the reconstruction, it may be reconstructed and any accompanying non-conforming use continued, provided that the reconstruction is commenced within 1 year of the date of such damage and completed within 2 years of said date, and further provided that it shall be reconstructed in accordance with a plan approved by the Planning Board so as to result, where possible, in greater conformity with this Local Law.
- Rev 1-99 4.3.6 Change to Other Non-Conforming Use:
- On application, any non-conforming use of land, buildings or structures may be changed to another non-conforming use upon approval by the Board of Appeals based upon a finding that the proposed use is more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may impose whatever conditions and safeguards it may deem necessary or appropriate to further the purposes of this Local Law.
- Rev 1-99 4.3.7 Improvement of Non-Conforming Uses:
- In order that non-conforming uses may gradually be brought into greater conformity with this Local Law and the adverse external effects of such non-conforming uses may be reduced, the owner of the land, building or structure so used may be permitted to make limited changes to such building, structure or use in conjunction with a site plan whereby, through landscaped screening and buffer areas, control of noise, smoke, odors, lighting, architectural changes, location and layout of parking areas and access drives, or by any other appropriate means, these purposes may be achieved. Such plan shall be presented to the Board of Appeals which may then grant approval or approval with modifications provided said agency finds that the purposes of this section shall be met.

4.4 General Regulations

4.4.1 Lot for Every Building: Every building hereafter erected shall be located on a lot and there shall be no more than one main building and its accessory buildings on one lot, except for non-residential buildings in districts where such uses are permitted.

4.4.2 Subdivision of a Lot: Where a lot is formed hereafter from part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this Local Law with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this Local Law.

New 1-99

4.4.2.1 Subdivision approval by the Planning Board is required for any division of land. All site development and all use of the property shall be in conformance with the approved subdivision plat and such additional standards and safeguards as the Planning Board may impose as a condition of approval. No building permit, certificate of occupancy, or certificate of use shall be issued until all such requirements have been met. Continued conformance with the approved final subdivision plat and such additional standards and safeguards shall be a requirement of the continued validity of any such certificate of occupancy or certificate of use.

4.4.3 Irregularly Shaped Lots: Where a question exists as to the proper application of any of the requirements of this Local Law to a particular lot because of its peculiar or irregular shape, the Board of Appeals shall determine how the requirements of this Local Law apply as provided in Section 9.3.5 of this Local Law.

4.4.4 Obstructions to Vision at Intersections in Residential Districts: At the intersection of two or more streets in a residential district, no fence, wall, structure, or shrubbery or other obstruction more than 2 feet in height above the centerline grade of the streets shall be erected or placed on any part of a yard herein established that is included within the triangular area formed by the nearest edges of the street line and a straight line between two points each a minimum of 25 feet back from the intersection of the nearest edges of the street line prolonged.

Rev 1-99

4.4.5 New Buildings on Lots Smaller Than Minimum Required Area: A permit may be issued by the Building Inspector for the erection of a building for a permitted use on a lot for which a valid conveyance has been recorded prior to the adoption of this Local Law and which is not subject to the provisions of Section 4.3.4 of this Local Law, notwithstanding that the area or dimensions of such lot are less than that required for the district in which such is located, provided that such lot meets the requirements of Section 7-709 of the Village Law.

4.4.6 Yard for Every Building: No yard, or other open space provided about any building for the purpose of complying with the provisions of this Local Law shall be included as any part of the yard, or open space for any other building. No yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

4.4.7 Use of Yards: No accessory building or structure shall be permitted within any minimum required yard except as regulated by Sections 4.4.10 and 4.4.15. No parking shall be permitted within any yard except as provided in Article 7.

- 4.4.8 No Reduction of Required Yards: No lot shall be so reduced in area as to make any yard smaller than the minimum required under this Local Law.
- Rev 1-99 4.4.9 Yards on Corner Lots: On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along each lot frontage shall be a required front yard. The owner shall elect, and so designate on the building permit, which of the remaining two required yards shall be the required side yard and which shall be the required rear yard. Where a corner lot has frontage on three streets, the remaining yard shall be a side yard.
- New 1-99 4.4.9.1 For purposes of calculation of the front yard impervious surface ratio, each front yard shall be considered separately as if it was the only front yard on the lot, and each front yard when so considered shall be required to conform to the applicable requirement
- 4.4.10 Structural Projections Permitted into Required Yards and Courts:
- 4.4.10.1 Limited walls and fences may be allowed in required yards, subject to the requirements of Section 4.4.12.
- 4.4.10.2 An arbor, open trellis, flagpole, unroofed steps or unroofed terrace shall be permitted in any required yard.
- 4.4.10.3 An awning or movable canopy may project not more than 10 feet into any required yard.
- 4.4.10.4 Cornices or eaves may project not more than 18 inches into a required yard.
- 4.4.10.5 Window sills or belt courses may project not more than 6 inches into a required yard.
- 4.4.11 Exceptions to Height Limitations: The height limitations of this Local Law shall not apply to:
- 4.4.11.1 Church spires, belfries, cupolas, domes, monuments, observation towers, chimneys, smoke stacks, derricks, flag poles, radio towers, masts and aerials, where not used for human occupancy, and where such structures whether or not they are attached to a roof, do not extend more than 15 feet above the highest roof on the lot.
- 4.4.11.2 Rooftop bulkheads, elevator penthouses, water towers, water tanks, monitors, fire towers, hose towers, cooling towers, or solar energy collectors, provided that such features shall be erected only to the height necessary to accomplish the purpose they are intended to serve, the total area covered by such features shall not exceed 20 percent of the horizontal area of the roof on which they are located, where such structures do not extend more than 15 feet above the roof, and where the lot on which they are located is in or adjacent to a residence district such features shall be set back from the edge of the roof at least 1 foot for each 1 foot by which such features exceed the maximum height otherwise specified for the district in which that are located.

4.4.12 Fences and Walls: Fences and walls, including retaining walls, are permitted within the required yards (as defined herein) provided that:

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4.4.12.1 In a residential district, a fence constructed in a front yard may not exceed 4

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feet in height. However, if such fence is set back from a front lot line a distance of at least two-thirds of its height, such fence may have a maximum height of 6 feet.

4.4.12.2 Notwithstanding Section 4.4.12.1 of this Local Law, a fence constructed in a front yard but along the side lot line or rear lot line may not exceed 6 feet in height.

4.4.12.3 In a residential district, a fence constructed in a side yard or a rear yard may not exceed 6 feet in height. However, if such fence is set back from the nearest lot line a distance of at least two-thirds of its height, such fence may have a maximum height of 8 feet.

4.4.12.4 In a non-residential district, a fence of not less than three-fourths open construction may have a maximum height of 8 feet.

4.4.12.5 The Building Inspector may, where required for safety, require the addition to a retaining wall of a motor vehicle bumper guard or a fence, of not less than three-fourths open construction and not exceeding the above height limitations by more than 4 feet.

4.4.12.6 The fence or wall meets the requirements of Section 4.4.4 of this Local Law.

4.4.12.7 If any such fence or wall located within a required yard has a finished or more attractive side, such side shall face the neighboring property or street.

4.4.12.8 All fences or walls must be inside all lot lines.

4.4.12.9 Barbed wire is permitted as a part of a fence in a non-residential district provided such barbed wire is located at least 6 feet above the ground. A barbed wire or electrically charged fence is permitted in any district only upon approval of the Planning Board.

4.4.12.10 All deer fences must be constructed of a black, dark green, or dark brown plastic or metallic threaded network or grid of at least 90% open construction (as defined herein). Deer fences may have a maximum height of 10 feet. Deer fences may be located no closer to any lot line than either 1 foot or the minimum distance necessary for the protection of the vegetation which the deer fence is intended to protect, whichever distance is greater.

4.4.12.11 The height of all fences and walls shall be measured from the natural or finished grade. If a fence or wall is constructed upon a berm or other constructed topographic feature, the total maximum height shall not exceed the limitations specified in Section 4.4.12.1, 4.4.12.2, 4.4.12.3, or 4.4.12.4 as the case may be.

- 4.4.12.12 All fences constructed in a front yard shall have no greater than 4 inches of clearance between the bottom of the fence and the natural or finished grade. If such clearance shall be greater than 2 inches, such clearance shall be shielded from view by evergreen plantings.
- 4.4.12.13 All fences and walls shall be maintained in a structurally sound and attractive manner.
- 4.4.12.14 All non-conforming fences existing on November 17, 2004 shall be required to conform to the above-stated standards no later than November 1, 2006.
- 4.4.13 Aircraft and Airfields: No landings or takeoffs of any aircraft and no airfields are permitted in any district.
- Rev 3-86 4.4.14 Solar Energy Collectors:
 - 4.4.14.1 Solar energy collectors are permitted as a part of, and may be attached to, any building.
 - 4.4.14.2 Installation of solar energy collectors shall require the issuance of a building permit and the approval of the Architectural Review Board.
- 4.4.15 Accessory Buildings and Structures: Accessory buildings and structures shall be permitted in all districts, subject to the following:
 - 4.4.15.1 The gross floor area of all principal and accessory buildings regardless of size, located on a lot shall comply with the maximum floor area ratio requirements in Section 5.2 of this Local Law.
 - Rev 1-02 4.4.15.2 The following shall be considered accessory buildings and structures for the purposes of this section: tennis courts and platform tennis courts without lighting facilities for night play, swimming pools, garages for passenger vehicles or one vehicle with commercial registration under 5,000 pounds gross vehicle weight, greenhouses, playhouses, garden houses, tool houses, stables, barns, and solar energy collectors.
 - Rev 1-02 4.4.15.3 Accessory buildings and structures not greater than 100 square feet in floor area and not more than 10 feet in height measured to the highest point of the building or structure may be located not closer to a side lot line or a rear lot line than one-third of the side yard or rear yard dimensions, respectively, specified in Section 5.2 of this Local Law. Accessory buildings and structures shall comply with the front yard setbacks specified herein.
 - 4.4.15.4 Individual accessory buildings and structures greater than 100 square feet in ground floor area or greater than 10 feet in height shall meet the following requirements:
 - Rev 1-99 Rev 1-02 a. Accessory buildings and structures permitted under this section shall comply with the front yard, side yard, and rear yard requirements and the floor area ratio, impervious surface ratio, and height limitations specified in Section 5.2 of this Local Law, except that tennis courts without lighting facilities for night play and in-ground swimming pools may be located not closer than 15 feet to a side lot line or a rear lot line.

4.4.17.2 Regulations for Specific Animals

- a. Fowl (such as chickens, ducks, turkeys geese): The keeping of 5 or less fowl is permitted as an accessory use in the R-50 and R-35 Districts. No roosters shall be permitted. All fowl shall be kept in an enclosed coop from sunset to sunrise. The coop shall be located at least 25 feet from any lot line.
- b. Dogs and Cats:
 - (1) Dogs or cats less than one year old shall be exempt from these regulations.
 - (2) The keeping of a total of 5 or less dogs or cats is permitted as an accessory use in any district.
- c. Horses, Cattle, Goats and Sheep: Regulations for these animals are listed in Section 6.9.12 of this Local Law.

Rev 1-95

Rev 2-07

4.4.18 Storage of Vehicles or Boats: In all residential districts, the storage of not more than one unoccupied recreational vehicle or boat, or not more than one vehicle that is either unregistered or lacking a currently valid inspection sticker, shall be permitted, so long as such vehicle or boat is stored only within a rear yard. No stored vehicle or boat shall exceed 35 feet in length.

4.4.19 Air Pressure Buildings: No air pressure buildings are permitted in any district.

4.4.20 Municipal Uses: Notwithstanding any other provision to the contrary, structures owned or occupied by the Village of Wesley Hills, in the performance of its municipal functions, shall be exempt from the provisions of this Local Law.

New 3-86
Rev 2-89
Rev 1-02

4.4.21 Satellite Dishes: Satellite dishes greater than one meter (39.37 inches) in diameter shall comply with the following requirements:

4.4.21.1 Satellite dishes greater than one meter in diameter are permitted only behind the rear of the main building, but not on the roof of any building or within a front yard or side yard or within 50 feet of the rear lot line. However, where the Board of Appeals determines that no point exists within such permitted location where such a satellite dish can be installed without preventing or unreasonably limiting reception of delivered signals, the Board of Appeals shall grant a variance permitting the installation of such a satellite dish at another specific location on the lot, subject to all requirements of Sections 4.4.21.2 through 4.4.21.4 of this Local Law, inclusive.

4.4.21.2 The height of such a satellite dish shall not extend above the highest roof on the lot. However, where the Board of Appeals determines that such limitation on the height of the satellite dish will prevent or unreasonably limit reception of delivered signals, the Board of Appeals shall grant a variance permitting the height of the satellite dish to extend not more than 15 feet above the highest roof on the lot.

4.4.21.3 All equipment to be installed in connection with the satellite dish shall be certified as being safe by an appropriate authority.

4.4.21.4 The installation of a satellite dish greater than one meter in diameter shall require the issuance of a building permit and the approval of the Architectural Review Board.

New 1-91 4.4.22 Banks with drive-through service: Banks with drive-through service shall be permitted only in shopping centers, provided that either of the following two requirements are met:

a. There is a stacking lane serving the drive-through facility providing space for a minimum of 8 vehicles; or

b. The Planning Board determines that the use of the drive-through facility will not interfere with pedestrian or vehicular circulation patterns or the use of parking spaces.

New 1-99 4.4.23 Home Occupations

4.4.23.1 The home occupation shall be carried on wholly indoors.

4.4.23.2 There shall be no external display or advertising of goods or services or other external evidence of such use.

4.4.23.3 The establishment of such home occupation shall not require internal or external alterations or construction features not customarily found in dwelling units.

4.4.23.4 The appliances and equipment required for the home occupation shall be operated in such a manner that they do not produce and emit, beyond the boundaries of the premises on which the use is located, dust, glare, hazard, heat, light, noise, nuisance, odor, radiation, radio or TV interference, smoke, or vibration, and are in no other manner obnoxious, offensive, or detrimental to the immediate neighborhood.

4.4.23.5 The home occupation itself shall be conducted in such a manner and during such hours that it is in no way obnoxious, offensive, or detrimental to the immediate neighborhood.

Rev 1-09 4.4.24 Minor Neighborhood Gatherings:

4.4.24.1 Any single-family residence may also be used as a minor neighborhood gathering.

4.4.24.2 The building containing the minor neighborhood gathering shall comply with all requirements of all applicable building codes of New York State, including, without limitation, the Residential Code of New York State and the Existing Building Code of New York state.

4.4.24.3 The maximum number of persons using the minor neighborhood gathering shall be the maximum number that can comply with the Residential Code of New York State and the Existing Building Code of New York State, as applied to the building containing the minor neighborhood gathering.

4.4.24.4 All required parking spaces must be provided on the lot on which the minor

neighborhood gathering is located and/or on other lots within the Village of Wesley Hills and within 100 yards of the lot on which the minor neighborhood gathering is located, with the permission of the owners of such lots. The required parking spaces shall be used in full before additional parking associated with the minor neighborhood gathering is allowed on any street. Unless the minor neighborhood gathering has frontage and practical access exclusively on a Major Road, an application may be made to the Planning Board for relief from this requirement. Upon such application, the Planning Board may determine to allow on-street parking on any street other than a Major Road to count towards satisfaction of the parking requirement if it determines that it would be consistent with public safety and neighborhood character to do so.

- 4.4.24.5 In the event that an application is made to the Planning Board for relief from the parking requirement pursuant to section 4.4.24.4 of this Local Law, a simple plot plan showing the lot, driveways, paved areas and all structures thereon shall be submitted as part of this application, but no site plan is required unless otherwise required by the Planning Board.
- 4.4.24.6 There shall be no external sign or display indicating the use of the structure as a minor neighborhood gathering.
- 4.4.24.7 The lot shall be required to comply with the maximum impervious surface ratio set forth in Section 5.2 of this Local law, unless the applicant shall also obtain a special permit for increased impervious surface pursuant to Section 6.9.13 of this Local law.

4.5 Performance Standards

- 4.5.1 Conformance Required: No special permit use or non-residential use shall hereafter be established, altered, moved, or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards shall be a requirement for the continuance of any certificate of occupancy. Central utility systems serving 3 or more dwelling units, including but not limited to systems providing heat, water, air-conditioning, sewage treatment, garbage collection, and electrical power, shall be deemed to be non-residential uses for the purposes of this section.
- 4.5.2 Purposes: Consistent with the general purposes of this Local Law, performance standards shall set specific controls on potentially objectionable external aspects of non-residential uses so as to:
 - a. Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollutants outside the building in which the use is conducted.
 - b. Control noise perceptible beyond the boundaries of the site of the use.
 - c. Prevent the discharge of untreated or insufficiently treated wastes into any watercourse.
 - d. Prevent the dissemination of vibration, heat or electromagnetic interference beyond the immediate site on which the use is located.

- e. Prevent physical hazard by reason of fire, explosion, radiation or any similar cause.
- f. Regulate and control the generation and flow of vehicular traffic so as to prevent hazardous conditions, traffic congestion and excessive noise in the streets.

4.5.3 Standards for Noise: No land use shall be permitted which will produce a volume of noise which would violate the provisions of any law regulating noise in the Village of Wesley Hills.

4.5.4 Standards for Vibration:

- a. Method of Measurement: For the purpose of measuring vibration, a two component measuring system approved by the Planning Board shall be employed.
- b. Maximum Permitted Steady State and Impact Vibration Displacement: No activity shall cause or create a steady state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of that indicated in the following table:

| Frequency (cycles per second) | <u>Vibration Displacement</u> (in inches) | |
|----------------------------------|--|---------------|
| | <u>Steady-State</u> | <u>Impact</u> |
| Under 10 | .0005 | .0010 |
| 10 - 19 | .0004 | .0008 |
| 20 - 29 | .0003 | .0006 |
| 30 - 39 | .0002 | .0004 |
| 40 and over | .0001 | .0002 |

4.5.5 Standards for Smoke, Dust and Other Atmospheric Pollutants:

- a. General Control: The emission of smoke and other particulate matter, shall not be permitted, regardless of quantity, if it will be in any way detrimental to the public health, safety, welfare or comfort, or a source of damage to property.
- b. Method of Measurement of Smoke: For the purpose of grading the density of smoke, the Ringelmann Smoke Chart shall be used to determine the total smoke units emitted. A reading shall be taken every minute for an hour, or if less than an hour until the total smoke units emitted exceed the number allowed by these Regulations. Each reading shall be multiplied by the number of minutes during which it was observed and the product added.
- c. Maximum Permitted Emission of Smoke: There shall be no measurable emission of smoke, gas or other atmospheric pollutant. The emission of one smoke unit per hour and smoke with discernible density of Number 1 on the Ringelmann Smoke Chart shall be prohibited.
- d. Maximum Permitted Emission of Dust:
 - 1. The emission of dust related to combustion for indirect heating from any source shall not exceed 0.30 pounds of dust per thousand pounds of flue gas adjusted to 50% excess air for combustion.

