

## VILLAGE OF ALFRED, NEW YORK ZONING LAW

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Revised: March 1996; November 1996; March 1999; March 2001; July 2002; November 2005; December 2005;  
May 2006; December 2006; December 2007; Date TBD 2014

## VILLAGE OF ALFRED, NEW YORK ZONING LAW

### ARTICLE I General Provisions

#### Section 1.1. Authority for Adoption

The Village Board hereby adopts this Local Law pursuant to the authority described at Section 1. Of Appendix A attached hereto, which Appendix A is hereby incorporated and made a part of this Local Law for all purposes by this reference.

#### Section 1.2. Findings of Fact

The Village Board has heretofore made certain findings, determinations, and declarations relative to the matters set forth in this Local Law, and a copy of the text of such findings, determinations, and declarations is set forth at Section 2 of Appendix A attached hereto.

#### Section 1.3. Purpose & Intent

The Purposes and Legislative Intent underlying the Village Board's passage of this Local Law are set forth at Section 3. of Appendix A attached hereto.

#### Section 1.4. Definition of "Existing Zoning Law," this "Local Law," and "this "Law"

As used in this Local Law, the term "Existing Zoning Law" shall mean and be the Village of Alfred Zoning Ordinance adopted [ \_\_\_\_\_ ], as amended to date.

As used herein, the term this "Local Law" shall mean and be this Local Law No. [ ] of 2014.

As used in Article II of this Local Law, the term "this Law," "this chapter," this "Chapter," "this Zoning Chapter," and "herein" shall mean, be, and refer to the Existing Zoning Law as amended by this Local Law.

#### Section 1.5. Interpretation

The statements of purpose, intent and findings are legislatively adopted along with the formal text of the amendments to the Existing Zoning Law effected by this Local Law. They are intended as a legal guide to the administration and interpretation of this Local Law and shall be treated as legislative history.

This Local Law is intended to supersede any provision of the New York State Village Law that is inconsistent herewith.

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## **ARTICLE ONE-A**

### **Title; Scope, Authority, and Purposes; Severability; Terminology**

#### **Section 90.00 Title**

This Law shall be known and may be cited as "The Village of Alfred Zoning Law."

#### **Section 91.00 Scope, Authority, And Purposes**

This Law regulates the location, design, construction, alteration, occupancy, and use of structures and the use of land in the Village of Alfred, dividing the Village into land use districts. This Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq., and Article VII of the NYS Village Law. Without limiting the generality of the foregoing, the purposes of this Law are to: promote the health, safety and general welfare of the present and future inhabitants of the Village; guard against loss of life and damage to property due to flooding through protection of natural drainage features; preserve features of historical significance; encourage the protection of the Village's environmental resources, including without limitation the protection of the quantity and quality of ground and surface water supplies; encourage the preservation of the scenic and other natural assets of the Village, and of the small-town character of the community, and to discourage development that is inconsistent with such preservation; protect property values; regulate location and use of buildings and the uses of land within each district with regard to residential, commercial, and other purposes; lessen congestion in streets; secure safety from fire, flood, panic, and other dangers; provide adequate light and air and acceptable noise levels; prevent overcrowding of land and avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewage disposal, schools, parks and other public requirements; and establish districts in which regulations concerning the size of buildings and other structures, the percentage of lots that may be covered, the size of yards, and the use of buildings, structures and land for trade, commerce, residence, and other purposes are restricted and regulated as hereinafter provided. This Law is enacted in accordance with the Village's Comprehensive Plan.

#### **Section 92.00 Other Laws; Special Agreements**

The provisions of this Law shall be considered the minimum requirements for the promotion of the public health, safety, convenience, comfort, and general welfare. It is not intended by this Law to interfere with or abrogate or annul any easement, covenant, or other agreement between private parties; provided, however, that when this Law imposes a greater restriction on the use of structures or land or on the heights of structures, or requires larger open spaces, or imposes any higher standards than are imposed or required by any easement, covenant, or agreement, the provisions of this Law shall control. Where the requirements of this Law differ from the requirements of another applicable statute, law, ordinance, rule, or regulation, the more restrictive standard shall govern, unless this Law specifically states otherwise.

#### **Section 93.00 Severability**

If any word, phrase, sentence, part, section, subsection, or other portion of this Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and

the Village Board hereby declares that it would have enacted this Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

**Section 94.00 Terminology**

Except where specifically defined or otherwise specifically provided herein, all words used in this Law shall carry their customary dictionary meanings. For purposes hereof, certain terms and words shall be interpreted as follows: words used in the present tense shall include the future; the plural usage includes the singular, and the singular the plural; the word "shall" is mandatory; the word "may" is permissive; the word "building" includes the word "structure," and both "building" and "structure" include any part thereof; the word "lot" includes the words "plot" and "parcel"; and the words "occupied" and "used" shall be interpreted as though followed by the words "or intended, arranged, or designed to be used or occupied." Where the precise meaning of a word is in doubt by any board or official, the Zoning Board of Appeals shall make a determination in accordance with the purpose and intent of this Law and the Comprehensive Plan.

## ARTICLE ONE

### Zoning Districts of the Village of Alfred; Any Use Not Specifically Permitted is Prohibited

#### Section 100.00 Establishment of Districts

For the purpose of promoting the public health, safety and general welfare of the Village of Alfred, the Village is hereby divided into the following types of districts:

- A. R-1 One-Family Residence District
- B. R-2 Two-Family Residence District
- C. R-3 Multi-Family Residence District
- D. B-1 Central Business District
- E. B-2 Business District
- F. R-D Research and Development District
- G. E-1 Educational District

#### Section 101.00 Adoption of Zoning Map

~~Said districts are bounded as shown on an annotated map entitled "Zoning Map of the Village of Alfred," adopted by resolution of the Village Board of Trustees and certified by the Village Clerk on October 2003. The annotated map is hereby made a part of this local law. The boundaries of the zoning districts are shown on the map entitled "Zoning Map of the Village of Alfred," which is hereby declared to be a part of this Law. The official Zoning Map shall be kept on file in the office of the Village Clerk. Unofficial reductions of this map shall be for reference purposes only. Changes may be made in district boundaries only by a zoning amendment adopted by the Village Board. Any such changes shall be noted by the Village Clerk on the official Zoning Map promptly after the Village Board adopts such an amendment. In the event of a conflict between the Zoning Map in the Village Clerk's office and the specific local law adopting a Zoning Map amendment, the specific local law shall be the controlling authority as to the current zoning status of lands, structures and uses in the Village.~~

#### Section 102.00 Interpretation of District Boundaries

- A. Boundaries indicated as approximately following the center lines of streets or alleys shall be construed as following such center lines.
- B. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following village limits shall be construed as following such village limits.
- D. Boundaries indicated as approximately following the center line of a creek or a river shall be construed as following such center line.
- E. In situations other than those listed in Subsections 102.00 A-D above, the Zoning Board of Appeals shall interpret district boundaries.