2. There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating.
 3. All properties shall be suitably improved and maintained with appropriate landscaping and paving, or other type of improvement, so that there will be no measurable wind-blown dust or other similar types of air pollution created.
- 4.5.6 Standards for Odorous Matter: No land use shall be permitted which emits any discernible odor outside the building or facility in which the use is conducted.
- 4.5.7 Standard for Toxic or Noxious Matter: No use shall be permitted which will cause any dissemination whatsoever of toxic or noxious matter outside the building in which the use is conducted.
- 4.5.8 Standards for Radiation and Electromagnetic Interference:
- a. Radiation: The handling, storage or disposal of radioactive materials or waste by-products, whether or not licensed by the Atomic Energy Commission, shall be conducted only in accordance with the standards established in Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation", as amended and in accordance with any other applicable laws or regulations.
 - b. Electromagnetic Interference: No operation shall be permitted which produces any perceptible electromagnetic interference with normal radio or television reception in any area within or without the Village.
- 4.5.9 Standards for Fire, Explosive Hazard and Heat:
- a. Fire and Explosive Hazard: No storage or manufacture of explosives; or solid materials or solid products which burn actively or which have a low ignition temperature, a high rate of burning, or create great heat, under ordinary temperature conditions; shall be permitted.
 - b. Heat: There shall be no emission of heat which would cause a temperature increase in excess of 1 degree Fahrenheit along any adjoining lot line, whether such change be in the air, in the ground, or in any watercourse or water body.
- 4.5.10 Standards for Liquid or Solid Wastes: The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Rockland County Health Department, New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste shall be so located and designed as to be screened from the street or from any adjoining property and so as to discourage the breeding of rodents or insects.
- 4.5.11 Standards for Vehicular Traffic: No business or industrial use, home occupation or special permit shall be permitted where it is determined by the Planning Board that the type and number of vehicle trips it is estimated to generate would be expected to produce unusual traffic hazards or congestion, or cause or induce emissions which may be expected to interfere with the maintenance of air quality standards established by the U.S. Environmental Protection Administration, the New York State Department of Environmental Conservation, or other regulatory agency having jurisdiction, due to the design or capacity of the highway system, the relationship of such proposed use to surrounding or nearby industrial, commercial or residential uses, or other factors

affecting air pollution arising from mobile source activity.

4.5.12 Procedure:

- a. In the case of any application for the establishment of a use subject to the performance standards, the Planning Board may require the applicant, at his own expense, to provide such evidence as it deems necessary to determine whether the proposed use will conform to said standards.
- b. If the Planning Board deems it necessary, expert advice may be obtained, with the cost of such advice paid for in advance by the applicant as a condition of further consideration of his application. The report of any expert consultants shall be promptly furnished to the applicant.
- c. During the course of a site plan or special permit review, the Planning Board will determine if the applicant's proposal will conform to the performance standards.

| Rev. 3-06 Rev 1-07 | <u>ACCESSORY USES</u> | <u>Additional Requirements (See Section)</u> | R-50 R-35 R-20 <u>R-15</u> | <u>NS</u> |
|-----------------------|--|--|-------------------------------------|-----------|
| | Tennis court, paddle tennis court, barn, stable, silo, garage, tool shed, garden house, swimming pool, solar energy collector | 4.4.15 | PA | |
| | Storage of vehicles or boats | 4.4.18 | PA | |
| | Keeping of Animals | 4.4.17 | PA | |
| | Keeping of one roomer in a one-family detached dwelling. | | PA | |
| | Off-Street Parking Facilities | Article 7 | PA | PA |
| | Off-Street Loading Facilities | Article 7 | | PA |
| | Signs | Article 11 | PA | PA |
| New 3-86 Rev 1-02 | Satellite Dish | 4.4.21 | PA | PA |
| New 1-99 | Home Occupations | 4.4.23 | PA | |
| New 1-09 | Minor Neighborhood Gathering | 4.4.24 | PA | |
| | PA = Permitted Accessory Use | | | |

| | | Additional Requirements <u>See Section</u> | R-50 R-20 <u>R-15</u> | <u>R35</u> | <u>NS</u> |
|----------|--|--|-----------------------------|------------|-----------|
| Rev 1-09 | <u>SPECIAL PERMIT USES</u> | | | | |
| Rev 2-97 | Public Utility structures including reservoirs, buildings, lines, poles, facilities, equipment storage and crew facilities, other than wireless communications services facilities | 6.9.1 | SP | SP | |
| | Private Membership Clubs | 6.9.2 | SP | SP | |
| | Neighborhood Facilities | 6.9.3 | SP | SP | |
| | Farm Stands | 6.9.4 | SP | SP | |
| | Camps | 6.9.5 | SP | SP | |
| | Day Care Centers | 6.9.6 | SP | SP | |
| | Group Family Day Care Homes | 6.9.7 | SP | SP | |
| | Neighborhood Gatherings | 6.9.8 | SP | SP | SP |
| | Cemeteries | 6.9.9 | SP | SP | |
| | Schools | 6.9.10 | SP | SP | |
| Rev 1-99 | Home Businesses, other than Home Occupations | 6.9.11 | SP | SP | |
| | Keeping of Horses, Cattle, Goats & Sheep | 6.9.12 | SP | SP | |
| | Increased Impervious Surface | 6.9.13 | SP | SP | |
| New 2-97 | Wireless Communication Services Facilities | 6.9.14 | SP | SP | SP |
| New 3-06 | Arborist Services, Landscape Services, and/or Wholesale Nurseries | 6.9.15 | | SP | |

SP = Permitted Special Permit Use

Section 5.2

TABLE OF DIMENSIONAL REQUIREMENTS

The accompanying Table of Dimensional Requirements, which lists the height of buildings, the size and dimension of yards, the area and coverage of lots, and other matters contained therein, is hereby adopted and declared to be a part of this Local Law. The dimensional requirements listed for each district as designated are subject to all other provisions of this Local Law and, unless otherwise indicated, shall be deemed to be the minimum requirement in every instance of their application.

| District | Minimum Lot Area, Sq. Ft. ¹ | Minimum Lot Frontage, Ft. ² | Minimum Lot Width, Ft. | Minimum Effective Square, Side, Ft. | MINIMUM YARDS, FEET | | | | | | | Maximum Front Yard Impervious Surface Ratio ³ | Maximum Building Height | | Maximum Exposed Building Height | |
|----------|--|--|-------------------------|-------------------------------------|---------------------|-----------|-----------------|-----------|---------------------------|----------------------------------|--------------------|--|-------------------------|-------|---------------------------------|--|
| | | | | | Front Yard | Side Yard | Total Side Yard | Rear Yard | Maximum Building Coverage | Maximum Impervious Surface Ratio | Stories | | Feet | Feet | Feet | |
| R-50 | 50,000 | 100 | 150 (100 ⁶) | 150 | 50 | 30 | 75 | 50 | 0.10 ¹⁰ | 0.20 | 0.15 ⁷ | 2 ½ | 25 | 40 | | |
| ADS | 40,000 ⁴ | 90 | 125 (75 ⁶) | 125 | 50 | 25 | 60 | 50 | 0.10 ¹⁰ | 0.25 | 0.20 ⁸ | 2 ½ | 25 | 40 | | |
| R-35 | 35,000 | 100 | 125 (75 ⁶) | 125 | 50 | 25 | 60 | 50 | 0.10 ¹⁰ | 0.25 | 0.20 ⁸ | 2 ½ | 25 | 40 | | |
| ADS | 30,000 ⁵ | 90 | 110 (70 ⁶) | 125 | 50 | 25 | 60 | 50 | 0.10 ¹⁰ | 0.20 ⁹ | 0.20 ⁹ | 2 ½ | 25 | 40 | | |
| R-20 | 20,000 | 90 | 110 | 90 | 40 | 25 | 60 | 40 | 0.15 | 0.25 | 0.20 | 2 ½ | 25 | 40 | | |
| R-15 | 15,000 | 62.5 | 62.5 | 90 | 35 | 25 | 50 | 35 | 0.16 | 0.25 ¹¹ | 0.25 ¹² | 2 ½ | 25 | 40 | | |
| NS | 40,000 | 150 | 150 | 150 | 75 | 40 | 80 | 40 | 0.30 | 0.30 | ----- | 2 ½ | 30 | ----- | | |

ADS = Average Density Subdivisions

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- Rev. 3-86 1 - Not more than 25% of any land under water, within a 100 year frequency flood plain, within utility easements or other easements or rights-of-way, or with unexcavated slopes over 25% shall be counted toward the minimum lot area.
 - 1-91
 - 1-99 2 - Minimum lot frontage may be reduced by the Planning Board for residential lots fronting on cul-de-sacs or on streets with a centerline radius of 100 feet or less, and in the R-15 District, minimum lot frontage for such lots may be reduced to 50 feet.
 - 2-06
 - 1-07 3 - The total amount of impervious surface in the front yard on a lot divided by the area of the front yard.
 - 4 - In average density subdivisions containing 10 or more lots, the minimum lot area of not more than 10% of the lots may be reduced to 35,000 square feet.
 - 5 - In average density subdivisions containing 10 or more lots, the minimum lot area of not more than 10% of the lots may be reduced to 25,000 square feet.
 - 6 - Minimum lot width may be reduced to this figure by the Planning Board for residential lots fronting on cul-de-sacs or on streets with a centerline radius of 300 feet or less.
 - 7 - On a lot that contains a semi-circular driveway, the maximum front yard impervious surface ratio may be increased to 0.22.
 - 8 - On a lot that contains a semi-circular driveway, the maximum front yard impervious surface ratio may be increased to 0.23.
 - 9 - On a lot that contains a semi-circular driveway, the maximum front yard impervious surface ratio may be increased to 0.24.
 - 10 - Maximum Building Coverage may be increased to 0.15 for one-family detached dwellings that do not exceed 1-1/2 stories and 15 feet in building height. In the case of a one-family detached dwelling a part of which does not exceed 1-1/2 stories and/or 15 feet in building height, and a part of which does exceed 1-1/2 stories and/or 15 feet in building height, maximum building coverage may be increased to a percentage between 0.10 and 0.15 determined by the following calculation: (a) the building area of the part of such dwelling that does not exceed 1-1/2 stories and 15 feet in building height shall be divided by the total building area, (b) the quotient thereby obtained shall be multiplied by .05, and (c) the product of that multiplication shall be added to 0.10.
 - 11 - On a lot that contains pavement relating to construction of a common driveway, the maximum impervious surface ration may be increased to 0.45.
 - 12 - On a lot that contains pavement relating to construction of a common driveway, the maximum front yard impervious surface ration may be increased to 0.45.

ARTICLE 6 - SPECIAL PERMIT USES

6.1 General Provisions

Special permit uses are listed in Article 5 and 6 of this Local Law. The special permit uses for which conformance to additional standards is required by this Local Law are deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Local Law. All such uses are declared to possess such unique and special characteristics of such unique and special forms that each specific use shall be considered as an individual case.

6.2 Planning Board Approval

The Planning Board shall be the approving agency for all special permit uses.

6.3 Informal Application

Applicants are encouraged to submit a preliminary, informal application and to discuss it with the Planning Board prior to formal submission of a complete and detailed special permit application. The informal application should include a schematic plan showing the general layout of the property and the proposed use.

The schematic plan should be submitted to the Planning Board not less than three weeks prior to the date of the Board meeting at which it is to be considered.

At the Planning Board meeting, the Board shall review the schematic plan and may schedule a field inspection of the site. The Board shall notify the applicant of any changes recommended prior to the preparation of a complete site plan.

6.4 Formal Application

6.4.1 Submission: Formal application for a special permit shall be made in 2 copies to the Planning Board. The formal application shall include the following items:

- a. A completed special permit application form, including the name and address of the person, firm or corporation for whom the use is intended, and the name and address of the property owner. If the applicant or owner is a firm or corporation, the full name and residence of the firm or principal officers of the corporation shall be shown.
- b. A written statement describing the nature of the proposed use and how it will serve to implement the purposes of this Local Law and the period of time for which the permit is requested.
- c. Four copies of a site plan with the information required by Section 10.3.2 of this Local Law.
- d. Completed Owner's Consent Affidavit.
- e. Long Environmental Assessment Form.
- f. Application fee: a certified check payable to the "Village of Wesley Hills" in accordance with the Village of Wesley Hills Fee Schedule.

A complete special permit application, including the information listed above, shall be submitted not less than three weeks in advance of the Planning Board meeting at which the special permit plan is to be officially reviewed.

6.4.2 Referrals:

a. The Planning Board shall submit copies of the special permit application to the Building Inspector, Code Inspector and Village Engineer and to other Village agencies or officials as it deems appropriate, all of whom shall inspect the premises and report their findings to the Board in writing within 45 days of the date of forwarding. The Board may submit copies to the following agencies for information, review and comment regarding facilities under their jurisdiction, and to any other County, State, Federal agency with jurisdiction.

1. Rockland County Drainage Agency.
2. New York State Department of Transportation.

b. The Planning Board shall refer to the Rockland County Planning Board for its recommendation all matters within the provisions of Article 12B, Section 239-I and m of the General Municipal Law which includes real property lying within 500 feet of the boundary of any city, village, or town, or from the boundary of any existing or proposed County or State park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, and any special permit affecting such use or property within a distance of 500 feet. The Rockland County Planning Board shall render its decision within 30 days of referral or within an extended period if agreed upon. If the Rockland County Planning Board fails to report within such period of 30 days or such longer period as has been agreed upon by it and the Planning Board, the Board may act without such report. If the Rockland County Planning Board disapproves the proposal, or recommends modification thereof, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. Within 7 days after final action by the Planning Board, a report shall be filed of the final action it has taken with the County Planning Board which had made the recommendations, modifications or disapproval.

Rev 2-93

6.4.3 Public Hearing: The Planning Board shall hold a public hearing on the special permit within 62 days of the date of receipt of a complete submission. Public notice and notice to owners of property within the area shall be the same as that required for zoning amendments changing the district classification of land, as set forth in Section 13.7 of this Local Law.

Rev 2-93

- 6.4.4 Planning Board Decision: The Planning Board shall approve, approve with modifications, or disapprove the special permit with 62 days of the close of the hearing. Board approval, approval with modifications, or disapproval shall be in written form and shall include specific findings with respect to the standards as contained in Sections 6.5 and 6.9 of this Local Law. The decision of the Planning Board shall be filed in the office of the Village Clerk within 5 business days after the day such decision is rendered, and a copy thereof shall be mailed to the applicant forthwith.
- 6.4.5 Site Plan Application: Site plan approval under Section 10.1.1 of this Local Law is required for all special permit uses. Insofar as practicable, special use permit and site plan approval procedures shall run concurrently.
- 6.4.6 Extensions of Time Periods: The applicant may grant extensions of any of the above stipulated time limits, provided however that any extension of time granted to an official or agency making a report to the Planning Board shall equally extend any subsequent time limit for the Board.

6.5 General Standards

All special permit uses shall comply with the following standards, in addition to the site plan standards of Article 10 of this Local Law. The Planning Board shall attach such additional conditions and safeguards to any special permit as are, in its opinion, necessary to insure initial and continual conformance to all applicable standards and requirements.

- 6.5.1 The location and size of the special permit use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.
- 6.5.2 The location, nature and height of buildings, walls and fences and the nature and extent of existing or proposed plantings on the site are such that the special permit use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- 6.5.3 Operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted uses not requiring a special permit.
- 6.5.4 Parking and loading areas will be of adequate size for the particular special permit use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.
- 6.5.5 The special permit use will not result in diminution of the value of property in the neighborhood or change in the character of the neighborhood in which the use would be situated.

6.6 Expiration, Temporary Permits, Inspection and Change

Rev 1-99

- 6.6.1 A special use permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if said use shall cease for more than 1 year for any reason, or if substantial construction, in accordance with the special permit, has not been completed within 1 year from the date of issue, or if all such required improvements are not maintained and all conditions and standards complied with throughout the

duration of the special permit use.

- 6.6.2 For a use intended to be temporary, the Planning Board may issue a special permit for a specific period of time.
- 6.6.3 In connection with issuance of a special permit, the Planning Board may establish a schedule of inspection by the Building Inspector of a special permit use to determine continued compliance with this Local Law.
- 6.6.4 Any change in use or reduction in lot size requires amendment to the special permit, following the application and review requirements of this Section.

6.7 Existing Violations

No permit shall be issued for a special use permit for a property where the Building Inspector or Code Inspector has found a violation of this Local Law, and where such violation has not been corrected.

6.8 Fees

Application for a special use permit shall be accompanied by a fee as listed in the fee schedule adopted by the Board of Trustees.

6.9 Individual Standards and Requirements for Special Permit Uses

The following individual standards and requirements are hereby established for special permit uses. They must be met before issuance of a special permit in addition to all other requirements of this Local Law.

6.9.1 Public Utility Buildings, Substations, Lines, Poles and Facilities; Standpipes and Water Towers:

- a. When proposed in a residential district, these uses shall be subject to a finding, in addition to the standards of Section 6.5, that a local public necessity exists for such use, and that use of the particular site for which application is made is necessary from the local public standpoint.
- b. The Planning Board may require that such use be enclosed by protective fencing with a gate which shall be closed and locked except when necessary to obtain access thereto.
- c. The installation shall be so designed, enclosed, painted, and screened with evergreens that it will be harmonious with the area in which it is located. The entire property shall be suitably landscaped and maintained in reasonable conformity with the standards of property maintenance of the surrounding neighborhood.
- d. Adequate parking areas shall exist or be provided for maintenance, service or other vehicles. Parking areas may be on-street or off-street, as determined by the Board.
- e. All construction shall meet the requirements of Section 5.2 of this Local Law for the district in which it is located.

6.9.2 Private Membership Clubs:

- a. To qualify for use as a private membership club, a lot must have a minimum area of 20 acres and must have frontage on and practical access to a Major Road as defined by this Local Law.
- b. In Residential Districts, all buildings, structures and recreational facilities shall be set back from adjacent residential lot lines at least twice the minimum yard requirement for residential buildings in said district, except that the Planning Board may permit a reduction of this additional setback requirement where, because of topography, the installation of additional buffer landscaping or fencing, or the particular nature of the use, any potential adverse external effect of such use will be minimized. Buildings and structures shall meet the requirements of Section 5.2 of this Local Law for the district in which they are located.
- c. No club shall be operated so as to create a nuisance to surrounding properties. The Planning Board shall attach such conditions to the permit and may require such fencing and/or equivalent landscaping or such other facilities as are required to protect neighbors from excessive light or noise, or stray balls or other nuisances and hazards, which would be inherent in the operation of the club. No use of a club house or club site shall involve the discharge of firearms, bow and arrow, or any other dangerous weapons. The Board shall establish such facilities as are necessary to protect neighboring properties from stray missiles and excessive noise.
- d. The Board may reduce the parking requirements with respect to the number of members or family memberships in any case where the maximum anticipated number of cars at the club, because of its particular type, location, hours of operation, capacity of club facilities, or other reason, would be less than the requirements of this Local Law, but not less than one space for each three memberships, provided that the club facilities are so laid out that there are lawn areas or other spaces of ample size that could accommodate temporary overflow parking equivalent to the amount of reduction of the requirements.
- e. The requirements of this Local Law shall not be construed to prevent the utilization or rental of such club, or parts thereof, for benefits or performances for a recognized charity, or for meetings of other organizations.
- f. In issuing a special permit for a private membership club, the Planning Board shall specify the specific use or purpose of the club and the maximum number of members, seating capacity or facility capacity for which the approval is given.

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6.9.3

Neighborhood Facilities:

- a. In Residential Districts, all buildings, structures and recreational facilities shall be set back from adjacent residential lot lines at least twice the minimum yard requirement for residential buildings in said district, except that the Planning Board may permit a reduction of this additional setback requirement where, because of topography, the installation of additional buffer landscaping or fencing, or the particular nature of the use, any potential adverse external effect of such use will be minimized. All buildings and structures shall also meet all other requirements of Section 5.2 of this Local Law for the district in which they are located.
- b. No outdoor public address systems shall be permitted.
- c. No club shall be operated so as to create a nuisance to surrounding properties. The Planning Board shall attach such conditions to the permit and may require such

fencing and/or equivalent landscaping or such other facilities as are required to protect neighbors from excessive light or noise, or stray balls or other nuisances and hazards, which would be inherent in the operation of the club. No use of a club house or club site shall involve the discharge of firearms, bow and arrow, or any other dangerous weapons. The Board shall establish such facilities as are necessary to protect neighboring properties from stray missiles and excessive noise.

- d. In issuing a special permit for a neighborhood club, the Planning Board shall specify the specific use or purpose of the club and the maximum number of members, seating capacity or facility capacity for which the approval is given.
- e. The lot on which such use is located shall have frontage on and practical access to a Major Road as defined in this Local Law.

6.9.4 Farm Stands:

- a. Such use shall sell only that produced or raised on the premises.
- b. No structure or combination of structures for said use shall exceed 1,000 square feet in ground floor area.
- c. All structures shall comply with the lot area, yard and coverage requirements of the zoning district in which they are located.
- d. The lot on which such use is located shall have frontage on a Major Road as defined in this Local Law.

6.9.5 Camps:

- a. To qualify for use as a camp, a lot must have a minimum lot area of 20 acres and must have frontage on and actual access from a Major Road as defined in this Local Law.
- b. Camps may include such structures as bungalows, tent stands and cottages provided that no heating or plumbing facilities are installed to permit year-round residential communities.
- c. Camps shall not be deemed to include any trailer or recreational vehicle facilities or any accommodation for transient camping.
- d. In Residential Districts, all buildings, structures and recreational facilities shall be set back from adjacent residential lot lines at least twice the minimum yard requirement for residential buildings in said district, except that the Planning Board may permit a reduction of this additional setback requirement where, because of topography, the installation of additional buffer landscaping or fencing, or the particular nature of the use, any potential adverse external effect of such use will be minimized. Buildings and structures shall meet all other requirements of Section 5.2 of this Local Law for the district in which they are located.
- e. No camp shall be operated so as to create a nuisance to surrounding properties. The Planning Board shall attach such conditions to the permit and may require such fencing and or equivalent landscaping or such other facilities as are required to

protect neighbors from excessive light or noise, or stray balls or other nuisances and hazards, which would be inherent in the operation of the camp. No use of a camp house or camp site shall involve the discharge of firearms, bow and arrow, or any other dangerous weapons. The Board shall establish such facilities as are necessary to protect neighboring properties from stray missiles and excessive noise.

- f. No outdoor public address systems shall be permitted.

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6.9.6

Day Care Centers:

- a. Such use shall comply with all licensing, site area and dimensional requirements established for such establishments by the New York State Department of Social Services.
- b. If located in a Residential District, the minimum lot area and all yard setbacks for such use shall be equal to twice those required in the district. All other requirements of Section 5.2 of this Local Law shall be met.
- c. If located in a Residential District, such use shall have frontage on and practical access to a Major Road as defined in this Local Law.
- d. A buffer area of at least 20 feet in width, containing evergreen landscaping and/or fencing as, in the judgment of the Board, will be adequate to screen the use from the neighboring residential area, may be required along all adjoining residential property boundaries or across the street from residential properties, except where driveway access is required.
- e. No nursery school or day care center shall be operated so as to create a nuisance to surrounding properties. The Planning Board shall attach such conditions to the permit as it deems necessary to protect surrounding properties.

New 7-88

6.9.7

Group Family Day Care Homes:

- a. Such use shall comply with all licensing, site area and dimensional requirements established for such establishments by the New York State Department of Social Services.
- b. The lot proposed for such use shall comply with all dimensional requirements of this Local Law listed in Section 5.2 herein.
- c. As required by Chapter F of the State Uniform Building Code - Housing Maintenance for home occupation and for accessory use - the use shall occupy a maximum floor area of no more than 25% of the total floor area of the dwelling unit and in no event more than 500 square feet.
- d. A suitable, safe, fenced or other enclosed play area shall be provided, located not less than 50 feet from any street line or 25 feet from any lot line. The play area shall include at least 200 square feet per child. No play area may be in any required yard.
- e. A buffer area of at least 10 feet in width, containing evergreen landscaping and/or fencing as, in the judgment of the Board, will be adequate to screen the use from the neighboring residential area, may be required along all adjoining residential property boundaries.

Neighborhood Gatherings:

- a. A neighborhood gathering is permitted as a special permit use by the Planning Board provided that it finds:
 1. The building containing the neighborhood gathering shall comply with all the requirements of all applicable building code of New York State.
 2. The maximum number of persons using the neighborhood gathering shall be the maximum number that can comply with the Building Codes of New York state, as applied to the building containing the neighborhood gathering.
 3. The neighborhood gathering shall be located on a lot which contains at least the minimum front yard, side yard, and rear yard required for one-family detached dwellings in the district in which it is located and which complies with the maximum building height, impervious surface ratio, and front yard impervious surface ratio requirements for one-family detached dwellings in the district in which it is located.
 4. Notwithstanding anything contained to the contrary in Section 5.2 of this Local Law, the maximum building coverage for a lot on which a neighborhood gathering is located shall be 0.15.
 5. In its review of applications for neighborhood gatherings in non-residential structures, the Planning Board may increase the maximum building height (feet) by a factor not exceeding 25%. However, the Planning Board shall not have authority to increase the maximum exposed building height.
 6. The Planning Board may require the provision of parking spaces in excess of the minimum number specified in Section 7.5 of this Local Law if it determines that such additional spaces are necessary for the neighborhood gathering to be able to operate in a manner that is consistent with public safety and neighborhood character.
 7. All required parking spaces must be provided on the lot on which the neighborhood gathering is located. Unless the neighborhood gathering has frontage and practical access exclusively on a Major Road, an application may be made to the Planning Board for relief from this requirement. Upon such application, the Planning Board may determine to allow parking in any of the following locations to count towards satisfaction of the parking requirement if it determines that it would be consistent with public safety and neighborhood character to do so: (a) on-street parking on any street other than a Major Road; (b) on-street parking on any street other than a street or portion thereof which has pavement width of less than 30 feet; (c) on-street parking on any street other than a street or portion thereof which has only a single means of access and egress; (d) parking on other lots within the Village of Wesley Hills and within 100 yards of the lot on which the neighborhood gathering is located, with the permission of the owners of such lots; or (e) a combination thereof,
 8. The Planning Board may impose such additional restrictions and conditions on the location of parking spaces, landscaping and/or fencing to screen the neighborhood gathering from adjacent residential properties, outdoor lighting, and other conditions of use of the neighborhood gathering as, in the judgment of the

Board, are necessary for the neighborhood gathering to be able to operate in a manner that is consistent with public safety and neighborhood character.

9. One non-illuminated sign showing the name and address of the neighborhood gathering, not exceeding one square foot in area, shall be allowed. Such sign may be located on the wall of a building or on a post set in the ground.
- b. The lot shall be required to comply with the maximum impervious surface ratio set forth in Section 5.2 of this Local Law, unless the applicant shall also obtain a special permit for increased impervious surface pursuant to Section 6.9.13 of this Local Law

Rev 7-88

6.9.9

Cemeteries:

- a. A cemetery is permitted as a special permit use by the Planning Board provided it finds:
 1. The use meets all State and County requirements for a cemetery.
 2. The lot on which such use is located shall have a minimum area of 20 acres and must have frontage on and practical access to a Major Road as defined by this Local Law.
 3. All buildings and structures on the property are limited to a maximum building height of 20 feet.
 4. All grave sites, walls, building or structures are located at least 50 feet from all lot lines.
 5. All buildings and structures on the property must be approved the Wesley Hills Architectural Review Board pursuant to Section 6A of the Architectural Review Board Law of the Village of Wesley Hills.
- b. The Planning Board may impose such restrictions and regulations which would avoid or minimize traffic hazards, impairment of the use, enjoyment, or value of property in the surrounding area, as well as deterioration of the appearance of the surrounding area.

Rev 1-93
Rev 1-09

6.9.10

Schools:

Rev 3-08

- a. To qualify for use as a school, a lot must have a minimum area of 10 acres. If the number of enrolled pupils in the school exceeds 200, the lot must have an additional minimum lot area of .01 acres for each pupil enrolled in excess of 200.
- b. No portion of any land under water shall be counted toward the minimum lot area. Not more than one-fourth of any land which is defined as wetlands in Section 3 of the Wetlands Law of the Village of Wesley Hills (Local Law No. 16 of 1984), as the same may be amended from time to time, or which is within a 100 year frequency flood plain or within utility or drainage easements or rights-of-way, shall be counted toward the minimum lot area.
- c. No portion of any land with unexcavated slopes over 25% shall be counted toward

the minimum lot area. Not more than one-third of any land with unexcavated slopes over 20% but not over 25% shall be counted toward the minimum lot area. Not more than two-thirds of any land with unexcavated slopes over 15% but not over 20% shall be counted toward the minimum lot area. However, notwithstanding anything to the contrary contained in this paragraph c hereinabove, all land within 75 feet of any of the lot lines shall be counted in full toward the minimum lot area, regardless of the slope thereof.

- d. Such use shall have frontage on and practical access to a Major Road as defined in this Local Law. Such use shall be designed so that all vehicular ingress and egress shall be from a Major Road.
- e. All buildings and structures shall be set back from adjacent residential lot lines at least 100 feet. All unenclosed recreational facilities shall be set back from adjacent residential lot lines at least 75 feet. Such setback area shall include a buffer screening area at least 35 feet in width along every residential lot line, which buffer screening area shall contain such numbers, types, and arrangement of plantings, fencing, or other buffer screening material as, in the judgment of the Planning Board, will be adequate to screen the use from the adjoining lots.
- f. All driveways and unenclosed parking facilities shall be set back from adjacent residential lot lines at least 50 feet. Such setback area shall include a buffer screening area at least 35 feet in width along every residential lot line, which buffer screening area shall contain such numbers, types, and arrangement of plantings, fencing, or other buffer screening material as, in the judgment of the Planning Board, will be adequate to screen the use from the adjoining lots. Such setback area may be reduced by the Planning Board to not less than 35 feet when, in the judgment of the Planning Board, the existing or proposed vegetation, when considered together with existing or proposed topographic features and the distances to the used portions of the adjoining lots, shall be sufficiently dense to satisfy the same purpose.
- g. Buildings and structures shall meet all other requirements of Section 5.2 - Table of Dimensional Requirements for the District in which they are located.
- h. The sources of exterior lighting shall be so shielded that they are not visible beyond the boundaries of the lot on which they are located.
- i. No illuminated outdoor recreation facilities shall be permitted.
- j. No illuminated signs shall be permitted.
- k. No outdoor public address systems shall be permitted.
- l. Such school shall comply with all licensing, site area, dimensional and other requirements established for such school by the New York State Department of Education and all applicable building and fire prevention codes.
- m. In addition to the requirements for site plan submission, a floor plan of any existing or proposed building or structure shall be submitted together with the maximum occupancy requested for each building, structure or facility.
- n. The Planning Board may impose such restrictions and regulations which would avoid or minimize traffic hazards, impairment of the use, enjoyment, or value of property in the surrounding area, as well as deterioration of the appearance of the surrounding

area.

- o. The special permit shall specify, as a condition thereof, the maximum number of pupils authorized to be enrolled in a school on the lot. The approved site plan also shall specify the maximum number of pupils permitted to be enrolled in the school, based upon the maximum design capacity of the proposed buildings with reference to the criteria set forth in the applicable fire prevention and building code, which number in any event may not exceed the maximum number of students allowed as a condition of the special permit.

New 4-97

- p. Schools which contain a dormitory shall comply with the following additional requirements:

1. A dormitory shall be permitted only where it is incidental and accessory to the principal use of the lot as a school. Dormitory building(s) shall be used only during the regular school year.
2. In the R-50 District 10,000 square feet of net lot area shall be required for each person residing on the lot; and in the R-35 District 7,000 square of net log area shall be required for each person residing on the lot. Net lot area shall be calculated with the same deductions as set forth for minimum lot area in Sections 6.9.11b and 6.9.11c of this Local Law. A school containing a dormitory must satisfy both the minimum lot area requirement set forth in Section 6.9.11a of this Local Law (which will determine the maximum number of pupils authorized to be enrolled in the school) and the net lot area requirement set forth in this paragraph (which will determine the maximum number of persons authorized to reside in the dormitory). The same lot area may be used to satisfy both of those requirements simultaneously.
3. The special permit shall specify, as a condition thereof, the maximum number of persons authorized to reside on the lot. The approved site plan also shall specify the maximum number of persons permitted to reside in the dormitory, based upon the maximum design capacity of the proposed dormitory with reference to the criteria set forth in the applicable fire prevention and building code, which number in any event may not exceed the maximum number of persons allowed to reside on the lot as a condition of the special permit.
4. The applicant shall be required to demonstrate to the satisfaction of the Planning Board that adequate non-student adult supervision of the resident students will be provided, taking into consideration the number and age of the students, the physical arrangement of the dormitory, and other relevant factors. In no case shall the ratio of non-student adult supervisors to resident students be less than 1:15 nor more than 1:10. In each building where students are residing, at least one non-student adult supervisor shall be present.
5. No cooking shall be allowed in a dormitory.
6. No student residing in a dormitory shall be allowed to park, store, or otherwise maintain a car at the school.
7. A written statement submitted by the applicant shall include, in addition to other information which may be required, information regarding student residency restrictions and policies, security (i.e., fencing, lighting, supervision, etc.), minimum floor area of living area per student, emergency services, student

health care, quiet hours, visitation policies, and resident student and staff transportation.

Rev 7-88
Rev 1-99
Rev 1-09

6.9.11 Home Businesses:

- a. A home business, other than a home occupation, is permitted as a special permit use by the Planning Board provided it finds:
 1. The primary residential purpose of the lot shall be maintained; to this end, the home business use of the property (inclusive of permitted storage of all materials) shall be limited to not more than 500 square feet or 25% of the gross floor area of the principal residential structure, whichever is less.
 2. The home business shall not generate round trips or require visits (for any purpose, including pick-ups or deliveries other than regular mail, commercial mail service, and next-day courier service) by non-residents of the dwelling unit within which the home business is located in excess of 8 per day. However, if the home business has frontage on and practical access to a Major Road as defined in this Local Law, this limit shall not be applicable.
 3. Pick-ups or deliveries shall be allowed only between the hours of 8:00 A.M. and 6:00 P.M.
 4. The home business shall be carried on wholly indoors.
 5. There shall be no external display or advertising of goods or services or other external evidence of such use other than one non-illuminated identification sign as permitted by Section 11.2.4 of this Local Law.
 6. The establishment of such home business shall not require external alterations or construction features not customarily found in dwelling units.
 7. The appliances and equipment required for the home business shall be operated in such a manner that they do not produce and emit, beyond the boundaries of the premises on which the use is located, dust, glare, hazard, heat, light, noise, nuisance, odor, radiation, radio or TV interference, smoke, or vibration, and are in no other manner obnoxious, offensive, or detrimental to the immediate neighborhood.
 8. The home business itself shall be conducted in such a manner and during such hours that it is in no way obnoxious, offensive, or detrimental to the immediate neighborhood.
 9. The home business shall not involve merchandising, trade, or the exchange of commodities by sale to persons who come to the premises.
 10. No service involving the repair of devices powered by gasoline, diesel fuel, kerosene or other fuels shall be permitted.
 11. The use shall not result in the parking of more than 3 client vehicles at one time on the property or on the street.
- b. The Planning Board shall determine the number of off-street parking spaces that

must be provided, their location on the lot, and the screening which shall be provided in order to buffer parking area and driveways from adjoining lots.

- c. In granting any such special permit, the Planning Board may impose reasonable conditions consistent with preserving the character of the neighborhood and the public health, safety, and general welfare of the community, including, without limitation, the number of patients, clients, customers, or students which may visit the premises at any given time and the time of day and days of the week of such visits.
- d. Any special permit granted by the Planning Board shall apply only to the use described in such permit, and it shall expire upon the termination or modification of such use.
- e. Notice of the home business use shall be given to the local fire department.
- f. A simple plot plan showing the lot, driveways, paved areas and all structures thereon shall be submitted as a part of the application. No site plan is required, unless otherwise required by the Planning Board.

Rev 7-88
Rev 1-09

6.9.12 Keeping of Horses, Cattle, Goats or Sheep:

- a. One animal shall be permitted per lot. One additional animal shall be permitted for each additional full acre of lot area in excess of the minimum lot area required by Section 5.2 of this Local Law. Not more than 6 animals shall be kept on a lot regardless of its lot area. The acreage or lot standards required for one type of animal may not be used to meet the standards for another animal.
- b. All animals shall be kept at least 75 feet from each property line. Barns and manure storage areas shall be located at least 75 feet from each property line.
- c. The Planning Board may require landscaping or screening adjacent to neighboring properties.
- d. Commercial livery stables and boarding stables are not permitted.

Rev 7-88
Rev 1-09

6.9.13 Increased Impervious Surface: In the R-50 and R-35 Districts, the Planning Board may grant a special permit to increase the maximum impervious surface specified in Section 5.2 of this Local Law to 0.40, provided the following conditions are met:

- a. The report of the Village Engineer shall determine that storm water runoff from the increased impervious surface can be accommodated without damaging neighboring or downstream properties.
- b. The Planning Board may require landscaping and/or screening to buffer the proposed construction from neighboring properties.
- c. All other requirements of Section 5.2 of this Local Law shall be met.

New 2-97
Rev 1-09

6.9.14 Wireless Communication Service Facilities:

- a. These special regulations shall apply to all wireless communication services facilities except wireless communication services facilities (minor).