#### Section 103.00 Application of Regulations; Any Use Not Specifically Permitted is Prohibited

The regulations set by this local law within each district shall apply uniformly to each class or kind of structure or land, except as herein provided:

A. No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located, and no building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building is located, and what is specified within this ordinance as to dimensional and similar area requirements is further limited and qualified by any restrictions imposed by any applicable additional requirements, standards, and/or regulations contained in this Law.

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Any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district.

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A-B. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the regulations which apply to the district in which it is located.

B-C. No part of a yard or off-street parking spaces required for or in connection with any building for the purpose of complying with this local law shall be included as part of a yard or off-street parking space for any other building.

C-D. No yard or lot existing as of the effective date of this local law shall be reduced in dimension of area below the minimum requirements set forth herein. Yards or lots created after the effective date of this local law shall meet or exceed the minimum requirements established by this local law.

D-E. When a district line divides a lot, the entire area of said lot shall be considered to be located in the more restrictive district.

| ~~3\_VILLAGE OF ALFRED NY ZONING LAW REV. 2006~~

| **Section 104.00 ~~Zoning Map~~[Intentionally omitted.]**

| 9\_VILLAGE OF ALFRED NY ZONING LAW REV. 2006

**Section 105.00 Schedule of Lot and Building Requirements**

Section 105.00 contains lot and building requirements for all districts. Requirements for any particular use extend to all districts in which the use is permitted.

PRIMARY DISTRICT	USES	AREA OF LOT (sq. ft)	WIDTH OF LOT (ft)	DISTANCE OF PRINCIPAL BLDG. FROM LOT LINE (ft.)			DISTANCE OF ACCESSORY BLDG. FROM LOT LINE (ft.) <sup>*(1)</sup>			MAXIMUM BLDG. HEIGHT (ft.)		MAXIMUM LOT COVERAGE OF BLDGS. (%)	MAXIMUM COVERAGE OF REAR OR SIDE YARD (%)	ALSO ALLOWED IN THE FOLLOWING DISTRICTS WITH SAME LOT & BLDG. DIMENSIONS REQUIRED
				Front	Side	Rear	Side	Rear	Principal	Accessory				
R-1	Single family	12,000	100	25	10	30	10	10	10	35	16	35	25	R-2, R-3, B-1, B-2
	Churches	24,000	200	25	20	30	20	10	10	40	16	40	25	R-2, R-3, B-1, B-2
	Public Parks	24,000	100	NA	NA	NA	NA	NA	NA	NA	16	NA	10 of total area	R-2, R-3, B-1, B-2
	Schools <sup>*(2)</sup>	24,000	200	25	20	30	20	10	10	35	16	40	25	R-2, R-3, B-1, B-2
	Professional offices <sup>*(2)</sup>	12,000	100	25	10	30	10	10	10	35	16	35	25	R-2, R-3, B-1, B-2
R-2	Two family dwellings	12,000	100	25	10	30	10	10	10	35	16	35	25	R-3, B-1, B-2
	Tourist Homes & B&B	12,000	100	25	10	30	10	10	10	35	16	35	25	R-3, B-1, B-2
R-3	Multiple dwellings	20,000	100 <sup>*(3)</sup>	25	25	30	10	10	10	35	16	30	25	B-1, B-2
	Boarding houses	20,000	100	25	25	30	10	10	10	35	16	30	25	B-1, B-2
	Professional offices	12,000	100	25	10	30	10	10	10	35	16	30	25	B-1, B-2
B-1	Retail businesses <sup>*(4)</sup> , Personal service, Social clubs & Lodges, Bus stations, Restaurants, Banks, Offices	NA	NA	NA	NA	NA	NA	NA	NA	35	16	80	25	B-2
B-2	B-1 uses Bars & Taverns	8,000	100	25	10	30	10	10	10	35	16	35	25	
E-1	Educational use <sup>*(5)</sup>	NA	NA	NA	NA	NA	NA	NA	NA	40	16	NA	NA	
RD-1	Research & Development	43,560	200	25	25	25	25	25	25	35	16	25	25	

All requirements are minimum unless otherwise specified. <sup>\*(1)</sup> No accessory buildings in the front yard. <sup>\*(2)</sup> Special use permit required. <sup>\*(3)</sup> See Sec. 303 for exact requirements. <sup>\*(4)</sup> Plans must be approved by the Planning Board. <sup>\*(5)</sup> When an E-1 property abuts property in another district, it shall adhere in all respects to the requirements of that district on this chart.

## ARTICLE TWO

### District Regulations: Any Use Not Specifically Permitted is Prohibited

Any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district.

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#### Section 200.00 R-1 One-Family Residence District

##### A. Permitted Uses

1. One-family dwellings, occupied by one family.
2. Churches or similar places of worship, and parish houses.
3. Public parks, playgrounds and recreational areas.

##### B. Permitted Accessory Uses

1. Home Occupations (Minor).
2. Private garages.
3. Domestic pet shelters.
4. Residential storage structures.
5. Sale of farm, garden or wood lot produce raised by the seller on the premises, providing there is no display or advertising on the premises, and providing that no tents or stands shall be erected from which such produce is sold.

##### C. Special Permit Uses

1. Private swimming pools. (see section 302 B)
2. Nonprofit public or private schools.
3. Home Occupations (Major).
4. Bed and Breakfast or Tourist Home.
5. Large Dwelling Re-use.
6. College-or university-owned or leased buildings operated for college or university administrative, educational, or residential uses, including student housing.

##### D. Prohibited Uses

- ~~1. Boarding or rooming houses.~~
- ~~2. Mobile homes.~~
- ~~3. Fraternities, sororities, and chapter or membership association houses.~~
- ~~4. Social clubs and lodges.~~

Any use not specifically set forth above in this Section 200.00 as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within R-1 One-Family Residence Districts. Without limiting the generality of the foregoing, Explicitly Prohibited Uses, boarding or rooming houses, mobile homes, fraternities, sororities, and chapter or membership

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association houses, and social clubs and lodges shall be prohibited within R-1 One-Family Residence Districts.

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**Section 201.00 R-2 Two-Family Residence District**

A. Permitted Uses

- 1. Any use permitted in the R-1 District.
- 2. Two-family dwellings, each dwelling unit occupied by one family.
- ~~2.3. Professional offices or commercial studios for architects, artists, attorneys, certified public accountants, dentists, engineers, musicians, physicians, real estate brokers, and teachers.~~

B. Permitted Accessory Uses

Any accessory use permitted in the R-1 District.

C. Special Permit Uses

- 1. Any special permit use permitted in the R-1 District.
- 2. Any changes from a one-family dwelling unit to a two-family dwelling shall require a zoning compliance permit.