- b. The purpose of these special regulations is to reasonably control the location, construction and maintenance of wireless communication services facilities in order to encourage the siting of wireless communication services facilities in non-residential areas and to protect, to the maximum extent practicable, aesthetic impacts, the open space character of the Village of Wesley Hills, the property values of the community, the health and safety of citizens, and a citizen's ability to receive communication signals without interference from other communication providers, while not unreasonably limiting competition among communication providers or unreasonably limiting reception of receive-only antenna.
- c. Except as provided hereinafter, no wireless communication services facility shall be located, constructed or maintained on any lot, building, structure or land area in the Village of Wesley Hills, except in conformity with the requirements of this Local Law and all other applicable regulations.
- d. A wireless communication services facility shall be located on a site which existing facilities. If, because of unreasonable technological, financial or structural limitations or unless otherwise waived, modified or required by the Planning Board for aesthetic, safety or other reasons, location on a site with existing facilities is not possible, such facility shall be located on a site with existing commercial or non-residential uses before being located on any site that is used exclusively for residential purposes. Wherever possible such facilities shall be attached to an existing building or structure. To the maximum extent practicable, existing roadways shall be used to provide access to the site of a wireless communication services facility.
- e. The shared use of existing public utility and wireless communications services facilities shall be strongly encouraged. The Village shall maintain an inventory of existing wireless communication services facilities (the "Existing Facilities Inventory") and a list of utilities that are obligated under the Federal Telecommunications Act of 1996 to provide wireless communication service carriers with nondiscriminatory access to their facilities. Co-location shall be required unless it has been demonstrated to the satisfaction of the Planning Board that:
 - 1. Adequate and reliable wireless communication service cannot be provided from any alternative sites identified on the Existing Facilities Inventory or other existing sites within the service area in a reasonably financially and technologically feasible manner consistent with the wireless communications service provider's system requirements; or
 - 2. None of the alternative sites identified on the Existing Facilities Inventory or other existing sites within the service area accommodate the proposed wireless communication services facility with respect to structural or other engineering limitations, including frequency incompatibilities; or
 - 3. The owner of the alternative sites identified on the Existing Facilities Inventory or other existing sites within the service area lawfully refuse to permit the applicant use of the site.

All new communication services facilities and premises shall be of proper size, location and design to accommodate co-location of other service providers' facilities, unless otherwise permitted by the Planning Board.

- f. The wireless communication services facility shall be located not less than twice the otherwise applicable setback requirements for principal structures for the district in which the property is located or the height of the facility, whichever shall be greater.
- g. No free-standing wireless communication services facility shall be permitted except for a monopoly.
- h. Height limitations:
 - 1. Notwithstanding the following height limitations, in no case shall a wireless communication services facility exceed the minimum height reasonably necessary to accomplish the purpose it is proposed to serve.
 - 2. The height of any antennas, or other associated equipment, structurally mounted as part of a wireless communication service facility shall not exceed by more than 15 feet of the highest point of the existing structure on which such antennas or equipment are affixed, except that where necessary to accommodate co-location, such height may be increased to a maximum of 40 feet.
 - 3. The height of any free-standing wireless communication services facility shall not exceed 100 feet in height measured from the highest point of such facility to the finished grade elevation of the ground immediately adjacent to the structure.
- i. The applicant/provider shall prepare a visual impact assessment of the proposed wireless communication services facility based upon appropriate modeling, photography and other pertinent analytical techniques. Landscaping and/or other screening, including but not limited to architectural treatment, use of neutral or compatible coloring and materials, or alternative technologies shall be required to minimize the visual impact of such facility from public thoroughfare, important viewsheds and vantage points and surrounding properties to the extent practicable. No signs other than exempt signs shall be erected on any wireless communication services facility.
- j. The wireless communication services facility shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, State or local authority.
- k. Unless otherwise superseded by the Federal Communications Commission (FCC), the design and use of the proposed wireless communication services facility shall be certified to conform with the maximum NIER exposure standards promulgated by the FCC, as amended. Said certification shall include a report by a licensed professional electrical engineer with expertise in radio communication facilities and/or health physicist acceptable to the Planning Board. The Planning Board may require annual certification of conformance with the applicable emissions standards. Any violation of the emissions standards shall require immediate discontinuation and correction of the use responsible for the violation. Any such violation of these requirements of the Zoning Law or the conditions of special permit or site plan approval shall be deemed to be an offense punishable by fine and/or imprisonment in accordance with Section 8.2 of this Local Law.
- l. Noise-producing equipment shall be sited and/or insulated to prevent any measurable increase in noise as measured at the property line.
- m. Any interference, disruption of signal or reception of radio, television or other wireless

communications service resulting from the construction or operation of a wireless communication services facility shall be remedied by and at the expense of the responsible wireless communication services provider to the satisfaction of the Planning Board.

- n. Electrical and land-based telephone lines extended to serve the wireless communication services facility sites shall be installed underground.
- o. A wireless communication services facility shall be designed and erected so that in the event of structural failure, it will fall within the required setback area and, to the maximum extent possible, away from adjacent development.
- p. A security program shall be formulated and implemented for the site of a wireless communication services facility. Such program may include physical features such as fencing, anti-climbing devices or elevating ladders on monopoles and/or monitoring either by staff or electronic device to prevent unauthorized access and vandalism. In no event shall there be a vertical separation of less than 30 feet from the base elevation of a monopole to the first climbing rung or elevating ladder (when elevated) thereon.
- q. A monopole over 50 feet in height shall be inspected annually by a licensed professional engineer, or at any other time upon a determination by the Building Inspector that the monopole may have sustained structural damage, and a copy of the inspection report shall be submitted to the Building Inspector.
- r. In the case of an application for approval of a wireless communication services facility to be located on lands owned by a part other than the applicant or the Village, a copy of the lease agreement with the property owner, together with any subsequent modifications thereof, shall be provided to the Planning Board, and a copy shall be filed with the Village Clerk.
- s. A wireless communication services facility shall be dismantled and removed from the property on which it is located when it has been inoperative or abandoned for a period of one year from the date on which it ceased operation. In the event that such facility is not completely removed from such property within such time, the Village shall be authorized to effect such removal in accordance with the following procedure:
 - 1. The Building Inspector or Code Inspector shall give written notice that such wireless communication services facility must be completely removed from such property within a time to be specified in such notice, which time shall be not less than 10 or more than 30 days after service of such notice. Such notice shall contain a statement that in the event such facility is not completely removed within the time specified therein, the Village will cause such removal to occur, and thereupon the property upon which the facility is situated will be assessed for all costs and expenses incurred by the Village for the purpose of effecting such removal, said costs and expenses to be collected in the same manner and time as Village special assessments and taxes. Such notice shall be served by the Building Inspector or Code Inspector either personally or by certified mail upon the following persons: (a) the owner of the property on which such facility is located, as such owner is shown on the last completed tax assessment roll of the Village, (b) the owner of such facility, as disclosed to the Village pursuant to Section 6.9.15t.8 of this Local Law, and (c) the individual agent for such owner, as provided to the Village pursuant to Section 6.9.15t.8 of this Local Law. If

such notice is served by certified mail, it shall be mailed to the owner of the property at the address shown on the last completed tax assessment roll of the Village and to the owner of such facility and the individual agent for such owner at the respective addresses provided to the Village pursuant to Section 6.9.15t.8 of this Local Law.

2. In the event that such wireless communication services facility is not completely removed as directed in the notice of the Building Inspector or Code Inspector within the time specified therein, the Village may at any time thereafter enter upon the property and cause such facility to be removed, provided, however, that no demolition shall take place without the express approval of the Board of Trustees. All costs and expenses incurred by the Village in connection with such removal, including all administrative expenses and financing expenses, if any, shall be assessed against such property by the Board of Trustees in the manner provided in Section 6.9.15s.3 of this Local Law.
3. The Board of Trustees shall serve personally or by certified mail upon the owner of record of such property at the address shown on the last completed tax assessment roll of the Village a written notice, stating that at the time and place specified therein, it will assess the expense of such removal against such property. Such notice shall be served at least 8 days previous to the time specified therein. If directed against a corporation, it may be served upon the corporation at its principal place of business, upon an agent of the corporation within the Village, or upon the Secretary of State. Notice served upon the Secretary of State shall be served at least 12 days previous to the time specified therein. At the time and place so specified, the Board of Trustees shall hear the parties interested, and shall thereupon finally determine the assessment, stating therein the name of each owner and the amount so assessed. The amount so assessed shall constitute a lien on the real property on which it is levied until paid or otherwise cancelled pursuant to the provisions of Section 5-516 of the Village Law and shall be collected in the same manner as other Village special assessment pursuant to the provisions of Section 5-518 of the Village Law.

t. Application procedure:

1. An application for approval of a wireless communication services facility shall be submitted on the relevant forms for special use permit and site plan approval. Site development plan approval by the Planning Board in accordance with Article 10 of this Local Law shall be required.
2. The Planning Board (or the Board of Appeals in the event of an application for a variance) may hire a qualified professional of its choice to review the site plan and special permit applications and the initial and annual emissions certification report, the cost of which shall be reimbursed by the applicant from an escrow account established by the applicant with the Village for the reimbursement of professional review fees. The initial amount of such escrow account shall be in accordance with the Village of Wesley Hills Fee Schedule. The payment of such fees shall be required in addition to any and all other fees required by this Zoning Law, or any other State or local law, ordinance or regulation.

The applicant shall be provided with copies of the Village vouchers for such services as they are submitted to the Village. When the balance in such escrow account is reduced to one-half of the initial escrow deposit amount, the applicant shall deposit additional funds into such account to bring its balance up to one

hundred percent of the amount of the initial escrow deposit, or to some lesser amount as deemed acceptable by the Planning Board to complete the review of the application. If such account is not replenished within 20 days after the applicant is notified in writing of the requirement for such additional deposit, the Planning Board may suspend its review of the application. A building permit or certificate of occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Village. After all pertinent changes have been paid, the Village shall refund to the applicant any funds remaining on deposit.

3. The operator of the wireless communication service shall submit a certificate of public utility and shall demonstrate to the satisfaction of the Planning Board that there is a compelling public need for such facility at the proposed location. Such demonstration shall include the preparation of existing and master effective service plans which:
 - (a) Minimize the number of such facilities within the service area():
 - (b) Maximize co-location and shared use of existing facilities:
 - (c) Identify all existing and proposed wireless communication facilities which impact upon the service area covering the Village of Wesley Hills and shall identify all proposed and other functionally acceptable locations for such facility(ies); and
 - (d) Analyze feasible alternatives to reasonably minimize the visual impacts and exposure levels.
4. Any application for a wireless communication services facility shall include a statement that the Village's Existing Facilities Inventory has been reviewed and, to the extent relevant to provide wireless communication services in the area which is the subject to such application, that all reasonable efforts have been made to co-locate such facility on all sites identified on such Existing Facilities Inventory and all other existing sites within the service area.
5. As a condition of special permit approval, the applicant shall be required to provide a written agreement, in recordable form suitable for filing and prepared to the satisfaction of the Village Attorney, acknowledging that it shall be required to allow the co-location of other future wireless communication service facilities unless otherwise unreasonably limited by technological, structural or other engineering considerations.
6. As a condition of special permit approval, the applicant shall be required to provide a written agreement by the owner of the property on which the wireless communication services facility is to be located, in recordable form suitable for filing and prepared to the satisfaction of the Village Attorney, authorizing the Village and any contractors selected by it to enter upon such property pursuant to Section 6.9.15s.2 of this Local Law without liability for trespass or other damages.
7. Where co-location of a wireless communication services facility is proposed for any such alternative site identified on the Existing Facilities Inventory or other existing site within the service areas, the added wireless communications services facility shall be permitted, as an amendment to the existing special

permit for such alternative site, by submission on an amended special permit or site plan approval provided such facility meets all of the otherwise applicable requirements of this Local Law and of any special permit and site plan approval previously granted for such alternative site. An amended written narrative and certification report indicating conformance with all of the special permit standards and conditions of site plan approval shall be provided in addition to all required information in support of the required building permit. An as-built drawing of the modified facilities shall be filed with the Building Inspector.

8. The applicant and all future owners of the premises and the wireless communication services facility shall at all times keep on file in the office of the Village Clerk the name, address, and telephone number of the owner and operator of such facility and of at least one individual who shall have authority to arrange for the maintenance of the premises and facility, and who shall be authorized to accept service of notice and legal process on behalf of the owner and operator(s) of the premises and facility and to bind the owner to any settlement, fine, judgment, or other disposition (other than incarceration) which may result from any civil or criminal action or proceeding instituted by the Village against such owner and/or operator(s).

New 3-06
Rev 1-09

6.9.15 Arborist Services, Landscape Services, and/or Wholesale Nurseries:

- a. Arborist services, landscape services, and/or wholesale nurseries are permitted on lots in the R-35 district with a minimum area of 2 acres.
- b. Such use shall have frontage on and practical access to two Major Roads as defined in this Local Law. Such use shall be designed so that all vehicular ingress and egress shall be from a Major Road. If either Major Road shall be a County road, designed access shall be subject to the approval of the Rockland County Superintendent of Highways or his representative pursuant to Highway Law Section 136.
- c. All buildings, equipment, and activities of such use shall be set back from adjacent residential lot lines at least twice the minimum yard requirement and shall be set back from all other lot lines at least the minimum yard requirement. Such set back area may be reduced by the Planning Board when, in the judgment of the Planning Board, the same purpose can be satisfied and any potential adverse external effect of such use will be minimized because of the existing or proposed topographic features, the installation of additional buffer landscaping or fencing, or the particular nature of the use.
- d. Such use shall comply with the buffer requirements of Section 10.10.3.1 of this Local Law. In addition:
 1. The required buffer shall be of evergreen planting of such type, height, spacing and arrangement as, in the judgment of the Planning Board, will effectively screen the activity of the lot from neighboring residential areas. Non-evergreen planting may be included to supplement evergreen planting, but not to take its place.
 2. A wall or fence of location, height, design and material approved by the Planning Board may be substituted for part or all of the required planting and buffer area.

3. All plantings shown on an approved site plan shall be maintained in a vigorous growing condition throughout the duration of the special permit use, and plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.
- e. In granting any such special permit, the Planning Board may impose reasonable conditions consistent with preserving the character of the neighborhood and the public health, safety, and general welfare of the community, including, without limitation, the number, type, size, and location of vehicles on said premises.
- f. The total amount of materials stored on the site shall not exceed 200 cubic yards per net acre (herein defined as the gross lot area less areas of slopes in excess of 25% and all areas of wetlands and water bodies and flood plains). Not more than 25 cubic yards of stone or gravel per net acre shall be permitted on the premises. All structures for the storage of materials shall have at least three sides and a cover. Such storage structures shall not exceed 25 cubic yards capacity, each, for stone and/or gravel. Such storage structures shall not exceed 50 cubic yards per net acre capacity, each, for other materials. The Planning Board shall determine the locations of all such storage structures, which locations shall comply with the requirements of Subdivision c of this Section. Such storage structures shall be located outside of flood plains, wetlands, and areas with unexcavated slopes over 25%.
- g. The preparation of all plant health materials shall be conducted in an environmentally safe manner on the premises in accordance with all other relevant laws and regulations. All proposed uses shall be required to prepare a best management plan to ensure the safe handling and storage of plant health materials on the premises. Notification to emergency services of all plant health materials shall be required to ensure proper action in the event of an emergency.
- h. The Planning Board shall determine the hours of operation of such use. Exceptions shall be permitted to the hours of operation for emergency services and for major weather or other natural events, or as otherwise permitted by the Board of Trustees on a case by case basis.
- i. The use shall comply with the performance standards required by Section 4.5 of this local law and by Article XII of the Rockland County Sanitary Code. In addition the Planning Board may require reasonable modifications to the site plan or operation of the proposed use to protect adjoining and nearby residential properties from potentially noxious uses or activities specific to the particular arborist service, landscape service, and/or wholesale nursery use that may create a nuisance for or otherwise adversely affect the proper use and enjoyment of such residential properties.
- j. Noise levels from such use shall comply to those set forth from time to time by the Rockland County Health Department for commercial, business and industrial operations.
- k. One non-illuminated sign shall be permitted on the lot. If such sign is mounted on a building, it shall not exceed 16 square feet in area. If such sign is free standing, it shall not exceed 8 square feet in area and shall not be higher than 6 feet from the finished grade.
- l. Notwithstanding any other provisions of this local law to the contrary, the

following activities are expressly prohibited as part of any such use:

1. Grinding or chipping of trees, branches, and stumps (except that occasional trimming of individual branches or logs for purposes of transport or storage is permitted).
 2. Preparation of mulch or other material resulting from the decomposition of organic material.
 3. Storage of mulch produced elsewhere except in compartments and areas expressly designated for such storage and in amounts in compliance with Section 6.9.16f of this Local Law.
 4. Retail sales of plants or other materials on site. This prohibition shall not extend to the sale of services or materials to be performed or delivered off-site.
- m. As a part of any approval under this section, the Planning Board shall require the applicant to demonstrate that the proposed activities will not result in a degradation of surface water or groundwater quality by the submission of a water quality assessment prepared by a qualified hydro geologist. Such assessment shall include a list of any pesticides, herbicides, and/or fertilizers that have been or are proposed to be used on the site, reports of the existing quality of surface water or groundwater, and the potential impacts of the proposed activities. Proposed measures to monitor water quality, including a reporting schedule, shall be specified. The cost to the Village of hydro geologic review of this assessment shall be paid by the applicant.

ARTICLE 7 - PARKING AND LOADING

7.1 Purposes

All structures and uses shall be provided with a sufficient number of off-street parking and loading spaces to meet the needs of employees, residents, visitors, clients, patrons and other persons at such structures or uses, but not less than the minimum requirements of this Local Law. No Certificate of Occupancy shall be issued for any structure or use, whether for a new structure or a change of use of an existing structure, until such off-street parking and loading spaces have been established in accordance with the requirements of this Local Law.

7.2 Location

7.2.1 Required off-street parking spaces shall be provided on the same lot with the structure or use they serve, except as provided in this Section below, and may be located within a building or in a side or rear yard. In no event shall parking and loading spaces for a use not permitted in a district be located in that district.

7.2.2 In residential districts, not more than one vehicle with commercial registration under 5,000 pounds gross vehicle weight may be parked on a lot. No vehicle with commercial registration over 5,000 pounds gross vehicle weight may be parked overnight or kept on a lot in a residential district.

7.2.3 Off-street loading spaces may be located within any building, within a side or rear yard, or within a required off-street parking area provided such spaces do not block access to such parking area or any parking space.

New 1-91 7.2.4 In shopping centers, required off-street parking spaces may be located within a front yard, provided that no portion of any parking space shall be located within 7 feet of any side property line, within 14 feet of any front property line or within 20 feet of the traveled way of any public street, unless the Planning Board shall approve lesser distances as being adequate to protect the public health and safety on traveled ways and to avoid conflicts between the usage of the parking area and adjacent traveled ways in light of the topography, screening, or other natural or man-made physical features affecting the site.

7.3 Joint Use

The Planning Board, in approving a site plan, may allow off-street parking and loading spaces required for structures or uses on the same or adjacent lots to be provided in a single common facility, on one or more of said lots, subject to the following:

7.3.1 The total capacity of the common facility shall be the sum of the requirements of each individual use, except that said total capacity may be reduced by the Planning Board provided the applicant demonstrates to the satisfaction of the approving agency that the capacity of such facility will meet the intent of the requirements by reason of the provision of non-reserved parking spaces and variation in the probable time of maximum use by residents, visitors, patrons and employees among such uses.

7.3.2 As a condition of its approval, the Planning Board shall require a legal instrument satisfactory to the Village Attorney assuring the continued existence and use of said parking spaces in connection with the uses and structures that they serve. Such instrument shall also guarantee that upon termination of such use, each individual participant will provide off-street parking and loading spaces for its own use in accordance with all requirements of this Local Law.

7.4 Existing Structures and Uses

Structures and uses in existence or for which building permits have been issued prior to the effective date of this Local Law shall not be subject to the parking and loading requirements of this Local Law, provided that any parking and loading facilities then existing to serve such structures or uses shall not in the future be reduced, or redesignated to serve other structures or uses, except to the extent they exceed such requirements. When existing structures and uses are expanded, required parking and loading facilities shall be provided for both the existing and new structure or use.

Rev 7.5 Schedule of Parking and Loading Requirements
1-91

The following schedule presents the minimum parking space and loading space requirements of this Local Law. Where a lot contains more than one use, the minimum requirements must be satisfied for each and every such use. For uses that do not fall within the categories listed, or for which no requirement is listed, the Planning Board shall set the minimum parking space and loading space requirements, based on the specific nature of the facility and on expected parking demand.

| <u>Use</u> | <u>Minimum Off-Street Parking Spaces</u> | <u>Minimum Loading Spaces</u> |
|---|---|--------------------------------------|
| <u>Principal Uses</u> | | |
| One-Family Dwellings | 2 spaces, at least 1 of which shall be an indoor space | ---- |
| Agricultural Uses | ---- | ---- |
| Shopping Centers | 1 space per 225 square feet of GFA | per requirements of Section 7.5.1 |
| Business or Professional Offices | 1 space per 333 square feet of GFA | ---- |
| Offices of a physician, chiropractor, dentist, psychologist, psychiatrist, ophthalmologist, optometrist, optician, speech pathologist, speech audiologist, or other health-related professional | 1 space per 200 square feet of GFA | ---- |
| Veterinary Office | 1 space per employee on the maximum shift, plus 1 space per 400 square feet of GFA | ---- |

GFA = Gross Floor Area

| <u>Use</u> | <u>Minimum Off-Street Parking Spaces</u> | <u>Minimum Loading Spaces</u> |
|---|---|-------------------------------|
| <u>Principal Uses</u> | | |
| Retail Sales, | 1 space per 175 | 1 space per each |
| Personal Services | square feet of GFA | 1,500 square feet of GFA |
| Restaurants, | 1 space per 3 seats | ---- |
| Delicatessens | or 1 space per 75 square feet of GFA, whichever is greater | |
| Fast Food Restaurants | 1 space per 50 square feet of GFA | ---- |
| Banks | 5 spaces per teller station or 1 space per 175 square feet of GFA, whichever is greater | ---- |
| <u>Accessory Uses</u> | | |
| Accessory Structures | - | ---- |
| Storage vehicles or boats | 1 space per vehicle or boat | ---- |
| Keeping of not more than one roomer | 1 space | ---- |
| New 1-09 | Minor Neighborhood Gatherings | 15 spaces |
| Rev 7-88 | <u>Special Permit Uses</u> | |
| Public Utility Buildings, Substations, Lines, Poles and Facilities, Standpipes and Water Towers | 1 space for each commercial vehicle kept on the lot | ---- |
| Private Membership Clubs | Meeting or banquet rooms: 10 spaces per 1000 square feet of GFA; Offices: 3; Bars: 13.3 | ---- |
| Neighborhood Facilities | - | ---- |
| Farm Stands | 10 spaces per 1000 square feet of GFA | ---- |

GFA = Gross Floor Area

| <u>Use</u> | <u>Minimum Off-Street Parking Spaces</u> | <u>Minimum Loading Spaces</u> | |
|-----------------------------|---|---|---|
| <u>Special Permit Uses</u> | | | |
| Camps | - | - | |
| Day Care Centers | 1 space per staff member, plus 1 space per 3 enrolled children | - | |
| Group Family Day Care Homes | 1 space per staff member, plus 1 space per 3 enrolled children | - | |
| Rev 1-09 | Neighborhood Gatherings, other than Minor Neighborhood Gatherings | 15 spaces (if the special permit use is located in a building also used as a single-family residence); or 20 spaces (if not so located) | - |
| | Cemeteries | 0.3 spaces per occupied gravesite but not less than 40 spaces | - |
| Rev 4-97 | Schools | 1 space per 1000 square feet of GFA, plus 1 space per vehicle used by an adult staff resident or member of his or her family | - |
| Rev 1-99 | Home Businesses, other than Home Occupations | See Section 6.9.11 | - |
| | Keeping of Horses, Cattle, Goats, Sheep | - | - |
| | Increased Impervious Surface | - | - |
| | GFA = Gross Floor Area | | |
| New 1-91 | 7.5.1 | In shopping centers, separate loading spaces shall be provided for each 10,000 square feet of gross floor area or major portion thereof. | |

7.6 Design Standards

7.6.1 Table of Minimum Parking Dimensions

| a. Parking Configuration - | Parallel | Perpendicular |
|---|----------|---------------|
| b. Length of Stall, feet | 22.0 | 18.0 |
| The length of perpendicular parking stalls may be reduced by 1.5 feet where curb design permits vehicle overhang. | | |
| c. Aisle Width, feet: | | |
| one-way flow | 12.0 | - |
| two-way flow | - | 24.0 |

All parking stalls shall be 9.0 feet in width, except as provided in Section 7.7.3 herein.

7.6.2 For non-residential uses, poured-in-place concrete curbing shall be provided to outline all parking areas and to prevent any vehicle parking within the facility from overhanging a property line, or projecting over any sidewalk, other walkway or public road.

7.6.3 No vehicle shall be forced or encouraged by the nature of the design of the parking area to back out of the parking facility onto a public road.

7.6.4 Suitable walks shall be provided within the facility for the safety of pedestrians moving to or from their vehicles.

7.6.5 All required parking facilities shall be graded, surfaced, drained and maintained throughout the duration of their use to the extent necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways or adjacent lands. The maximum gradient within parking areas shall not exceed 5%.

7.6.6 Suitable markings shall be provided to indicate individual parking spaces, maneuvering areas, entrances, exits, directions of traffic flow, and other similar requirements.

7.7 Special Parking Standards

7.7.1 Employee Parking: In parking areas designated for employees, the Planning Board may permit a reduction in the width of such spaces to 8.5 feet.

7.7.2 Parking Facilities for the Handicapped: Parking spaces shall be reserved for the handicapped as required by State Law and as directed by the Planning Board. The location of such spaces shall permit barrier-free access for the handicapped to proposed buildings and facilities when required. Where required, such spaces shall be identified with a blue freestanding sign specified by State Law.

- 7.7.3 Compact Car Parking: Compact car parking spaces may be permitted by the Planning Board subject to the following requirements:
- a. Compact car parking spaces shall be not less than 7.75 feet wide and 15 feet long.
 - b. Compact car parking spaces shall be permitted only for long term parking use such as for commuters or employees.
 - c. No more than one-third of the total off-street parking spaces required by the Zoning Law shall be designated for compact cars.
 - d. Compact car parking spaces shall be appropriately signed.

7.8 Driveways

For reasons of traffic and pedestrian safety, both on and off-street, as well as to provide for possible future road widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with all requirements of these Regulations and shall be subject to permit approval by the Village Engineer, Rockland County Highway Department, or New York State Department of Transportation for access onto Village, County, or State roads, respectively.

7.8.1 Driveway Width: Unobstructed access to and from a street shall be provided for all parking spaces. Such access shall consist of at least one 12-foot wide lane for parking areas with less than 30 parking spaces and at least two 10-foot wide lanes for parking areas with 30 parking spaces or more. No entrance or exit to any off-street parking area shall exceed grades in excess of those permitted in Section 7.8.2 below.

7.8.2 Driveway Gradients:

Rev 1-99 7.8.2.1 The maximum gradient for any five-feet long segment of a new access driveway to a one-family dwelling shall be 12%.

Rev 1-99 7.8.2.2 The maximum gradient for any five-feet long segment of a new access driveway serving a use other than a one-family dwelling shall be 8%.

7.8.2.3 Notwithstanding the maximum permitted gradient specified above, a driveway serving a use other than a single-family dwelling shall have a platform with a gradient not greater than 3% within 50 feet of the center line of the traveled way of the street, or within 25 feet of the right-of-way line of the street, whichever distance is greater.

New 3-86 7.8.3 Driveway Construction: All new driveways having direct access onto a public street shall be paved with a black top surface, or comparable durable surface acceptable to the Village Engineer, for a distance at least 50 feet from the existing road right-of-way. All other parts of a new driveway shall be constructed of a dustless surface.

7.8.4 Deferment of Full Improvement of Off-Street Parking: Where the Planning Board determines that the immediate use of any property may not require the full initial improvement of all off-street parking and loading facilities, the Planning Board may waive the initial improvement of not more than one-third of the required number of spaces, provided that the total number of spaces is shown on the approved plan, and further

provided that the area not to be improved is reserved for such future use. All such reserved land shall be used and maintained as additional landscaped area until the reserved spaces may be required to be improved. Reserved spaces shall be improved within six months of the date of a written notice from the Planning Board that such spaces have been determined to be necessary. Appropriate written guarantees to the above shall be provided by the owner and approved by the Village Attorney.

New 7.9
1-91

Deliveries in Shopping Centers

In shopping centers, all deliveries to stores shall be made from the rear of the stores only. All loading spaces in shopping centers therefore shall be located in the rear of the stores.

ARTICLE 8 - ADMINISTRATION AND ENFORCEMENT

8.1 Administration and Enforcement

8.1.1 General: No board, agency, officer or employee of the Village shall issue, grant or approve any permit, license, certificate or other authorization for any construction or alteration of any building or structure, or for any use of land, building or structure that would not be in full compliance with the provisions of this Local Law, except as permitted under Article 9 of this Local Law. Any permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of this Local Law shall be null and void and of no effect without the necessity of any proceedings or revocation or nullification thereof.

8.1.2 Code Inspector: This Local Law shall be enforced by the Code Inspector and one or more Assistant Code Inspectors as deemed necessary, referred to herein individually and collectively as the "Code Inspector," as appointed by the Board of Trustees. It shall be the duty of the Code Inspector and he is hereby empowered:

Rev 5-87 8.1.2.1 To inspect any building, structure or land to determine whether any violations of this Local Law have been committed or exist, whether or not such building, structure or land is occupied, and whether or not a certificate of occupancy or certificate of use has been issued.

8.1.2.2 To keep the Board of Trustees advised of all matters pertaining to the enforcement of this Local Law; to make and keep all records necessary and appropriate to the office, including records of written complaints of violation of this Local Law and action taken on same.

Rev 5-87 8.1.2.3 The Code Inspector shall issue and post notices of violations, stop orders, and revocations of certificates of occupancy and certificates of use and shall order the remedying of any condition or omission that is found to be in violation of this Local Law. The Code Inspector shall also have the power, right, and authority to issue an appearance ticket, as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any provision of this Local Law. In addition, by resolution, the Board of Trustees may direct the Code Inspector to revoke such certificates of occupancy and certificates of use, issue such stop orders, make such inspection and reports, initiate and take such court proceedings and perform all other actions as required by the Board of Trustees as may be necessary to enforce this Local Law or to invoke penalties for its violation.

Rev 1-99 8.1.3 Building Inspector: This Local Law and the Building Code shall be administered by the Building Inspector and one or more Assistant Building Inspectors as deemed necessary, referred to collectively as the "Building Inspector", as appointed by the Board of Trustees. It shall be the duty of the Building Inspector and he is hereby empowered:

8.1.3.1 To receive and review applications for building permits and to issue building permits.

Rev 5-87 8.1.3.2 To receive and review applications for certificates of occupancy and certificates of use and to issue certificates of occupancy and certificates of use.

- Rev 5-87 8.1.3.3 To inspect any building, structure or land to determine whether any violations of this Local Law have been committed or exist, whether or not such building, structure or land is occupied, and whether or not a certificate of occupancy or certificate of use has been issued.
- 8.1.3.4 To keep the Board of Trustees advised of all matters pertaining to the enforcement of this Local Law; to make and keep all records necessary and appropriate to the office, including records of written complaints of violation of this Local Law and action taken on same.
- Rev 5-87 8.1.3.5 The Building Inspector shall issue and post notices of violations, stop orders, and revocations of building permits, certificates of occupancy, and certificates of use, and shall order the remedying of any condition or omission that is found to be in violation of this Local Law. The Building Inspector shall also have the power, right, and authority to issue an appearance ticket, as the same as defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any provision of this Local Law. In addition, by resolution, the Board of Trustees may direct the Building Inspector to revoke such building permits, certificates of occupancy, and certificates of use, issue such stop orders, make such inspection and reports, initiate and take such court proceedings and perform all other actions as required by the Board of Trustees as may be necessary to enforce this Local Law or to invoke penalties for its violation.
- Rev 5-87 8.1.4 Building permits, certificates of occupancy, and certificates of use granted only in conformance with regulations.
- Rev1-99 8.1.4.1 No building permit, certificate of occupancy or certificate of use shall be issued unless the proposed construction or use is in conformance with all of the provisions of this Local Law, the Building Code, any approved site plan or subdivision plat, and all other applicable laws.
- 8.1.4.2 Whenever the Building Inspector or Code Inspector determines upon reasonable grounds that work on any building, structure or lot is being or has been conducted in violation of any of the provisions of the Building Code, State or Federal laws, building laws, ordinances, local laws, regulations, rules or specifications of the Village of Wesley Hills or other applicable laws or regulations, or the requirements of any approved site plans, or subdivision plat, including required drainage, grade or elevation plans, or not in conformity with the provisions of any application, plans or specifications upon which a building permit was issued, or that such work is being conducted in a dangerous or unsafe manner, then the Building Inspector or Code Inspector may notify the owner of the property, or the owner's agent or the person performing the work to suspend such remaining work on any building or structure which is or could be affected by the violation, located within the plot or subdivision where the violation exists. If work remains to be performed on such buildings or structures, such persons shall forthwith stop such work and suspend all building activities on the affected buildings or structures until the stop order has been rescinded. Such stop order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building or structure under construction and sending a copy of the same by

registered mail. Any person aggrieved by such a stop order may appeal to the Board of Appeals within 30 days to review the same, and the Board of Appeals on such review may affirm, modify or reverse the action of the Building or Code Inspector, as the facts may warrant.

Rev 5-87 8.1.4.3 Where the determination of violation concerns a building or structure for which a certificate of occupancy or certificate of use has already been issued, the Building Inspector or Code Inspector may revoke the certificate of occupancy in accordance with Section 8.1.6.5 of this Local Law and may terminate the certificate of use in accordance with Section 8.1.7.6 of this Local Law. Upon such revocation or termination, the occupants shall then have a maximum period of 60 days in which to vacate the premises.

8.1.5 Issuance of building permits:

Rev 1-99 8.1.5.1 A building permit is required for:

- a. Any work which must conform with the Building Code.
- b. The construction, reconstruction, moving, demolition, or structural alteration or change in the use of a building or a structure, except as hereinafter provided in Section 8.1.5.2 of this Local Law.

New 1-99 8.1.5.2 No building permit shall be required for:

- a. Ordinary repairs which do not materially affect structural features.
- b. Accessory buildings and accessory structures having a floor area of not more than 100 square feet, provided that they do not involve the installation or extension of electrical systems, if they are accessory to one-family dwellings.

Rev 1-99 8.1.5.3 Application: Application for a building permit shall be made to the Building Inspector on forms provided by him and shall contain the following information:

- a. A description agreeing with the Tax Map of the Village of Wesley Hills, of the land on which the proposed work is to be done;
- b. A statement of the use or occupancy of all parts of the land and of the building or structure;
- c. The valuation of the proposed work;
- d. The full name and address of the owner and of the applicant, including the full names and addresses of each officer and director of any corporation or each member of a partnership;
- e. A brief description of the nature of the proposed work;
- f. All applications shall be accompanied by 2 copies of the applicable site plan, subdivision maps, drainage grading and elevation plans and all other documents, if required for the development of the plot, building or structure.

- g. Each application for a building permit shall be accompanied by plans and specifications, including plot plans as required drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from plot lines, widths and grades of adjoining streets, walks and alleys, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Such plans and specifications shall include, on the plot plan or site plan, the proposed location of all underground facilities, including: gas service, electric service, sewer lines, drainage lines (including routing of drainage from roof leaders and footing drains) to a positive outlet, water lines, sprinkler lines, telephone lines, etc. The building plans shall include plans for mechanical services, including gas, electric, water, heating and air conditioning. Plans and specifications shall bear the signature of the person responsible for the design and drawings, the architect's or engineer's signature, seal, and New York State license number.
- h. Applications shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- Rev. 4-06 i. Any amendment to the application or to the plans and specifications accompanying same must be filed and approved by the Building Inspector, and if required, by the Planning Board, prior to the commencement of the amended work, and such amendments shall comply with the provisions of this Local Law.

Rev 4-06

8.1.5.4 Approval or disapproval:

Issuance of building permit: The Building Inspector shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. Within 20 days of receipt of same, except where review by the Planning Board is required, he shall approve or disapprove the permit. If the approval of the Planning Board is required pursuant to the requirements of this Local Law, the Building Inspector shall refer the application to the Planning Board for review under these regulations, with Planning Board approval required prior to any issuance of a building permit. Where Planning Board approval is required, the Building Inspector shall approve or disapprove the permit within 10 days of the receipt of the Planning Board's written approval. An appeal from the approval or disapproval of any application shall be made to the Board of Appeals within 30 days after the determination of the Building Inspector has been filed in the office of the Building Inspector or endorsed on the building plans filed in said office. Any final determination of disapproval shall be indicated in writing and mailed to the applicant, together with the copies thereof filed in the office of the Building Inspector.

Upon approval of the applications and upon receipt of the fees thereof, he shall issue a building permit to the applicant upon the form prescribed by him

and shall affix his signature or cause his signature to be affixed thereto. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved".

One set of such approved plans and specifications shall be retained in the files of the Building Inspector and the other set shall be returned to the applicant, together with the building permit, and shall be kept at the building site and open to inspection by the Building Inspector or his authorized representative at all reasonable times. If the application, together with plans, specifications, and other documents filed therewith describe proposed work which does not conform to all of the requirements of the applicable building regulations, the building official shall disapprove the same and shall return the plans and specifications to the applicant.