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D. Prohibited Uses

- ~~1. Mobile homes.~~
- ~~2. Boarding or rooming houses.~~
- ~~3. Fraternities, sororities, and chapter or membership association houses.~~
- ~~4. Social clubs and lodges.~~

Any use not specifically set forth above in this Section 201.00 above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within R-2 Two-Family Residence Districts. Without limiting the generality of the foregoing, Explicitly Prohibited Uses, boarding or rooming houses, mobile homes, fraternities, sororities, and chapter or membership association houses, and social clubs and lodges shall be prohibited within R-2 Two-Family Residence Districts.

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**Section 202.00 R-3 Multi-Family Residence District**

A. Permitted Uses

- 1. Any use permitted in the R-2 District.
- 2. Multi-family dwellings, each dwelling unit of which is occupied by one family and which comply with the provisions of Section 303.00B.
- ~~3. Boarding houses and rooming houses which comply with the provisions of Section 303.00.~~
- ~~4. Professional offices or commercial studios for architects, artists, attorneys, certified public accountants, dentists, engineers, musicians, physicians, real estate brokers, and teachers.~~

B. Permitted Accessory Uses

Any accessory use permitted in the R-2 District.

C. Special Permit Uses

1. Any special permit use permitted in the R-2 District.
2. Any changes from a one or two-family dwelling to a multi-family dwelling shall require a zoning compliance permit.

D. Prohibited Uses

- ~~1. Mobile homes.~~
- ~~2. Fraternalities, sororities, and chapter or membership association houses.~~
- ~~3. Social clubs and lodges.~~

Any use not specifically set forth above in this Section 202.00 above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within R-3 Multi-Family Residence Districts. Without limiting the generality of the foregoing, Explicitly Prohibited Uses, mobile homes, fraternalities, sororities, and chapter or membership association houses, and social clubs and lodges shall be prohibited within R-3 Multi-Family Residence Districts.

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**Section 203.00 B-1 Central Business District**

Off-street parking regulations described in Section 304.00 do not apply to businesses within this district.

A. Permitted Uses

1. Any use permitted in the R-3 District.
2. Establishments for retail business and personal service.
3. Banks and other financial institutions.
- ~~4. Professional and business offices.~~
- ~~5.4.~~ Restaurants.
- ~~6.5.~~ Social clubs and lodges.
6. Bus passenger stations.
7. Bars and taverns.
8. Auditoria and theaters.
- ~~7.9.~~ Amusement centers

B. Permitted Accessory Uses

Any accessory use permitted in the R-3 District.

C. Special Permit Uses

1. Any special permit use permitted in the R-3 District.
2. Any changes from a residential use to a business use shall require a zoning compliance permit.

D. Prohibited Uses

- ~~1. Auditoria and theaters.~~
- ~~2. Amusement centers.~~
- ~~3. Bars and taverns.~~
- ~~4. Drive-in or drive-thru eating and drinking establishments.~~
- ~~5. Mobile homes.~~
- ~~6. Mortuaries.~~
- ~~7. Establishments for automobile sales or repairs.~~
- ~~8. Service stations.~~
- ~~9. Warehouses and wholesale establishments.~~
- ~~10. Fraternities, sororities, and chapter or membership association houses.~~

Any use not specifically set forth above in this Section 203.00 above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within B-1 Central Business Districts. Without limiting the generality of the foregoing, Explicitly Prohibited Uses, auditoria and theaters, amusement centers, bars and taverns, drive-in and drive-through eating and drinking establishments, mobile homes, mortuaries, establishments for automobile sales or repairs, service stations, warehouses and wholesale establishments shall be prohibited within B-1 Central Business Districts.

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**Section 204.00 B-2 Business District**

A. Permitted Uses

- 1. Any use permitted in the B-1 District.
- 2. Bars and taverns, provided that there is no live entertainment conducted on the premises, and further provided that the principal building shall be located more than fifty (50) feet from any lot in any R District.

B. Permitted Accessory Uses

Any accessory use permitted in the B-1 District.

C. Special Permit Uses

- 1. Any special permit use permitted in the B-1 District.
- 2. Any changes from a residential use to a business use shall require a zoning compliance permit.

D. Prohibited Uses

- ~~1. Drive-in or drive-thru eating and drinking establishments.~~
- ~~2. Service stations.~~
- ~~3. Mobile homes.~~
- ~~4. Fraternities, sororities, and chapter or membership association houses.~~

Any use not specifically set forth above in this Section 204.00 above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within B-2 Business Districts. Without limiting the generality of the foregoing, Explicitly Prohibited Uses, drive-in and drive-through eating and drinking establishments, mobile homes and service stations shall be prohibited within B-2 Business Districts.

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## Section 205.00 Research/Development District

### A. Permitted Uses

1. Facilities for research and/or development.
2. Offices.
3. Storage buildings.
4. Garages.

### B. General Standards

1. No outdoor storage or display of products or materials and no outdoor manufacturing or servicing of any type shall be permitted. All on-site activities shall be conducted entirely within a building.
2. Off-street loading areas shall be screened from general off-site view by buildings, walls, fences, berms or plantings.
3. Access drives shall be at least twenty-five (25) feet wide. There shall be no parking in access drives.
4. All water and sewer facilities shall be designed and installed according to village standards and be approved by the Department of Public Works or the Director of the Water/Sewer facility.
5. Storm water drainage systems within the district shall be designed so that the rate of run-off from any site during a 100-year storm will not exceed that rate which would have occurred prior to construction. The calculation of such rates and the design of the drainage system shall be subject to review.
6. Signs shall conform to Section 305.00 A, B, C, and D3.

### C. Site Plan Directives

1. The practice of soil stripping shall be limited to incidental filling of areas within the district to bring them up to grade, except insofar as is necessary to excavate for cellars and other structures.
2. All areas of the plot not occupied by buildings, parking, driveways, or walkways shall be landscaped with lawn, trees, shrubs, or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises, and the nature and condition of the terrain.
3. A required landscaping buffer area of twenty-five (25) feet shall be provided along all lot lines.
4. Access by commercial vehicles shall not be allowed from residential streets. A projection of expected vehicular use of village streets, including estimates of traffic volumes, shall be submitted to the Planning Board as part of the Site Plan Review process.
5. Placement of off-street parking facilities shall be determined by the Planning Board as part of the Site Plan Review process.

### D. Performance Standards

No research/development 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, Zoning or Building Permit.

E. Purposes

Consistent with the general purposes of this Village Law, these standards shall set specific controls on potentially objectionable external aspects of research/development uses so as to:

1. Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor, or other atmospheric pollutant outside the building in which the use is conducted.
2. Control noise perceptible beyond the boundaries of the site of use.
3. Prevent the dissemination of vibration, heat, or electromagnetic interference beyond the immediate site.
4. Prevent physical hazard by reason of fire, explosion, radiation, or any similar cause.
5. Regulate and control the generation and flow of vehicular traffic so as to prevent hazardous conditions, traffic congestion, and excessive noise in the streets.

F. Standards

1. No activities shall be permitted that increase the hazards to neighboring properties by reason of fire, explosion, radiation or any similar cause.
2. No land use shall be permitted which emits any discernible odor outside the building in which the use is conducted.
3. No use shall be permitted which will cause any dissemination whatsoever of toxic, radioactive or noxious matter outside the building in which the use is conducted.
4. There shall be no measurable emission of dust or other particulate matter not related to combustion of indirect heating.
5. 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.
6. There shall be no noise level greater than 55 db. produced, as measured at the boundaries of the lot. There shall be no perceptible noise produced as measured at lot boundaries between 7 PM and 7 AM daily.
7. There shall be no discharge or any effluent whatsoever into any sanitary sewer system except only in accordance with the rules of and under the control of public body controlling such sewer system. Any chemical or industrial waste which places undue loads, as determined by the director of the municipal sewage plant, shall not be discharged into any municipal system unless adequately pre-tested by the research/development facility.
8. 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. What smoke is excessive shall be determined according to the Ringelmann's Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines, when the shade or appearances of such smoke is darker than N. 1 on said Ringelmann Smoke Chart.
9. Water use by the facility shall not endanger existing wells in quality and quantity. Curtailment of water use may be mandated by the director of the municipal water/sewer plant.
10. There shall be no glare, objectionable high light levels, or vibration perceptible beyond the lot lines whereon such use is conducted.
11. If upon petition by residents of the village, it is found by the Planning Board that traffic congestion, noise, or hazards are being created by the research/development use, the Planning Board may require that traffic patterns be regulated according to a plan determined by the Planning Board. This may include regulation of hours of vehicular use to and from the site.

G. Procedure

1. In the case of an 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.
2. 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.
3. During the course of Site Plan Review, the Planning Board will determine if the applicant's proposal will conform to the performance standards.

H. Enforcement

If, in the judgment of the designated enforcement officer, there is a violation of the performance standards:

1. The enforcement officer shall give written notice, by registered or certified mail, with a copy to the Village Board, to the owner and tenants of the property upon which the alleged violation occurs, describing the particulars of the alleged violation and the reasons it is believed that there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the enforcement officer within ten (10) working days. The notice shall state, and it is hereby declared, that failure to reply, or to correct the alleged violation to the satisfaction of the enforcement officer within the time limit, constitutes admission of a violation of this ordinance. The notice shall further state that, upon request of those to whom it is directed, technical determinations of the nature and extent of the violation as alleged will be made, and that, if violation as alleged is found, costs of the determinations will be charged against those responsible, in addition to such other penalties as may be appropriate.
2. If, within the time limit set, there is no reply, but the alleged violation is corrected to the satisfaction of the enforcement officer, he shall note "Violation Corrected" on his copy of the notice and shall retain it among his records.
3. If there is no reply within the time limit set (thus establishing admission of a violation of this ordinance) and the alleged violation is not corrected to the satisfaction of the enforcement officer within the time limit set, he shall proceed to take action.

I. Prohibited Uses

- ~~1. Bed and Breakfast or Tourist Home.~~
- ~~2. Fraternities, sororities, and chapter or membership association houses.~~
- ~~3. Large Dwelling Re-use.~~
- ~~4. Social clubs and lodges.~~

Any use not specifically set forth above in this Section 205.00 above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within Research/Development Districts. Without limiting the generality of the foregoing, Explicitly Prohibited Uses, bed and breakfasts and tourist homes, large dwelling re-use, fraternities, sororities, chapter or

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membership association houses, and social clubs and lodges shall be prohibited within Research/Development Districts.

**Section 206.00 Educational District E-1**

A. Permitted Uses

- 1. Classrooms, laboratories (when used in conjunction with classrooms), dwellings, libraries, studies, galleries, food service and recreational facilities for students enrolled in scheduled educational sessions of a New York State licensed educational institution, and for employees of such institutions.
- 2. Utility buildings (such as power plants, heat plants, garages) for campus use.
- 3. Offices for employees of the educational institution.
- 4. Facilities for student extracurricular activities.
- 5. Social clubs and lodges, fraternities, sororities, and chapter or membership association houses.

B. Special Permit Uses

- 1. Separate research, production, and laboratory facilities for employees of, and students enrolled in, the educational institution.
- 2. These facilities shall meet the standards of section 205.00.
- 3. Bed and Breakfast or Tourist Home.

~~4. Fraternities, sororities, and chapter or membership association houses.~~

C. District Regulations

The zoning limitation of one principal building per lot (see definitions in Article 7 for definition of "lot") does not apply in this district.

D. Prohibited Uses

Large Dwelling Re-use Any use not specifically set forth above in this Section 206.00 above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within E-1 Educational Districts. Without limiting the generality of the foregoing, Explicitly Prohibited Uses and large dwelling re-use shall be prohibited within E-1 Educational Districts.

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**Section 207.00 Overlay Zone**

A. Permitted Uses

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1. Rooming, Boarding, Fraternity, Sorority, Chapter, or Membership Houses: This village zone includes portions of two pre-existing zones: B-1 and B-2. Its boundary was defined in accordance with the following considerations:
    - a Relative proximity to Alfred University and Alfred State College campus property;
    - b Consistent with existing zones of high use-intensity;
    - c Having no adjacent borders with R-1 zones or single-family structures;
    - d Preserving neighborhood character by controlling the extent of parking and traffic congestion, population numbers, noise, and disturbance.
  2. Occupancy Levels shall be determined proportional to the structure's size as follows and must be approved by the village's Code Enforcement Officer:
    - a 1800 to 2500 square feet, up to seven (7) residents
    - b 2501 to 3000 square feet, up to seven (8) residents
    - c 3001 to 3500 square feet, up to seven (9) residents
    - d 3501 to 4000 square feet, up to seven (10) residents
    - e Over 4001 square feet, up to seven (12) residents
- B. Prohibited Uses
- C. Any use not specifically set forth above in this Section 207.00 above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within the Overlay Zone. Without limiting the generality of the foregoing, Explicitly Prohibited Uses shall be prohibited within the Overlay Zone.

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### ARTICLE THREE Supplementary Regulations

#### Section 300.00 ~~Nonconformance~~ Non-Conforming Uses, Structures; Pre-Existing, Legal Non-Conforming Natural Gas And/Or Petroleum Extraction Activities

##### A. Continuance. Subject always to subsection 300.00 E hereof

1. The lawful use of land or buildings existing at the date of adoption of this local law which does not conform to the regulations specified by this local law for the district in which the land or building is located may continue provided that:
  - a. No nonconforming lot shall be further reduced in size.
  - b. No nonconforming building or use shall be enlarged, extended, or increased unless such enlargement reduces the degree of nonconformance.
2. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification or whenever the text of this local law shall be changed with respect to the uses permitted in a district, the foregoing provisions shall apply to any nonconforming use therein.