8.1.5.5 Planning Board Review: The Building Inspector shall promptly refer to the Planning Board every application for a building permit for a new dwelling within a subdivision containing four or more lots as shown on a final subdivision plat approved by the Planning Board. For each such referral, the following application procedure shall be followed:

- a. The applicant shall submit preliminary architectural plans and a rendering showing at least the location and dimensions of proposed structures, exterior elevations, and materials to be used. A rendering is hereby defined as an eye level, front view, three dimensional perspective drawing or sketch, made to approximate scale, of the structure and driveway as it will be situated on the site with such landscaping as the applicant intends to provide.
- b. The applicant shall submit stamped envelopes addressed to each of the owners of property within 500 feet of the perimeter of the subject property. An affidavit shall be submitted by the applicant declaring that the names and addresses of such adjacent property owners are correct as within the knowledge of the applicant as shown on the latest tax assessment roll.
- c. The Planning Board shall conduct a public hearing on each such referral. Such public hearing shall be held within 62 days of the date a complete application is received by the Planning Board.
- d. Notice of the public hearing shall be published once in the official newspaper at least 10 days prior to the date of such hearing. Notice shall also be sent at least 10 days prior to the date of such hearing to all property owners within 500 feet of the perimeter of the subject property, in the same manner as is required for zoning amendments changing the district classification of land, as set forth in Section 13.7 of this Local Law. The applicant shall cause signs to be posted on such property on each street frontage indicating the date and purpose of such hearing, at least 10 days prior to the date of the hearing. The costs of all such notice shall be paid by the applicant.
- e. The Planning Board may disapprove any proposed construction which it finds would adversely affect the desirability of the immediate and neighboring areas by reason of any of the following:

1. Excessive dissimilarity or inappropriateness in relation to any other structure existing or for which a permit has been issued, or to any other structure included in the same permit application, facing upon the same or intersecting street and within 500 feet of the proposed new structure, in respect to one or more of the following features: cubical content; gross floor area; building area or height of roof; or other significant design features, such as materials or style of architectural design.
 2. Excessive similarity to any other structure existing or for which a permit has been issued, or to any other structure included in the same permit application, facing upon the same or intersecting street and within 500 feet of the proposed new structure, in respect to one or more of the following features of exterior design and appearance: apparently identical front, side, or other elevations visible from a street; substantially identical size and arrangement of either doors, windows, porticos, or other openings or breaks in the elevation facing the street, including reverse arrangement; or other significant identical features of design, such as but not limited to material, roof line, height, or design elements.
 3. Incompatibility of the building with the site with respect to the amount of grading required, treatment of exposed foundations, and loss of existing vegetation.
- f. In approving construction, the Planning Board may impose appropriate conditions and safeguards designed to prevent adverse effects to the desirability of the immediate and neighboring areas. Such conditions may include appropriate landscaping or site grading in addition to modifications to the form and materials of the proposed building.
 - g. The Planning Board shall restrict its consideration to a reasonable and professional review of the proposal and plans, leaving full responsibility for the design and development to the applicant. The Planning Board shall not unduly restrict new or innovative building types, materials, or methods. In its endeavor to improve the quality of design, the Planning Board shall consider cost as one factor along with design in its efforts to achieve the objectives of this Local Law.
 - h. The Planning Board shall approve, approve with modifications, or disapprove the application within 31 days of the close of the public hearing. Planning Board approval, approval with modifications, or disapproval shall be in written form and shall include specific findings with respect to the standards contained in Subdivision e of this Section of this Local Law. The decision of the Planning Board shall be filed in the office of the Village Clerk within 5 business days after the day such decision is rendered, a copy thereof shall be mailed to the applicant forthwith.
 - i. After approval of plans by the Planning Board, all construction shall conform in every respect to the approved plans. No alteration, modification, or amendment shall be made to the approved plans if

such alteration shall affect the exterior appearance of the proposed structure in any respect, unless such alteration, modification, or amendment shall have been approved by the Planning Board.

- j. Any person aggrieved by an action of the Planning Board in approving or disapproving an application before it under this Section of this Local Law may take an appeal therefrom to the Board of Appeals.

Rev 1-99
Rev. 4-06

8.1.5.6 Expiration and Extension: Every building permit shall expire by limitation at the end of 1 year from the date issued. If construction is not completed within said one-year period, the Building Inspector may, for due cause shown, extend the permit for a period not to exceed one year.

Rev 1-99
Rev. 4-06

8.1.5.7 Liability Insurance: In the event any application for a building permit provides for construction or other activity involving operation of equipment, personnel or placement of materials which may hazard a public street, way, easement or public property, prior to the issuance of such building permit the applicant shall present evidence of liability insurance saving the Village harmless in the amount of \$100,000 per person, and \$300,000 per occurrence, in a form acceptable to the Village Attorney. Additionally, property damage insurance or other surety acceptable to the Village Attorney may be required where such construction or activity may damage public property, including but not limited to sidewalks, paving, signs or landscaping. In reviewing any application hereunder, the Building Inspector shall determine whether such hazard may exist by virtue of the nature of the activity described in such application. Where, after a building permit has been issued without such liability insurance, it shall appear that such hazards are present, the Building Inspector may, on due notice given, require such insurance, and pursuant to Section 8.1.3.5 of this Local Law may suspend such activity pending receipt of the required liability policy.

Rev 1-99
Rev. 4-06

8.1.5.8 Fees: Every application for a building permit pursuant to this Local Law and/or the Building Code shall be accompanied by a fee in accordance with the Fee Schedule of the Village of Wesley Hills.

New 1-99
Rev. 4-06

8.1.5.9 Inspections during construction: Work for which a building permit has been issued hereunder shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the work is ready for inspection and to schedule such inspection.

8.1.6 Issuance of Certificates of Occupancy:

8.1.6.1 When required:

Rev 5-87

- a. No building or structure or portion thereof for which a building permit is required shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Building Inspector.
- b. No change shall be made in the use or type of occupancy of an existing

building or structure, or change in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy authorizing such change in use shall have been issued by the Building Inspector. A change in use shall include a change in the type or general class of goods or services sold.

- 8.1.6.2 Application and Affidavit: The owner or his agent shall make application for a certificate of occupancy. Accompanying this application, and before the issuance of a certificate of occupancy, there shall be filed with the Building Inspector: (1) a complete set of as-built drawings showing the as-built locations of all the underground facilities, and interior mechanical services. These plans shall be signed and certified by a New York State licensed architect or engineer; and (2) an affidavit of the owner or the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the work, and who, by reason of this experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with approved plans, and as erected, complies with this Local Law and the law governing building construction, including all subdivision regulations and the requirements of any approved subdivision, plat or site plan except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.
- 8.1.6.3 Issuance of Certificate: Before issuing a certificate of occupancy, the Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the Building Inspector a record of all such examinations and inspections, together with a record of findings of violations of the law. However, any certificate of occupancy for the establishment of any use of a building or land requiring a special permit as listed in the Schedule of Use Regulations, and any other particular use requiring the approval of the Planning Board, shall be issued only with the authorization of the Planning Board. Every certificate of occupancy for a use for which a special permit or variance has been granted shall contain a detailed statement of such special permit or variance and of the conditions to which the same is subject.
- 8.1.6.4 Fees: Every application for a certificate of occupancy shall be accompanied by a fee as set forth in the Fee Schedule of the Village of Wesley Hills.
- 8.1.6.5 Revocation: A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building or land is used for the use authorized in the certificate of occupancy. If terms of such certificate of occupancy are violated by the holder thereof, the Building Inspector or Code Inspector may, by service of notice of violation, revoke such certificate of occupancy, which order of revocation is, however, subject to review by the Board of Appeals, by the holder thereof taking an appeal to the Board of Appeals within 30 days of service of said order of

termination.

- 8.1.6.6 Copies: Copies of every certificate of occupancy issued hereafter shall be furnished, on request to the Planning Board or Board of Appeals, and on the payment of the regular application fee thereof to any other person. The Board of Trustees may by resolution fix the fees required from the general public for copies of public documents required under this Local Law.

New 5-87

8.1.7 Issuance of Certificates of Use:

8.1.7.1 When required:

- a. In the NS District only, no building, structure or lot or portion thereof shall be used or occupied in whole or in part until a Certificate of Use shall have been issued by the Building Inspector.
- b. In the NS District only, a change of use or change of occupancy of a building, structure or lot or portion thereof shall also require the issuance of a certificate of use.

8.1.7.2 Planning Board Authorization

Every certificate of use required as a result of a change of use shall be issued only with the authorization of the Planning Board.

8.1.7.3 Procedure:

A complete application including a completed application form and fee for a certificate of use shall be submitted. The Building Inspector shall examine all files pertaining to the building, structure or lot to identify any outstanding violations of the Laws of the Village of Wesley Hills. If the premises for which the certificate of use is requested are located in or on a building, structure or lot for which any outstanding violation exists, the Building Inspector shall deny the application for a certificate of use. If no such violations exist, and only a change of occupancy is proposed, the Building Inspector shall approve the application. The determination by the Building Inspector to approve or deny the application shall be made within 10 days of receipt of a complete application. If no such violations exist and a change of use is proposed, the Building Inspector shall, within 10 days of receipt of a complete application, refer said application to the Planning Board for review under Section 10.1.1(c) of this Local Law.

8.1.7.4 Application Forms:

The owner or his agent shall make application for a certificate of use on forms available from the Building Inspector.

8.1.7.5 Fees:

Every application for a certificate of use shall be accompanied by a fee set forth in the Fee Schedule of the Village of Wesley Hills.

8.1.7.6 Termination:

A certificate of use shall be deemed to authorize, and is required for, both initial and continued use of the building, structure, lot, or portion thereof to which it applies, and shall continue in effect so long as there is no change in use or change in occupancy affecting such building, structure or lot or portion thereof. If the terms of such certificate of use are violated, the Building Inspector or Code Inspector may, by service of notice of violation, terminate such certificate of use.

8.2 Violations and Penalties

Rev 1-99 8.2.1 Penalties:

8.2.1.1 Any person, as defined in this Local Law, other than a corporation, who shall violate any provision of this Local Law or any other regulation made under authority conferred thereby, or who shall build or alter any structure or use any land in violation of any statement or plan submitted and approved there under, or who shall knowingly assist therein, shall be liable to either:

- a. a fine of not more than \$5,000 or imprisonment for a period not exceeding 15 days or both such fine and imprisonment; or
- b. a civil penalty not exceeding \$5,000.

8.2.1.2 Any corporation which shall violate any provision of this Local Law or any other regulation made under authority conferred thereby, or which shall build or alter any structure or use any land in violation of any statement or plan submitted and approved there under, or which shall knowingly assist therein, shall be liable to either:

- a. a special corporate fine of not more than \$5000; or
- b. a civil penalty not exceeding \$5,000.

8.2.1.3 Each week's continued violation shall constitute a separate and additional violation, for which separate and additional fines and punishment or civil penalties may be imposed and recovered.

8.2.1.4 In the event the penalty sought is within the monetary jurisdiction of the justice court, as established in Article 18 of the Uniform Justice Court Act, such action to recover such penalty may, as shall be determined by the Village Attorney, be commenced as a small claim pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

8.2.1.5 In addition to the foregoing provisions, the Village shall have such other remedies for any violation or threatened violation of this Local Law as are now or may hereafter be provided by law. The application of any above penalty shall not be held to prevent any action under Section 8.2.2 below.

8.2.2 Prevention: In case any land is used or structure is erected, constructed, altered or maintained in violation of this Local Law, any regulation made pursuant thereto or any detailed statement or plan submitted and approved there under, in addition to other lawful remedies, any appropriate action or proceedings may be instituted to prevent such unlawful use, erection, construction, alteration or maintenance, to restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any

illegal act, conduct, business or use in or about such premises. Whenever the Building Inspector or Code Inspector has reasonable grounds to believe that work on any structure is being prosecuted in violation of the provisions of this Local Law, or not in conformity with any regulation made pursuant thereto or not in compliance with any detailed statement or plan submitted and approved there under, or in an unsafe and dangerous manner, he may issue a Stop-Work Order pursuant to the provisions of the Building Code.

ARTICLE 9 - BOARD OF APPEALS

9.1 Organization

The Board of Trustees shall appoint a Board of Appeals, containing five members, pursuant to Section 7-712 of the Village Law of the State of New York.

9.2 Meetings and Records

Procedure. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Board shall adopt rules and regulations governing its procedures. The presence of three members of the Board shall be necessary for a quorum. The concurring vote of three members shall be necessary to affect any variation or variance in this Local Law, to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant any matter before the Board. The Board shall keep minutes of its proceedings, showing the vote of each member on every question, or if any member is absent or fails to vote, indicating that fact, and shall also keep records of its examinations and other official actions. Every rule, determination, regulation, amendment or appeal thereof, and every order, requirement and decision of the Board shall promptly be filed in the office of the Board.

9.3 Powers and Duties

9.3.1 General: The Board of Appeals shall have all of the powers and duties prescribed by the Village Law and by this Local Law which powers and duties are summarized and more particularly specified in the following, provided that none of the following sections shall be deemed to limit any of the powers of the Board of Appeals that are conferred by the Village Law. In passing upon any matter before it, the Board shall take into specific consideration the goals of this Local Law.

9.3.2 Rules and Regulations: The Board of Appeals may adopt such rules and regulations as are necessary or proper to the performance of its powers and duties hereunder, and may amend or repeal the same.

Rev 1-02 9.3.3 Non-Conforming Uses: The Board of Appeals is authorized to extend the permitted period for cessation of a non-conforming use in accordance with the requirements of Section 4.3.2.5 of this Local Law; to permit the change of a non-conforming use to another non-conforming use in accordance with Section 4.3.6 of this Local Law; and to review and approve, approve with modifications or disapprove a plan for the improvement of a non-conforming use in accordance with Section 4.3.7 of this Local Law.

9.3.4 Variances: On appeal from an order, requirement, decision or determination made by an administrative official charged with the enforcement of this Local Law, or on referral of any applicant to the Board by an approving agency acting pursuant to this Local Law, the Board of Appeals is authorized to vary or modify the strict letter of this Local Law, where its literal interpretation would cause practical difficulties or unnecessary hardships, as defined in this Section, in such manner as to observe the spirit of the Local Law, secure public safety and welfare and do substantial justice.

Rev 2-93 9.3.4.1 Use Variances: Where because of unnecessary hardship relating to the land an applicant desires to utilize land for a use not allowed in the district in which the land is located, the Board may grant a variance in the application

of the provisions of this Local Law in the specific case, provided that as a condition to the grant of any such variance, the Board shall make each and every one of the following findings:

- a. That under the applicable zoning regulations, the owner of the property in question is deprived of all economic use or benefit from the property, as established by competent financial evidence; and
- b. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood; and
- c. That the use to be authorized by the variance will not alter the essential character of the neighborhood; and
- d. That the unnecessary hardship claimed as a ground for the variance has not been created by the owner or by a predecessor in title. Mere purchase of the land subject to the restrictions sought to be varied shall not itself constitute a self-created hardship; and
- e. That within the intent and purposes of this Local Law the variance, if granted, is the minimum variance necessary to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.

Rev 2-93

9.3.4.2

Area Variances: Where because of practical difficulty, an applicant request a variance of the lot area or other dimensional requirements of this Local Law, the Board may grant a variance in the application of the provisions of this Local Law in the specific case, provided that as a condition to the grant of any such variance, the Board shall make a specific finding that the application of the requirements of this Local Law to the land in question creates such practical difficulty. In making this determination, the Board shall consider the following factors:

- a. The benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant.
- b. 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.
- c. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.
- d. Whether the requested area variance is substantial in relation to the requirement.
- e. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- f. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision or the Board but shall not necessarily

preclude the granting of the area variance.

- g. The Board, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for

New 2-89

9.3.4.3

Variations for Satellite Dishes: Where because of difficulties in reception of

Rev 1-02

delivered signals, an applicant requests a variance of the requirements of either or both Sections 4.4.21.1 or 4.4.21.2 of this Local Law, the Board shall grant a variance in the application of the provisions of this Local Law in the specific case, in the event that (and as a condition to the grant of any such variance) the Board shall make a specific finding that the application of the requirements of such Sections of this Local Law to the land in question prevents or unreasonably limits reception of delivered signals. In making this determination, the Board shall make the following findings:

- a. In the case of a variance of the requirements of Section 4.4.21.1, that no point exists within the permitted location for satellite dishes greater than one meter in diameter where such a satellite dish can be installed without preventing or unreasonably limiting reception of delivered signals.
- b. In the case of a variance of the requirements of Section 4.4.21.2, that the limitation on the height of such satellite dish will prevent or unreasonably limit reception of delivered signals.

New 2-93

9.3.4.4

Variations when Planning Board Applications Involved: Where a proposed site plan contains one or more features which do not comply with the zoning regulations, or where a proposed special permit use contains one or more features which do not comply with the zoning regulations, or where a proposed subdivision plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Board of Appeals for an area variance or variations pursuant to Section 9.3.4.2, without the necessity of a decision or determination of an administrative official charged with the enforcement of this Local Law or a referral by an approving agency acting pursuant to this Local Law.

9.3.5

Other Appeals: On appeal from an order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Local Law, or on request from any official, agency or Board of the Village, the Board of Appeals is authorized to decide any question involving the interpretation of any provision of this Local Law. Interpretations shall be made in accordance with the intent of the particular provision being interpreted.

Rev 2-93

9.3.6

Conditions and Safeguards: The Board of Appeals, in the granting of both use variations

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and area variations, may prescribe such reasonable conditions or restrictions applying to the grant of a variance as it may deem necessary in each specific case, in order to minimize the adverse effects of such variance upon the character and property values of the neighborhood or community and to protect the public health, safety and welfare. Such conditions or restrictions shall be directly related to and incidental to the proposed use of the property and/or the period of time such variance shall be in effect. Such

conditions or restrictions shall be incorporated in the Building Permit and Certificate of Occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this Local Law, and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

9.4 Procedure

Rev 2-93

9.4.1 Appeal or Application: An appeal shall be taken within 60 days of the order of decision appealed from, by filing with the official or agency from whom the appeal is taken and with the Board of Appeals of a notice of appeal, specifying the ground thereof. The official or agency from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken. A referral to the Board for a variance, or a request for an interpretation, may be made at any time. All such appeals and applications to the Board shall be made by the owner or agent duly authorized, in writing, and shall be on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the Local Law involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for, and the grounds on which it is claimed that the same should be granted.

9.4.2 Review by Other Agencies:

9.4.2.1 Upon receipt of a completed appeal or application, the Board of Appeals may forward copies for review and report to the Building Inspector, Code Inspector, Village Engineer and Planning Board, and to other such officials and agencies of the Village as it deems appropriate. All such agencies shall have 45 days from the date of forwarding to submit a report. If approval of a site plan or issuance of a special permit is involved, the Board of Appeals shall forward sufficient copies for review and report to the Planning Board, and shall not act on the matter until it has received the report of the Planning Board or 45 days have passed since such forwarding.

9.4.2.2 The Board of Appeals shall refer to the Rockland County Planning Board for its recommendation all matters within the provisions of Article 12B, Section 239-l and 239-m of the General Municipal Law which includes real property lying within 500 feet from the boundary of any city, village, or town, or from the boundary of any existing or proposed county or state parkway, thruway, expressway, road, highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, and any special permit or variance affecting such use or property within a distance of 500 feet. The Rockland County Planning Board shall render its decision within 30 days of referral or within an extended period if agreed upon. If the Rockland County Planning Board fails to report within such period of 30 days or such longer period as has been agreed upon by it and the Board of Appeals, the Board of Appeals may act without such report. If the Rockland County Planning Board disapproves the proposal, or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. Within 7 days after final action by the Board of Appeals, a report shall be filed of the final action it has taken with the County Planning Board which had made the

recommendations, modifications or disapproval.

9.4.3 Public Hearing: The Board of Appeals shall conduct a public hearing on any appeal, application or request made pursuant to this Local Law. Such public hearing shall be held within 60 days of the date an appeal is taken or an application or request is made to the Board.

Rev 1-95 9.4.4 Notice of Hearing: Notice of Hearing shall be published in the official newspaper at least 10 days prior to the date of such hearing. Notice shall also be sent 10 days prior to the date of such hearing to all property owners within 750 feet of the perimeter of the property, in the same manner as is required for zoning amendments changing the district classification of land, as set forth in Section 13.7 of this Local Law. The applicant shall cause signs to be posted on such property on each street frontage indicating the date and purpose of such hearing. The costs of all such notice shall be paid by the applicant.

Rev 2-93 9.4.5 Action: The Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board. Every decision of the Board of Appeals shall be by resolution, shall be recorded and shall fully set forth the facts of the case, the findings and the conclusions on which the decision was based. The decision of the Board shall be filed in the office of the Village Clerk within 5 business days after the day such decision is rendered, and a copy of such resolution shall be mailed to the applicant forthwith.