##### B. Discontinuance. Subject always to subsection 300.00 E hereof

1. In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof has been discontinued for a period of six (6) months, the nonconforming use shall not thereafter be reestablished, and all fixture uses shall be in conformity with the provisions of this local law. Discontinuance of nonconforming use for a period of six (6) months is construed to be an abandonment of the nonconforming use, regardless of any intent not to abandon or to resume active operation. If abandonment is evident by the removal of buildings, structures, machinery, equipment, or other evidences of the nonconforming use of the land and premises, the abandonment shall be considered to be completed and all rights to reestablish such nonconforming use shall terminate.

##### C. Nonconforming ~~Buildings~~ Structures. Subject always to subsection 300.00 E hereof

1. No building damaged by fire or other cause to the extent of more than seventy-five (75) percent of its true value shall be repaired or rebuilt except in conformity with the regulations of this local law.
2. A nonconforming building may not be externally reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty (50) percent of the true value of the building unless the building is changed to conform to the requirements of this local law.
3. Unsafe structures, or any structure or portion of that structure declared unsafe by a proper authority, but not ordered to be demolished, may be restored to a safe condition.

4. Any building which is nonconforming according to the regulations in the Schedule of this local law may be altered or changed within the existing frame of the said building, but any additions shall conform to the regulations in the Schedule of this local law.

D. Nonconforming Uses. Subject always to subsection 300.00 E hereof

1. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this local law shall not be deemed the extension of such nonconforming use.

2. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A non-conforming use may be changed to a use of more restrictive classification; if changed, such use may not revert to a less restrictive classification.

E. Pre-existing, legal non-conforming Natural Gas And/Or Petroleum Extraction Activities

1.

a. If, as of the effective date of Local Law [ ] of 2014 substantive Natural Gas and/or Petroleum Extraction Activities are occurring in the Village, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation the possession of valid, non-revoked permits for all matters for which permits are required, and including compliance with each, any, and all permit conditions, as are or may be required by the New York State Department of Environmental Conservation ("DEC") and/or all other regulating local, state, and federal governments, bureaus, or agencies, then and only then such Activity by or on behalf of the holder of the permit(s) shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of Clauses 2. and 3. of this subsection 300.00 E.

b. Natural Gas and/or Petroleum Extraction Activities that are being conducted in the Village as of the effective date of Local Law [ ] of 2014 and which do not qualify for treatment under the preceding clause 1.a. of this subsection 300.00 E. shall not be grandfathered (or be permitted to continue or deemed lawful pre-existing uses).

2. Upon the depletion, closing, or reclamation of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of Clause 1.a. of this subsection 300.00 E. or upon any other substantive cessation of Natural Gas and/or Petroleum Extraction Activities for a period of more than twelve (12) months, then and in either of such events the pre-existing and/or non-conforming use status (and any related 'grandfathering rights') of or relating to such Activity shall terminate.

2-3. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by Clause 1 a. of this subsection 300.00 E. is not intended, and shall not be construed, to authorize or grandfather any Natural Gas and/or Petroleum Extraction Activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion or attempted or purported expansion of such well, whether as to its production, depth, horizon(s) or otherwise, shall not be grandfathered under Clause 1.a. of this subsection 300.00 E.

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**Section 301.00 Explicitly Prohibited Uses: Prohibition Against Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes**

The following uses are prohibited within the Village of Alfred. Without limiting the generality of the statements elsewhere in this Law that any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any particular zoning district shall be expressly prohibited in that district, the following uses and activities are hereby expressly and explicitly prohibited in each and every zoning district within the Village, and no building or structure shall be created, altered or erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:

- ~~A. All uses of land, buildings, and structures and all industrial processes that may be injurious to health by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration, or similar conditions or substances, except where they are permitted subject to the securing of a permit which incurs conditions, restrictions and safeguards deemed necessary to protect the health, safety, or general welfare of the community. Land Application Facility.~~
- B. Manufacture of explosives.
- C. Manufacture of poisonous gases.
- D. All types of illumination which interfere with the vision of motor vehicle operators or which shine directly on residential property in any R district.
- E. Illumination which flashes, moves or simulates movement.
- F. Any temporary building or structure in the Historic District except those structures incidental to permitted construction projects. Any temporary building so used must be removed within thirty (30) days after the construction project is completed.
- G. Access to or from any R-3 District through any private land in any R-1 or R-2 District.
- H. Dumping or accumulation of garbage, junk or refuse.
- I. Fences or walls, other than walls of a building, which obstruct the vision of motor vehicle operators.
- J. Storage in a front yard of any vehicle (land, air) that is not currently registered does not have a valid inspection sticker or would be in violation of a motor vehicle/traffic law if operated on a public street for a period of more than fifteen (15) days in any consecutive three (3) month period.
- K. Junk yards for the storage of vehicles, trucks, machinery, and parts.
- L. All billboards, signboards or off-promise advertising signs or devices not expressly related to the business conducted on the premises or otherwise specifically permitted by this local law.
- M. No wind towers or energy-creating devices attached to a tower are permitted.



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## Section 302.00 Uses Requiring Special Permits

### A. Fencing Requirements

1. Before any fence greater than four (4) feet in height, ~~whether temporary or permanent in nature~~ **excluding garden fences**, shall be erected within the Village, both a Zoning Compliance Permit and a Special Permit shall be obtained. The request for a Special Permit shall be accompanied by a site plan which shows the height and location of the proposed fence in relation to all other structures and buildings on the adjoining properties, and in relation to all adjoining streets, lot lines and yards.

### B. Swimming Pool Requirements

1. Private swimming pools may be installed in residential districts for the private use of the owners or occupants of a dwelling and their families and guests. Both a Zoning Compliance Permit and a Swimming Pool Permit shall be obtained prior to installation, as provided in Sections 401.00 A and F.
2. For all required permits to be issued, the swimming pool must meet the following conditions and requirements:
  - a. The pool is installed in the rear yard of the premises and is not located closer than ten (10) feet to any lot line of the property.
  - b. When enclosed within a structure attached to the principal structure, the swimming pool shall be a part of the principal structure and shall comply with the requirements for a principal structure.
  - c. The swimming pool, open or enclosed and not attached to the principal structure, shall be considered an accessory structure and shall comply with the requirements for an accessory structure. All facilities and fencing serving the swimming pool shall be considered a part of it.
  - d. A fence at least six (6) feet in height but not over ten (10) feet in height shall be erected and maintained enclosing the entire portion of the premises upon which the pool shall be installed and entirely surrounding the area in which the pool is located. No fences for the pool area may extend beyond the rear building lines or the setback lines of the subject property or of the adjoining property.
  - e. Every gate or other opening in the fence enclosing the pool, except an opening through the dwelling or other main building of the premises, shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at the pool.
  - f. If the water for the pool is supplied from a private well, there shall be no cross-connection with the public water supply system.

- g. If the water for the pool is supplied from the public water supply system, the inlet shall be above the overflow level of the pool.
- h. There shall be sufficient source of water supply to accommodate the pool without detriment to normal water consumption requirements, and there shall be proper and adequate water supply connections.
- i. The proposed drainage of the pool shall be adequate and shall not interfere with the existing sewage and drainage facilities or with the property of others or with public streets.
- j. If the pool is abandoned, the owner shall arrange to remove the depression and return the surface of the ground to the original grade and to approximately the same condition as before the pool was constructed.

#### C. Cluster Residential Development Requirements

Cluster Residential Developments of one-family dwellings are permitted with a Special Use Permit in any R District provided that:

1. The lot area difference between the minimum lot size shown on the Schedule and the minimum lot size permitted in a Cluster Development shall be set aside as open space.
2. The developer shall show all lands not subdivided as permanent open space. In no case shall such lands be less than twenty-five (25) percent of the total project area. All such land shall be suitable, in the opinion of the Planning Board, for the intended use.
3. The developer shall have received from the Planning Board prior to application for a Special Use Permit, conditional approval of the proposed design and arrangement of streets, lots, open spaces and other project elements.
4. The requirements of this local law, including those pertaining to density, minimum lot area and widths, minimum side and rear side yard areas, and maximum lot coverage areas as specified in the Schedule of this local law, shall apply to all Cluster Developments.

#### D. Home Occupation Requirements

1. Purpose -- The provisions of this section are intended to accommodate limited home occupational uses that are beneficial to the general community as well as home residents. However, the priority concern is that Home Occupations be compatible with the peace and quiet of the Village of Alfred and that such uses be subordinate to the right of surrounding residents to enjoy the use of their property for residential purposes.
2. Permits Required:
  - a. Home Occupations shall be of two types: Minor and Major.
    - (1) A Minor Home Occupation may be conducted without a permit or specific approval, subject to the standards set forth herein.

- (2) A Major Home Occupation may be conducted only after approval of an application for a Special Use Permit. The Planning Board may grant a Special Use Permit for a Major Home Occupation if it is determined that:
    - (a) Such application conforms to the standards and provisions for Major Home Occupations as set forth in this Section; and
    - (b) Such application is evaluated by the Planning Board and presented in a public hearing according to procedures set forth in Article 6: Site Development Plan Review; and
    - (c) Such Home Occupation will not cause a significant adverse impact on the residential character of the premises or neighborhood.
  - b. Special Use Permits for Major Home Occupations shall be valid for a twenty-four (24) month period from the date of issuance and shall be renewed bi-annually subject to a thirty (30)-day grace period.
  - c. The Special Use Permit shall expire when the Home Occupation changes or the property is sold.
  - d. Special Use Permits for Major Home Occupations may be renewed only following an on-site inspection by the Code Enforcement Officer, who shall determine that all conditions of the original Special Use Permit are being adhered to. Any proposed changes in the operation of the Home Occupation shall require application for a new Special Use Permit.
3. Violations -- If the Code Enforcement Officer determines that the operation of a Minor or Major Home Occupation is in violation of any provision of this Section or of the Special Use Permit, the Special Use Permit for such activity shall be suspended or revoked and the Home Occupation shall cease upon such ruling.
4. General Standards for Home Occupation -- The following regulations shall apply to all Home Occupations and shall be considered by the Planning Board in its determination whether to issue a Special Use Permit.
  - a. New construction or exterior modification of a dwelling unit for the accommodation of a Home Occupation shall be permitted in strict accordance with the intent of this law.
  - b. One or more existing accessory structures may be used for a Home Occupation provided that the use does not change the residential character of the area.
  - c. New construction or exterior modification of existing accessory buildings for the accommodation of a Home Occupation shall be permitted in strict accordance with the intent of this law.
  - d. There shall be no outdoor storage or display of stock-in-trade, materials or equipment used in a Home Occupation.

- e. No activity shall be allowed that interferes with data, audio or visual transmission or reception or that causes fluctuations in line voltage outside the dwelling unit or accessory building.
  - f. No offensive noise, vibration, smoke, dust, odors, heat, light or glare shall be produced by the Home Occupation.
  - g. In the event that the Home Occupation involves music or dance instruction, such use shall be permitted only in a detached, one-family dwelling or an accessory building.
  - h. The sale of produce and consumer goods shall be prohibited except for the sale of products or goods produced or fabricated on the premises as a result of the Home Occupation. However, incidental sales to clients, or mail or telephone sales to off-site customers, may be made in connection with a Home Occupation. Retail establishments, such as stores with an inventory of goods regularly offered for sale, are not to be considered Home Occupations.
  - i. The presence of clients on the premises shall be restricted to the hours of 8 AM through 9 PM.
  - j. For purposes of the Home Occupation Law, all members of the same family shall be considered one client.
  - k. The applicant must show that the Home Occupation will not change the character of the neighborhood in which it is located.
5. Standards for Minor Home Occupations:

The following regulations shall apply to all Minor Home Occupations:

- a. A Minor Home Occupation may be conducted within a dwelling unit, one or more accessory buildings, or a combination of these structures.
- b. A Minor Home Occupation shall be conducted entirely within completely enclosed buildings.
- c. More than one Home Occupation may be permitted per dwelling unit. However, every Home Occupation conducted within a single dwelling unit must conform to the standards set forth in this Section, and the combined impacts of multiple Home Occupations conducted at the same time on the same premises must be within the standards described herein.
- d. Only persons residing on the premises shall be employed in a Minor Home Occupation.
- e. A Minor Home Occupation shall be incidental to the use of the dwelling unit and its lot for residential purposes.
- f. An accessory building used for a Minor Home Occupation may be dedicated in its entirety to this use.

- g. There shall be no advertising, display, signs or other indications of a Minor Home Occupation on the premises.
- h. A Minor Home Occupation shall not generate the need for additional parking.

6. ~~Permitted Examples of Potentially Allowable~~ Minor Home Occupations:

~~Permitted Minor Home Occupations include, but are not limited to, Subject always to the various requirements and standards set forth herein, vocations which may potentially qualify for 'minor home occupation' status include~~ the following:

- a. Private office for professional and other consulting services such as: an accountant; architect; interior designer; landscape architect, draftsman or landscaper; broker or financial planner; computer programmer or word processor; engineer; graphic designer; land surveyor; lawyer; therapist or other health care professionals; insurance agent; clergy member; traveling salesperson or manufacturer's representative. All meetings with clients shall be by appointment only, and only one client shall be on the premises at any given time.
- b. Workshop or studio for an artist, artisan, photographer, writer, composer, dressmaker or tailor.
- c. Instruction or tutoring to no more than one (1) pupil at a time.
- d. Small appliance, television and computer repair.
- e. Contracting tradespersons such as a carpenter, electrician or plumber.
- f. Childcare of up to three (3) children, in addition to the immediate family members, provided that all county, state and federal requirements are satisfied.
- g. A beauty parlor or barbershop with no more than one (1) chair.
- h. ~~Other similar uses as classified by the Zoning Board of Appeals pursuant to paragraph 11 of this Home Occupation Law.~~

7. ~~Prohibited Uses That In Any Event Are Ineligible To Qualify As~~ Minor Home Occupations:

- a. All uses prohibited as Major Home Occupations.
- b. Medical or dental offices.
- c. Other similar uses as classified by the Zoning Board of Appeals pursuant to paragraph 11 of this Home Occupation Law.