9.5 Expiration of a Variance

A variance granted under this Local Law shall automatically expire if substantial construction, in accordance with the plans for which such variance was granted, has not been completed within one year, or such other time limit as may be chosen by the Board of Appeals in connection with its decision, from the date of granting such variance by the Board, or, if judicial proceedings to review the Board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals.

9.6 Fees

Every application or appeal to the Board shall be subject to a fee as set forth in the Fee Schedule of the Village of Wesley Hills.

ARTICLE 10 - SITE PLAN APPROVAL

10.1 Applicability

Rev 5-87 10.1.1 Approval of a site plan by the Planning Board is required for (a) the development or redevelopment of any building, structure or lot or portion thereof for a new use, (b) the expansion or relocation of any existing use, or (c) any change of use of a building, structure or lot or portion thereof. Notwithstanding the foregoing, one family detached dwellings do not require site plan approval as required in this Article. Where site plan approval is required, applications for the issuance of a Building Permit or Certificate of Occupancy or Certificate of Use must be accompanied by a copy of the approved site plan.

Rev 5-87 10.1.2 All site development and all use of the property shall be in conformance with the approved site plan and such additional standards and safeguards as the Planning Board may impose as a condition of approval. No Certificate of Occupancy or Certificate of Use shall be issued until all such requirements have been met. Continued conformance with the approved final site plan and such additional standards and safeguards shall be a requirement of the continued validity of any such Certificate of Occupancy or Certificate of Use.

10.2 General Standards

The Planning Board shall not approve a site plan unless it shall find that such plan conforms to the requirements of this Local Law, as well as to other applicable laws and regulations. In reviewing the site plan, the Planning Board shall also take into consideration the public health, safety and general welfare, and shall set appropriate conditions and safeguards which are in harmony with the general purpose and intent of this Local Law, particularly in regard to achieving the following:

10.2.1 Traffic Access: The number, location and design of all proposed driveways, in terms of their width, grade, alignment, visibility, and relationship to the existing street system and neighboring properties and land uses shall be such that maximum safety will be achieved and function properly provided for.

10.2.2 On-Site Circulation and Parking: Adequate and convenient off-street parking and loading spaces shall be provided to prevent parking in public streets of vehicles belonging to any persons connected with or visiting the proposed use and the interior circulation system shall be adequate to provide safe access to all required off-street parking, including access for the handicapped.

New 1-93 10.2.2.1 Circulation on School Sites: On sites being used for schools, the interior system of roadways, driveways, and parking areas shall be designed so as to minimize the separation of buildings or structures utilized by students from outdoor educational or recreational facilities, by such interior vehicular circulation system, to the satisfaction of the Planning Board.

10.2.3 Pedestrian Circulation: An adequate and safe pedestrian circulation system shall be provided to permit safe access to uses on the site from the street and from all parking areas.

10.2.4 Landscaping and Buffering: All parking, loading and service areas shall be screened in a

reasonable manner at all seasons of the year from the view of adjacent residential lots and streets, the general landscaping of the site shall be designed in an attractive manner and, wherever possible, desirable natural features existing on the site shall be protected and retained.

- 10.2.5 Lighting: Outdoor lighting shall be provided on the site to assure the safe movement of vehicles and persons, and for security and such lighting shall not create an undesirable impact on neighboring properties and streets.
- 10.2.6 Drainage: The proposed storm water drainage system shall be adequate to prevent any increase in the rate of surface runoff or otherwise contribute to downstream flooding during a storm of any magnitude to and including a 100 year frequency storm.
- 10.2.7 Water and Sewage: The proposed systems for water supply and sewage collection and disposal on the site shall be adequate and facilities shall be sufficient to handle the increase in service.
- 10.2.8 Solid Waste: Adequate provisions shall be made for the storage, collection and disposal of solid waste and such facilities shall not be permitted to adversely affect neighboring properties or public facilities.
- 10.2.9 Building Design: The height, location and size of the proposed buildings shall be in conformity with the requirements of this Local Law, and all such buildings and other structures shall harmoniously relate to each other, the site and neighboring properties.
- 10.2.10 Signage: All proposed signs, including on-site directional signs and building signs, shall meet the requirements of the Local Law, shall be adequate to provide reasonable information to the public and shall be in harmony with the design of the site and buildings, and with neighboring properties.
- 10.2.11 Other Public Needs: Other public needs and requirements, including the provision of recreational facilities, the protection of the environment, etc., shall also be properly and adequately provided for.

10.3 Procedure

- 10.3.1 Submission: The applicant shall submit to the Planning Board two copies of a completed site plan application form, and 10 copies of a site plan. The site plan shall show the information listed below.
- 10.3.2 Required Data: All of the following information shall be indicated on the site plan, which shall be drawn to a scale of 1 inch equals 30 feet or larger:
 - a. Title of development, date, revision dates, if any, north point, scale, name and address of record owner and of applicant, if other than owner, and of the engineer, architect, landscape architect, or surveyor preparing the site plan.
 - b. Area and boundaries of the subject property, section and lot numbers of the subject property, adjacent zoning and special district boundaries, building or setback lines as required in this Local Law, lines of existing streets and adjoining lots as shown on the Tax Maps, and reservations, easements and other areas dedicated to public and special use.
 - c. The names and mailing addresses of all owners of record of all adjacent properties.

- d. Location and dimensions of all existing buildings, retaining walls, fences, rock outcrops, wooded areas, single trees with a diameter of eight inches or more measured three feet above the base of the trunk, water courses, marshes, water supply, sanitary sewerage, storm drainage and any other utility facilities, and or any other significant existing features on the premises. All significant existing features within 20 feet of all property lines shall also be shown.
- e. Existing and proposed contours at a maximum vertical interval of two feet.
- f. Proposed use or uses of all land and buildings, and, where only a portion of a property is to be occupied by the development, the boundaries and area of such portion (including required screening and setback areas).
- g. Outline and elevations of the pavement of abutting streets, and of proposed means of vehicular and pedestrian access to and from the site.
- h. Location, layout and numbers of any proposed off-street parking and loading spaces. (See Article 7).
- i. Location and layout of any proposed recreation areas.
- j. Proposed finished floor elevation of buildings, finished grades of walls, pavements, and storm drains.
- New 4-06 k. Preliminary architectural plans and a rendering showing at least the location and dimensions of proposed structures, exterior elevations, and materials to be used. A rendering is hereby defined as an eye level, front view, three dimensional perspective drawing or sketch, made to approximate scale, of the structure and driveway as it will be situated on the site with such landscaping as the applicant intends to provide.
- Rev. 4-06 l. Detailed construction plans of proposed retaining walls, steps, ramps, paving and drainage structures.
- Rev. 4-06 m. Expected storm drainage loads.
- Rev. 4-06 n. Estimate of all earthwork, including the quantity of any material to be imported to or removed from the site, or a statement that no material is to be removed or imported.
- Rev. 4-06 o. Location and dimensions of all proposed water supply, sanitary sewerage, storm drainage, and other utility lines and equipment, including connections to existing facilities.
- Rev. 4-06 p. Detailed landscaping plan including type, size and location of all materials used and plans for buffer screening and fencing.
- Rev. 4-06 q. Proposed location, type, design, size, color, and illumination of all signs.
- Rev. 4-06 r. Proposed type, design, mounting height, location, direction, power and timing of all outdoor lighting.
- Rev. 4-06 s. Conditions specified by the Board of Appeals or Planning Board in the approval of any variance or special permit related to the subject property.

10.3.3 Environmental Review: Where required by the New York State Environmental Quality Review Act (SEQR), additional information concerning the environmental impact of the proposed development may be required as a part of the site plan application.

10.3.4 Review By Other Agencies:

Rev. 4-06

10.3.4.1 The Planning Board shall submit copies of the site plan to the Village Engineer, Building Inspector, Code Inspector, or other Village agencies and officials as it deems appropriate, all of whom shall submit their written report within 45 days of the date of forwarding for review and report. The Planning Board may submit copies to the following agencies for information, review and comment regarding facilities under their jurisdiction, and to any other County, State, or Federal agency with jurisdiction:

- a. Hillcrest-Moleston, Monsey or Tallman Fire Departments.
- b. Rockland County Drainage Agency.
- c. New York State Department of Transportation.

10.3.4.2 The Planning Board shall refer to the Rockland County Planning Board for its recommendation all matters within the provisions of Article 12B, Section 239-l and 239-m of the General Municipal Law which includes real property lying within 500 feet from the boundary of any city, village, or town, or from the boundary of any existing or proposed county or state parkway, thruway, expressway, road, highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, and any special permit or variance affecting such use or property within a distance of 500 feet. The Rockland County Planning Board shall render its decision within 30 days of referral or within an extended period if agreed upon. If the Rockland County Planning Board fails to report within such period of 30 days or such longer period as has been agreed upon by it and the Planning Board, the Planning Board may act without such report. If the Rockland County Planning Board disapproves the proposal, or recommends modifications thereof, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. Within 7 days after final action by the Planning Board, a report shall be filed of the final action it has taken with the County Planning Board which had made the recommendations, modifications or disapproval.

10.3.5 Staged Development: Where the staging of a development over a period exceeding one year is contemplated, the site plan shall show only those stages for which construction will begin within 18 months of the date of final approval by the Planning Board. A plan showing the plan for the ultimate development of the property shall also be submitted.

Rev 2-93

10.3.6 Public Hearing: When, in the opinion of the Planning Board, it is deemed necessary or advisable, a public hearing may be held on said application. Any hearing shall be held within 62 days of the date of receipt of a complete application. Public notice and notice to owners of property within the area shall be the same as that required for zoning

amendments changing the district classification of land, as set forth in Section 13.7 of this Local Law.

Rev 2-93

10.3.7 Planning Board Decision: The Planning Board shall approve, approve with modifications, or disapprove the site plan within 62 days after the public hearing, if one is held, or within 62 days of the date of receipt of a properly completed application, if a public hearing is not held. Planning Board approval, approval with modifications or disapproval shall be in written form and shall include specific findings with respect to the standards as contained in Section 10.2 of this Local Law. Failure on the part of the Planning Board to act within the above specified time shall be deemed to constitute approval of the respective plan, unless the time limit is extended by mutual agreement of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Village Clerk and a copy thereof shall be mailed to the applicant.

10.3.8 Special Permit Applications: Where special permit approval is required for the proposed use under Articles 5 and 6 of this Local Law, insofar as practicable the special use permit and site plan approval procedures shall run concurrently.

10.4 Issuance of Certificate of Occupancy; Surety

The Building Inspector may issue a Certificate of Occupancy after all requirements of site plan approval have been completed or after the applicant has provided surety covering all uncompleted requirements in such amount as shall be set by the Planning Board and in such form as meets the approval of the Village Attorney. All site plan requirements for which surety is posted shall be for a term to be determined by the Planning Board to guarantee their proper installation and maintenance. The Building Inspector shall report to the Planning Board when the requirements, construction, installation and all other items of the site plan have been completed, at which time the Planning Board may authorize the release of the surety.

10.5 Additional Submissions

Where, due to special conditions peculiar to a site, or to the size, nature or complexity of the proposed use or development of land or buildings, the Planning Board finds that additional data is necessary for the proper review of the site plan, the Board may require any or all of such data to be included in the required submission of said plan.

10.6 As-Built Plan

10.6.1 Upon compliance of any development or redevelopment pursuant to an approved final site plan, and prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Building Inspector an as-built plan prepared and certified by a licensed engineer or surveyor showing the location of all site improvements as constructed. Such plan shall be based on a field survey.

10.6.2 Said as-built plan shall be reviewed by the Building Inspector to determine if it is in compliance with the Zoning Law, the approved final site plan and related requirements of the Planning Board, and any special permit or variance. Where the Building Inspector determines that the as-built plan is not in compliance, he shall not issue a Certificate of Occupancy unless either the construction is corrected or a revised site plan is submitted to and approved by the Planning Board.

10.7 Field Changes

During construction, the Building Inspector may authorize or require, at his own determination or, upon the request of the applicant, minor adjustments to the approved site plan when such adjustments are necessary in light of technical or engineering considerations the existence of materiality of which was first discovered during actual construction. Such minor adjustments shall be consistent with the spirit and intent of the approved site plan.

Where unforeseen conditions are encountered which require any material change to an approved site development plan, or where the developer wishes to modify the approved plan for other reasons, an amended site plan shall be filed with the Planning Board for review and approval in accordance with the same procedures require for initial applications.

10.8 Expiration of Approval

Approval of any final site plan shall expire unless a Building Permit or Certificate of Occupancy is applied for within a period of 18 months from the date of the signing of the final site plan by the Planning Board, except where the staging of development over a longer period has been specifically provided for at the time of site plan approval. The Planning Board may extend the site plan approval for not more than two six-month periods.

10.9 Fees

Fees for site plan approval are listed in the Fee Schedule as adopted by the Board of Trustees.

If a site plan or any portion thereof is revised to the extent that it warrants Planning Board reconsideration, a new application fee shall be required. The amount of such fee shall be determined by the Planning Board based upon the nature and extent of the changes proposed, but shall not exceed the original application fee.

10.10 General Standards

10.10.1 Landscaping and Buffering: All properties subject to site plan review shall be landscaped with appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board, to assure the establishment of a safe, convenient, functional and attractive site plan requiring a minimum of maintenance.

10.10.2 Landscaping in Parking Areas:

Rev 1-91

10.10.2.1 Minimum Requirement: In off-street parking areas containing more than 25 parking spaces, at least 10% of the internal portion of the parking area shall be landscaped with trees, shrubs and other plant materials, to assure the establishment of a safe, convenient and attractive parking facility. However, notwithstanding the foregoing provision, in shopping centers the Planning Board shall have the authority to reduce such landscaping requirement to not less than 7% of the internal portion of the parking area if the Planning Board makes both of the following two findings: that an existing parking area not meeting such requirement is being upgraded, and that the perimeter of the parking area shall be landscaped sufficiently to justify such reduction. At least one street tree, as described in Section 10.10.2.3b below, shall be provided within such parking area for each 10 parking spaces.

10.10.2.2 Planting Islands: Wherever possible, planting islands at least 8 feet in width and protected by curbing shall be provided to guide vehicle movement and to separate opposing rows of parking spaces so as to provide adequate space for plant growth, pedestrian circulation and vehicle overhang. Such planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances and exits to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles, and to provide relief from the visual monotony and shadeless expanse of a large parking area. Curbs of such islands shall be designed so as to facilitate surface drainage and prevent vehicles from overhanging sidewalks and damaging landscaping material.

10.10.2.3 Plant Material: Where landscape materials are used to define traffic movement, the following guidelines shall be used:

- a. Plant materials shall consist of an attractive combination of evergreen or broadleaf plants, indigenous to the area, as approved by the Planning Board.
- b. Street trees shall be thornless Honey Locust or other variety approved by the Planning Board, and shall be at least 3 inch to 3 1/2 inch caliper, spaced approximately 25 feet on center, and have branching beginning at a height no less than 8 feet above ground level. Trees with low growing branches, gum or moisture, seeds or pods, shall be avoided.
- c. Plants, except for high branching trees, shall be selected to achieve not more than 3 foot mature height.

10.10.3 Buffer Areas:

10.10.3.1 Size and Location: The approval of any use in the NS district, or any non-residential use in any residence district, shall include provisions for a buffer screening area at least 25 feet in width along any lot line abutting, or, if determined necessary by the Planning Board, directly across the street from, any lot in a residence district. This requirement may be waived by the Planning Board in situations where it determines that large distances, topographic features, or existing vegetation satisfy the same purpose.

10.10.3.2 Plant Material: Where landscape materials are used for buffer screening purposes, the following guidelines shall be used:

- a. When sufficient space is available, a dense screen of Evergreen plant materials shall be used. Materials may include White Pine, Spruce, Hemlock or Arborvitae.
- b. Plant materials shall be 6 feet to 8 feet in height when planted and shall be spaced to form an opaque screen either in a single row or in multiple rows with alternate spacing, as may be determined appropriate and required by the Planning Board.

- c. Where limited space is available and where approved by the Planning Board, stockade or other approved fence may be used in conjunction with climbing or espaliered plant materials.

10.11 Outdoor Lighting

10.11.1 General Standards: Adequate lighting shall be provided on each site to ensure safe movement of persons and vehicles and for security purposes. Lighting fixtures and standards shall be of a type approved by the Planning Board. All lighting shall be designed and arranged so as to preclude or minimize glare and reflection on adjacent properties and streets.

10.11.2 Design Standards: The following design standards shall be followed on all site plans:

10.11.2.1 The style of the light and light standard shall be consistent with the architectural style of the principal building.

10.11.2.2 The maximum height of free-standing lights shall be no higher than the height of the principal building but shall not exceed 18 feet. The maximum of height may be increased to 25 feet in large parking areas where the Planning Board finds that such lighting is appropriate and where such increased height will not be a disturbance to neighbors.

10.11.2.3 The source of illumination shall be so shielded that it is not visible beyond the boundaries of the lot on which it is located.

10.11.2.4 Where lights may be visible from adjacent residences or public streets, the lights shall be appropriately shielded.

10.11.2.5 Spotlight-type fixtures attached to buildings shall not be permitted.

10.11.2.6 Free-standing lights shall be so located and protected as to prevent damage by vehicles.

10.11.2.7 Lighting shall be located along streets, parking areas, at intersections and where various types of circulation systems merge, intersect or split, as required by the Planning Board.

10.11.2.8 Pathways, sidewalks and trails shall be lighted with suitable low or pedestrian type standards.

10.11.2.9 Exterior stairways, sloping or rising paths, building entrances and exits shall be suitably illuminated for safety purposes.

10.11.2.10 The lighting intensities listed below shall be used as a general design guide. The Planning Board may vary these criteria where the Board finds such a variation is appropriate and where such variations will not be a disturbance to neighbors.

- a. Shopper Parking - an average of 1.0 foot-candles;
- b. Long Term Parking - an average of 0.75 foot-candles;
- c. Intersections - 2.0 foot-candles;

- d. Maximum at property lines - 0.6 foot-candles;
- e. In residential areas - average of 0.6 foot-candles.

10.11.2.11 Lighting for signs shall comply with the requirements of 11.5 of this Local Law.

ARTICLE 11 - SIGNS

11.1 Applicability

Rev. 4-06 No sign, as defined in this Local Law, shall be erected or installed upon or within any structure or upon any land, nor shall any existing sign be changed, unless all applicable provisions of this Article have been met.

11.2 Signs Exempted From These Regulations

The provisions of this Article shall not apply to the following classes of signs:

11.2.1 Signs of or required by duly constituted governmental bodies and their agencies.

11.2.2 Flags of the national, state, county or town government not exceeding 15 square feet in area.

11.2.3 Temporary signs in any district pertaining to and displayed during campaigns, drives, or events of civic, political, philanthropic or educational institutions, provided such signs are displayed not more than 45 days before the event and removed three days after the event.

11.2.4 In the R-50 and R-35 Districts, not more than one non-illuminated name and address sign, not exceeding one square foot in area, showing only the name of the occupant and/or the address of the premises on which they are situated, and the occupation of the occupant where permitted under Section 6.9.12, provided such sign is located not closer than 15 feet to a side lot line. Such sign may be located on the wall of a building or on a post set in the ground.

Rev 1-99 11.2.5 One temporary, non-illuminated For Sale or For Rent sign per lot, provided such sign is located on the specific lot to which it relates. Such sign shall be less than 15 square feet in area in residential districts and less than 30 square feet in area in non-residential districts. Such a sign shall be permitted only during such period of time that the property to which it relates is actually being offered for sale or rent.

New 1-99 11.2.6 One temporary Sold sign per lot, provided such sign is located on the specific lot to which it relates. Such sign shall be less than 15 square feet in area in residential districts and less than 30 square feet in area in non-residential districts. Such a sign shall be permitted only for a period not to exceed 4 weeks.

Rev 1-99 11.2.7 Temporary, non-illuminated construction signs, not exceeding 12 square feet in area, identifying the project under construction and participating designers, developers, or contractors (including home development contractors), provided such signs are located on the specific lot to which they relate. Such a sign shall be permitted only during the construction period of the project.

Rev 1-99 11.2.8 Signs not visible outside of a building.

Rev 1-99 11.2.9 Holiday decorations displayed in season.

Rev 1-99 11.2.10 Temporary signs for garage sales, provided such signs contain the name and address of the seller and date or dates of the sale, are displayed only two days prior to the sale, and are removed the day after the sale.

- Rev 1-99 11.2.11 "No Trespassing" signs.
- New 1-91
Rev 1-99 11.2.12 Small, non-illuminated, directional signs which are necessary for the direction, safety and convenience of the public.
- 11.3 Total Sign Area Permitted: For all special permit uses and for all uses in the NS District, the total area of all signs erected on the lot shall not exceed 1 square foot for each horizontal linear foot of the facade of the establishment. If the lot has frontage on more than one street, an additional sign area of one square foot for each linear foot of such additional frontage shall be allowed as long as such additional sign area appears facing the additional frontage.
- 11.4 Types of Signs:
- For special permit uses and all uses permitted in the NS District, general regulations for permitted signs are given below:
- 11.4.1 Flat Wall Signs (signs attached rigidly to, or painted on a wall of a building)
- A flat wall sign may be located anywhere on any wall of a building, provided that it shall not conceal any part of a window, that its length shall not exceed 7/8 of the facade of the establishment, and that it shall not be higher than the wall of the building to which it is attached.
- 11.4.2 Window signs (signs displayed, affixed or painted or within any window)
- The total area of all such signs shall not exceed 20% of the glass area of the window in which they are located. Each individual piece of glass shall be considered a window.
- New 1-91
Rev 1-98 11.4.3 Shopping Center Identification Signs (two-sided free standing signs not exceeding a height of 25 feet measured from grade to the highest point of the sign, and a sign area not exceeding 1 square foot for each 10 linear feet of lot frontage, but in no case more than 100 square feet, on each side)
- A Shopping Center Identification Sign may include only the name of the shopping center and the names of the individual tenants within the shopping center. One such sign, subject to the size requirements above, shall be permitted at each entrance from a street to the shopping center, provided, however, that the linear distance between any two such signs shall be not less than 450 feet.
- 11.4.4 Other Free Standing Signs
- In the NS District, one free standing sign not exceeding 2 square feet in area shall be permitted on each lot, in addition to any Shopping Center Identification Signs as permitted by Section 11.4.3 of this Local Law. Such sign shall contain only the address and/or the name of the building on that lot.
- 11.5 Illumination: Illumination shall be from indirect or internal light sources. The source of illumination shall be so shielded that it is not visible beyond the boundaries of the lot on which it is located.
- 11.6 Relationship to a Permitted Use: All signs must pertain to a use conducted on the same property on which they are located, except signs of service groups.

- Rev yard 1-91 11.7 Sign Setbacks: All signs, except Shopping Center Identification Signs, shall comply with the requirements for principal buildings of the district in which they are located.
- 11.8 Sign Design: All signs shall be compatible with the design of the building in terms of size, color, form and uniformity.
- Rev 4-92 11.9 Prohibited Sign Types: The use, erection or installation of the following sign types is prohibited:
- a. Roof signs.
 - b. Flashing or intermittently illuminated signs. A sign which exhibits changing light or color effects, even though the intensity of light may be relatively constant, shall be deemed a flashing light.
 - c. Searchlights to attract attention to a sign or permitted use.
 - d. Moving or rotating signs.
 - e. Pennants, streamers or other eye-catching devices
 - f. Signs on awnings
 - g. Portable signs, with or without wheels, easel type, "A" frame or other. Any sign not permanently affixed to a building.
 - h. Projecting signs (signs hung from a bracket attached to a wall of a building).
- Rev. 3-06 i. Free Standing Signs (signs rigidly mounted or hung from a bracket on a structure or post set in the ground, other than Shopping Center Identification Signs, other free standing signs in the NS District as permitted by Section 11.4.4 of this Local Law, signs in connection with an arborist services, landscape service, and/or wholesale nursery use as permitted by Section 6.9.16k of this Local Law, and signs exempted from regulation by Section 11.2 of this Local Law).
- 11.10 Fees
- Application for a sign permit shall be accompanied by a fee as specified in the Fee Schedule adopted by the Board of Trustees.

ARTICLE 12 - AVERAGE DENSITY

12.1 Purpose

It is the purpose of this section to enable, where appropriate, flexibility of design and development of land in such a manner as to preserve its natural and scenic qualities, protect areas of meaningful ecological value, reduce flood hazards, facilitate the adequate and economical provision of streets and utilities, minimize negative environmental impacts, improve the aesthetic quality of new residential developments, encourage the conservation of energy, increase recreational opportunities, and otherwise promote the planned and environmentally desirable use of land by permitting the Board of Trustees to authorize the Planning Board, simultaneously with the approval of subdivision plats, to modify otherwise applicable provisions of the Zoning Law in accordance with the standards, conditions and limitations set forth herein and in Section 7-738 of the Village Law.

12.2 Applicability

The use of this average density procedure shall be limited to lands within the R-50 and R-35 One-Family Residence Districts only.

12.3 Approval

The Board of Trustees, by resolution, may authorize the Planning Board to use this procedure on specific properties, either at the request of a property owner, or upon a mandate by the Planning Board pursuant to Section 7-738 of the Village Law and rules and regulations adopted by the Planning Board for determining the selection of properties.

12.4 Development Standards and Controls

Except as modified by the Planning Board pursuant to the authority hereby conferred, all regulations normally applicable to residential uses in the zoning district in which the property is located shall continue to apply. In addition, the following requirements are hereby established specifically for average density developments:

12.4.1 Permitted Uses: The permitted uses within an average density development shall be the same as permitted in the zoning district in which the property is located.

12.4.2 Density: The number of dwelling units permitted in an average density development shall in no case exceed the number which could be subdivided into lots conforming to all normally applicable requirements of the Zoning Law, Land Subdivision Regulations, and other related land use and development controls. The basis for this determination by the Planning Board shall be a sketch layout of a conventional subdivision prepared and submitted by the applicant, which layout shall include topographic information and such other data as may be required by the Planning Board to assist in making its determination.

12.4.3 Dimensional Requirements: The dimensional requirements applicable to the subdivision and construction of one-family detached dwellings in an average density development shall be as set forth in the Table of Dimensional Requirements (Section 5.2 of this Local Law).

12.5 Common Lands and Facilities

Average density developments shall result in the permanent preservation of open space land having meaningful scenic, ecological, environmental, flood control, recreational or similar characteristics, and shall be at such location and with such access as may be determined appropriate by the Planning Board for the purpose of satisfying the objectives of this section.

- 12.5.1 Conserved land areas, and any common facilities located thereon, shall be owned and maintained by the property owner or, in the case of multiple owners, by a property owners' association established in accordance with the following requirements:
- a. The property owners' association shall be a legal entity (including but not limited to a not-for-profit membership corporation) created by a trust agreement or certificate of incorporation, approved as to form and sufficiency by the Village Attorney, and designed to assure the permanent preservation and protection of the common lands and any improvements thereon for their intended purpose.
 - b. The property owners' association shall be made responsible for the continued future maintenance, ownership and use of all such common lands and facilities. The association must annually provide the Village Clerk with the names and addresses of all officers and directors and must notify the Village Clerk of any changes within 30 days.
 - c. The property owners' association shall not be permitted to be dissolved and shall not dispose of any common land or any improvements thereon or thereunder, by sale or otherwise, except to an organization established to own and maintain such common land and improvements as hereinabove referred to and subject to the same restrictions on maintenance and use as the first such legal entity, as well as to approval by the Planning Board as set forth above.
 - d. The property owners' association shall be subject to an agreement with the Village of Wesley Hills providing that in the event it, or any successor organization, shall at any time after approval of the development fail to maintain the common land or any improvements thereon in reasonable order or condition in accordance with the approved plan, the Village of Wesley Hills may serve written notice upon such legal entity or successor organization, or upon the property owners within the development, setting forth the manner in which the association has failed to maintain the common land or any improvements thereon and said notice shall include a demand that such deficiencies be corrected with a designated timeframe. If the deficiencies are not corrected within the designated timeframe, the Village of Wesley Hills, in order to preserve the taxable values of the property within the development and to prevent the common land and improvements thereon from becoming a public nuisance may enter upon and take possession of said common land and improvements and maintain the same until such time as the Village Board shall determine that the property owners' association is ready and able to maintain the common land and improvements in proper condition. Said entry and maintenance shall not vest in the public any rights to use the common land or improvements except when the same is voluntarily dedicated to the public by the property owners' association and the offer of dedication is accepted by the Board of Trustees. The decision of the Village with respect to the action described in this paragraph shall constitute a final administrative decision subject to review in accordance with the provisions of Article 78 of the Civil Practice Law and Rules. The cost to the Village of any such maintenance shall be assessed against the properties within the average density development, and in the event of the failure or refusal of any property owner

to pay any such charges when due, the unpaid amount thereof shall become a lien against that person's property and, together with interest from the due date thereof, shall be included in the annual tax levy of the Village upon such property for each such fiscal year, and the amount so levied shall be collected in the same manner as other Village taxes.

- e. The property owners' association agreement shall require that every property owner within the average density development shall automatically be and become a member of the association and shall be subject to a charge for a proportionate share of expenses of the association's activities, including but not limited to the maintenance and operation of the common land and improvements thereon. The charge shall be a lien upon the residential property in the event it remains unpaid by the property owner for a period of more than sixty (60) days after the assessment thereof by the governing body of the property owners' association. The obligation of each property owner to pay a proportionate share of the association's expenses may be enforced by an action in the name of the association or by the Village as provided in subdivision (d) of this section, or in the name of both.
- f. The property owners' association must annually provide the Village Clerk with the names and addresses of all officers and directors of the association and shall notify the Village Clerk of any changes within 30 days.

12.5.2 In general, common open space land areas shall be preserved in their natural state and their use shall be limited to appropriate conservation and passive recreation purposes. A portion of such common open space, not to exceed 10% of the gross land area of the average density development, may be reserved and designated for "active recreation" purposes, provided the size, shape, access and location of such area(s) is approved by the Planning Board. Within a designated active recreation area, there may be located swimming pools, ball fields, facilities for court games, club houses, playground equipment, and so forth, provided the use of all such facilities shall be limited to the residents of the average density development and their guests, and further provided that such facilities shall be subject to site plan approval by the Planning Board.

12.5.3 The permanent preservation of common open space lands and facilities for their intended purpose shall further be legally assured to the satisfaction of the Board of Trustees and the Village Attorney by the filing of appropriate covenants, deed restrictions, easements, or other forms of agreements. The permitted uses within such areas shall be limited to those specifically approved by the Planning Board and shown on the subdivision plat, plus uses customarily incidental and accessory thereto. Subsequent to the approval of the subdivision plat, the uses permitted within privately owned common land areas may be modified only upon approval by the Planning Board, and only upon application by the entity owning such common land area. In each such case, a public hearing shall be held with the same notice as required by law for final subdivision plats. Such modification may permit a use in the same general category of uses previously approved or may allow a change in the location of a particular use from one portion of the common land area to another.

- 12.5.4 Dedication of the common land areas, including any common facilities or improvements thereon, to the common use of all property owners within an average density development shall be recorded directly on the subdivision plat or by reference on the subdivision plat to a declaration of covenants, conditions and restrictions in a separate document recorded or to be recorded at or about the time of the filing of the approved subdivision plat. Such declaration of covenants, conditions and restrictions shall permanently grant to each property owner in common with all other property owners within such average density development an easement in and to the common land areas and the common facilities thereon and of the use thereof.
- 12.5.5 As an alternative to the ownership of the conserved land areas by the property owner(s), and subject to approval by the Board of Trustees, such areas may be conveyed to a recognized conservation organization dedicated to the preservation and maintenance of open space, provided such organization has indicated in writing its agreement to permanently maintain such lands for the purposes intended, provided such organization has shown the ability and resources to maintain such lands, and further provided such organization is acceptable to the Board of Trustees.
- 12.5.6 As another alternative, all or a portion of the conserved land areas may be dedicated to the Village of Wesley Hills provided the Board of Trustees has voted to accept such offer.

12.6 Application Procedure

- 12.6.1 Board of Trustees Authorization: The Planning Board shall refer any proposal for the use of average density to the Board of Trustees for authorization to use this procedure. The Board of Trustees shall report its approval or disapproval of such authorization to the Planning Board within 45 days of the receipt of such referral.

ARTICLE 13 - AMENDMENTS

13.1 General

The Board of Trustees may from time to time on its own motion, on petition, or on recommendation of any board, agency or official of the Village, after public notice and hearing, amend, supplement, repeal or change the regulations and districts established under this Local Law.

13.2 Amendments on Petition

A petition for any amendment of this Local Law shall be made to the Village Clerk and shall describe the proposed changes. For proposed amendments to the Zoning Map, a copy shall be included of the applicable portion of the Official Copy of the Zoning Map, as kept by the Village Clerk, showing existing and proposed zoning, as well as a map drawn to an appropriate scale showing all properties within 500 feet of the periphery of the subject property and any contiguous property of the petitioner in the same ownership.

The petitioner shall be responsible for complying with the requirements as to notice in Section 13.7 below.

13.3 Amendments on Motion

An amendment on motion or an amendment proposed to the Board of Trustees by any board, agency or official of the Village shall contain the information required in Section 13.2 above. The Village Clerk shall be responsible for complying with the requirements as to notice in Section 13.7 below.

13.4 Initial Consideration

On the making of a motion, on receipt of a petition or on receipt of a recommendation of any board, agency or official of the Village for a zoning amendment, the Board of Trustees may decide not to formally consider such amendment.

13.5 Referrals for Review and Report

If any amendment is to be considered by the Board of Trustees, it shall be referred for review and report to the Planning Board, the Village Attorney, the Village Engineer, Building Inspector, Code Inspector and any other board, agency or official of the Village which the Board of Trustees deems appropriate. The Planning Board shall confer with any petitioner and assist such petitioner, where necessary, to place the amendment in the most appropriate form. Such conference and assistance shall not be deemed to constitute any commitment by the Planning Board as to its position on the advisability of the proposed amendment. After said conference, the petitioner shall be allowed to revise his petition and to provide copies of such revision to the Board of Trustees and to any board, agency or official to which the original proposed amendment was referred. The Village Attorney shall report to the Board of Trustees regarding the form of the proposed amendment. The Planning Board shall report to the Board of Trustees regarding the form and the advisability of the proposed amendment. Its report shall analyze the proposed amendment and shall state the Board's reasons for its recommendation, describing any conditions it believes make the amendment advisable or not, and specifically stating whether the amendment would or would not be in furtherance of the purposes of this Local Law. All such boards, agencies and officials shall have 45 days from the date of forwarding, or from the date of revision by the petitioner, whichever is later, to submit reports. Failure of the Planning Board or other board, agency or

officials to report within 45 days shall be construed as approval of the proposed amendment. In no case shall this Section restrict the right of an applicant to come before the Planning Board for an informal discussion and review prior to formal submission.

13.6 Public Hearing

On receipt of the requested reports, and any revised proposed amendment from an application or notification by the petitioner that no revision will be made, the Board of Trustees shall schedule and hold a public hearing on the proposed amendment.

Rev 1-95 13.7 Notice of Hearing

13.7.1 Notice of the public hearing shall be published once in the official newspaper, not less than 10 or more than 30 days prior to the date of the hearing. A copy of the notice, with proof of such mailing, together with proof of notice in the official newspaper, shall be filed in the Village Clerk's office on or before the date of the public hearing.

13.7.2 For all applications for an amendment that changes the district classification of land, the applicant shall submit stamped envelopes addressed to each of the owners of property within 750 feet of the perimeter of the subject property. An affidavit shall be submitted by the applicant declaring that the names and addresses of such adjacent property owners are correct as within the knowledge of the applicant as shown on the latest tax assessment roll. The Village Clerk shall mail copies of the notice of public hearing to all owners of property within 750 feet of the perimeter of the subject property, by regular first-class mail, not less than 10 days or more than 30 days prior to the required hearing. In the event that such amendment changes the district classification of land, there shall be posted, not later than 10 days or more than 30 days prior to the hearing, a notice of the proposed change upon the property to which such change applies, said notice to be visible from each public street abutting such property.

13.8 Procedure in Event of Protest

In accordance with the procedures of Section 7-708 (1) of the Village Law, in the event a protest against such change is signed by the owners of 20 percent or more of the area of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of four members of the Board of Trustees.

13.9 Records

The Village Clerk shall keep record copies of all zoning maps and text sections superseded by any amendment of this Local Law.

13.10 Referral to Adjacent Municipalities and Other Agencies

Not less than 10 days prior to the public hearing, the Village Clerk shall send copies of the proposed amendment and notice of hearing of any amendment affecting property within 500 feet of the boundaries of any state park, or parkway or village or town to the regional state park commission having jurisdiction over such state park or parkway or to the village or town clerk.

13.11 Fees

All petitions for amendment of this Local Law except those recommended by the Board of Trustees, by the Planning Board or other municipal board or agency of the Village, shall be accompanied by a fee in accordance with the Fee Schedule of the Village of Wesley Hills.

ARTICLE 14 - MISCELLANEOUS

14.1 Separability

Should any section, sub-section, paragraph, sentence, clause, provision or phrase of this Local Law be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect any other portion of this Local Law.

14.2 Title

This Local Law adopted by the Village Board of the Village of Wesley Hills on November 13, 1984, is entitled: Zoning Local Law - Village of Wesley Hills, New York, Local Law No. 14, 1984 and amendments thereto.

14.3 Short Title

This Local Law shall be known and may be cited as The Zoning Law of the Village of Wesley Hills.

14.4 Effective Date

This Local Law shall take effect immediately.

14.5 Effect on Building Permits and Building Permit Applications

Except as provided in this section, nothing herein shall require any change in the plans, construction or designated use of a building or structure for which a building permit has been lawfully issued prior to or, under the circumstances noted below, within 60 days after the effective date of this Local Law, provided that the proposed use complies with the use requirements of this Local Law, and further provided that construction shall begin within six months of the date of such permit, the foundation or 15% of the construction valuation shall be completed within one year of the date of such permit, and the entire building or structure shall be completed within two years of the date of such permit.