8. Standards for Major Home Occupations:

The following regulations shall apply to all Major Home Occupations:

- a. A Major Home Occupation may be conducted within a dwelling unit, one or more accessory buildings, or a combination of these structures.
- b. A Major Home Occupation shall be conducted entirely within completely enclosed buildings.
- c. Only one Major Home Occupation may be permitted per lot.
- d. No more than one (1) worker, in addition to the inhabitants of the lot, shall be on the premises at one time to conduct the Major Home Occupation.
- e. A Major Home Occupation shall be incidental to the use of the dwelling unit and its lot for residential purposes.
- f. An accessory building used for a Major Home Occupation may be dedicated in its entirety to this use.
- g. No more than one third (1/3) of the floor area of the dwelling shall be devoted to a Major Home Occupation. This floor area requirement refers only to heated and habitable rooms within the dwelling unit.
- h. There shall be no outside evidence of the Home Occupation, except that one (1) unanimated, non-illuminated, freestanding, suspended or window sign having an area of not more than two (2) square feet shall be permitted on the street front of the lot on which the building is located. A Sign Permit is required.
- i. In neighborhoods without designated on-street parking, off-street parking shall be provided to accommodate any non-resident employee of a Home Occupation. If the Home Occupation has visiting clients or customers, two (2) off-street parking spaces in addition to those existing for residents are required. Parking of clients, customers, employees or delivery vehicles in connection with a Home Occupation shall produce no negative impacts upon the surrounding neighborhood.
- j. Instruction or tutoring to not more than five (5) pupils at any one time.

k. ~~Other similar uses as classified by the Planning Board pursuant to paragraph 11 of this Home Occupation Law.~~

9. ~~Permitted Examples of Potentially Allowable~~ Major Home Occupations:

~~Permitted Major Home Occupations include, but are not limited to, Subject always to the various requirements and standards set forth herein, vocations which may potentially qualify for 'major home occupation' status include~~ the following:

- a. Any use allowed as a Minor Home Occupation.
- b. Medical or dental office.
- c. Real estate office.
- d. A beauty parlor or barbershop with no more than two (2) chairs.

~~e. Other similar uses as classified by the Planning Board pursuant to paragraph 11 of this Home Occupation Law.~~

10. ~~Prohibited~~ Uses That In Any Event Are Ineligible To Qualify As Major Home Occupations:

- a. Antique, furniture or gift shops.
- b. Kennels or animal hospitals.
- c. Funeral homes or mortuaries.
- d. Restaurants, bars and taverns.
- e. Tow truck service or storage of towed vehicles.
- f. Heavy construction contracting involving the parking of earth-moving and special purpose vehicles on the premises.
- g. Ambulance service.
- h. Welding shop.
- i. Small engine repair.
- j. Sale, servicing, painting, repair, rebuilding, reconditioning or storage of automotive vehicles, automotive parts, trailers, motorcycles, snowmobiles, or boats, including upholstery, detailing, and washing services.
- k. The storage or sale of gasoline, oil or other fuel.
- l. Storage in dwellings, accessory buildings or mobile storage units.
- m. Other similar uses as classified by the Planning Board pursuant to paragraph 11 of this Home Occupation Law.

11. Classification of Unlisted Uses:

Where an actual or proposed Home Occupation use is not listed in this Law, the Code Enforcement Officer shall request a determination of the classification of such an unlisted use. Requests for such a determination shall be made in writing to the Planning Board, which shall determine whether the proposed use is allowable as a Home Occupation and whether such allowable use is major or minor in nature.

E. Low Density Business Requirements

A Low Density Business is permitted in an R-3 District provided that:

1. The applicant must be the owner of the building and the operator of the business to qualify as a Low Density Business.
2. No alterations shall be made that preclude readily returning the building to its original residential status.
3. There shall be no parking requirements for a Low Density Business.
4. No more than three (3) persons on the premises shall be engaged in the operation of the business at any one time.
5. A Low Density Business and a residential use shall not be allowed in the same dwelling unit.
6. The following shall not be considered a Low Density Business:

- a. Social Clubs
- b. Restaurants
- c. Bars
- d. Live entertainment, recorded entertainment, or entertainment machines.
- e. Retail sale of food or beverage.
- f. Any use which adversely changes the character of the neighborhood, including, but not limited to, an increase in noise, traffic, or trash accumulation and dumpsters.

7. Only one Low Density Business will be allowed per building or property.

8. Business hours will be restricted between the hours of 7 AM and 9 PM.

9. All signs will conform to district law regulations.

F. Tourist Home and Bed and Breakfast Requirements

Tourist homes and bed and breakfasts are permitted with a Special Use Permit provided that:

1. A Special Use Permit for a tourist home or bed and breakfast shall become void one (1) year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement is commenced.
2. A Special Use Permit shall expire if the special use shall be discontinued for more than six (6) months.
3. All existing tourist homes or bed and breakfasts existing on the date of adoption of this subsection shall procure Special Use Permits within three (3) months, or, in the event of failure to apply for or failure to be granted the Special Use Permit, shall cease to function as a tourist home or bed and breakfast after that three (3) month period.
4. A Special Use Permit may be granted only where there is a resident property owner or resident manager authorized to undertake such repairs or maintenance as may be ordered by the Code Enforcement Officer. Such manager shall also be specifically authorized by the building owner to receive legal summonses pertaining to the building.
5. A dwelling shall not be altered in a manner that would cause the premises to differ from its residential character by the use of colors, materials, constructions or lighting.

G. Fraternity, Sorority, Chapter or Membership Association House Requirements

Fraternities, sororities, and chapter or membership association houses located in the E-1 District or Overlay Zone or located as nonconforming uses in all other zoning districts are required to obtain a Special Use Permit submit an Annual Registration form to the Code Enforcement Officer with the following conditions:

1. A Special Use Permit

- ~~4.—An annual Registration form for a fraternity, sorority, chapter or membership association house shall become void one (1) year after approval receipt or at such time as specified by the Code Enforcement Officer., or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration, or enlargement is commenced.~~
- ~~2.—A Special Use Permit for a fraternity, sorority, chapter or membership association house may be granted for a limited term of up to one (1) year and may be extended for additional periods by the issuing body. However, a Special Use Permit shall expire if the special use shall be discontinued for more than six (6) months.~~
- ~~3.—All fraternities, sororities, chapter or membership association houses existing on the date of adoption of this subsection shall procure a Special Use Permit within three (3) months or, in the event of failure to apply for or failure to be granted the Special Use Permit, shall cease to function as a fraternity, sorority, chapter or membership association house after that three (3) month period.~~
- ~~4.—The historic character of buildings over fifty (50) years old must be maintained.~~
- ~~2. A Special Use PermitAn Annual Registration form may be granted accepted only where there is a resident owner or resident manager authorized to oversee the property and undertake such repairs or maintenance as may be ordered by the Code Enforcement Officer. Such manager shall also be specifically authorized by the building owner to receive violation notices or legal summonses pertaining to the building.~~
- ~~5.3. The historic character of buildings constructed prior to 1940 must be maintained.~~

#### H. Large Dwelling Re-use Requirements

It is the intent of this section to facilitate the creative re-use of the Village's largest residential buildings. The Planning Board will issue a Large Dwelling Re-use Special Use Permit upon completion of both Board review, including Site Development Plan Review, and a public hearing.

1. In its review process, the Board will seek to:
  - a. Redirect uses toward greater conformity with the intention of the Village Zoning Laws, specifically the Zoning Districts, and the Village Comprehensive Plan.
  - b. Prevent the demolition and degradation of old houses.
  - c. Reduce the "boardinghouse atmosphere" of properties in residential neighborhoods.
  - d. Maintain the taxable status of properties or return properties to the tax rolls.
  - e. Protect and improve the character of residential neighborhoods.
  - f. Promote the rehabilitation and upkeep of properties.
  - g. Encourage owner occupation.
  - h. Encourage property development for the elderly and disabled.
  - i. Return family occupancy to residential houses.
  - j. Limit the maximum number of occupants in dwelling units to a number compatible with their neighborhood settings.
  - k. Foster local business compatible with a residential location.

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- 2. The renovation and change of use of large dwellings are with a Special Use Permit subject to the following conditions:
  - a. Criteria for qualification for permit:
    - (1) The building must be greater than or equal to four thousand (4,000) square feet in living area as of the date of the adoption of this subsection.
    - (2) The building must be greater than or equal to fifty (50) years in age.
    - (3) The building must be a structure originally designed, or subsequently renovated, for residential use.
  - b. Criteria for the issuance of permit:
    - (1) The owner or prospective owner of the building must submit a written business plan to the Planning Board that includes:
      - (a) intentions for use
      - (b) a floor plan, and
      - (c) a site plan.
    - (2) A maximum of two (2) dwelling units is permitted in a building located in the R-1 District; a maximum of three (3) dwelling units is permitted in a building located in the R-2 district. Only one family is permitted in each dwelling unit (see definition of Family in Article 7).
    - (3) Commercial or business use requires a Home Occupation Special Use Permit.
    - (4) All future exterior alterations and additions will be subject to site development plan review.
    - (5) The historic character of the building must be maintained.
    - (6) Change of use will have minimum impact on environmental values of the Village and the building's neighborhood setting.
    - (7) Change of use will produce minimum visual and noise impacts on local residents.
    - (8) Change of use will produce no negative effects on the property values of neighboring residences.

**Section 303.00 Conditional Uses/Conditions for Use**

A. Overlay Zone Properties Occupied as Rooming, Boarding, Fraternity, Sorority, Chapter, or Membership Houses:

- 1. Each lot shall have at least eight thousand (8000) square feet of land area.
- 2. The principal building shall have a total area of at least eighteen hundred (1800) square feet of floor area.

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~~3.~~ The total area of structures relative to lot size shall not exceed that necessary to allow for the required number of parking spaces on the side and rear of the principal structure.

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~~B.~~ Multi-Family dwellings outside the overlay zone, ~~fraternity houses, sorority houses, boarding houses, and rooming houses,~~ shall meet the following requirements:

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~~A.1.~~ Each lot shall have at least twenty thousand (20,000) square feet of land area plus two thousand five hundred (2,500) square feet for each additional unit over three (3). ~~Fraternity, sorority, and boarding houses shall have twenty thousand (20,000) square feet.~~

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~~B.2.~~ Each lot shall have at least one hundred (100) feet of frontage on a public road plus ten (10) feet of additional frontage for each additional unit in excess of three (3) up to maximum frontage of one hundred fifty (150) feet.

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~~C.3.~~ The building area on any lot shall not exceed thirty (30) percent of the lot area.

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~~D.4.~~ No structure shall exceed thirty-five (35) feet in height above the average finished grade level.

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~~E.5.~~ No principal building or parts of the same principal building shall be located within twenty-five (25) feet of any other building.

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~~F.6.~~ No principal building or parking area shall be located within twenty-five (25) feet of any lot line or right-of-way line.

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~~G.7.~~ No building shall contain more than eight (8) dwelling units.

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~~H.8.~~ Each dwelling unit shall be provided with two (2) off-street parking spaces according to the requirements of Section 304.00.

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~~I.9.~~ Each unit shall be provided with a rough storage area at least four (4) feet by five (5) feet in area and at least six (6) feet in height.

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~~J.10.~~ If individual units do not have provisions for laundry machines, each building shall be equipped with at least one washer and one dryer.

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~~K.11.~~ Driveways shall have at least twenty (20) feet width of durable surface. A ten (10) foot width of the entire length of the driveway shall be a clear passage and cannot be used as allowed parking.

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~~L.12.~~ No internal dead-end driveway shall be more than two hundred (200) feet long and shall be provided at the end with a cul-de-sac of at least forty (40) feet radius.

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~~M.13.~~ Each side of all internal driveways faced by buildings shall be paralleled by a sidewalk at least three (3) feet wide which shall provide a continuous pedestrian access to the right-of-way.

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~~N-14.~~ Garages or carports are permitted which conform to the requirements of this Section for accessory buildings and which do not exceed twelve (12) feet in height.

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~~O-15.~~ All yard areas shall be grass seeded or sodded.

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~~P-16.~~ Each apartment building shall be provided with trees and shrubs in such locations as will make an attractive development.

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**Section 304.00 Off -Street Parking and Loading**

**A. Off-Street Parking Regulations for Overlay Zone Properties Occupied by Rooming, Boarding, Fraternity, Sorority, Chapter, or Membership Houses;**

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1. The number of off-street parking spaces required for any rooming, boarding, fraternity, sorority, chapter, or membership house shall be one (1) for each bedroom. (With approval from the village's Code Enforcement Officer and Planning and Zoning Board, modifications to this parking requirement might be possible.)

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2. Required driveways shall be surfaced with a durable, dustless material and be no more than twenty (20) feet in width.

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3. The size of off-street parking spaces shall be not less than ten (10) feet wide by twenty (20) feet long for all side-by-side parking or not less than eight (8) feet wide by twenty-three (23) feet long for all parallel parking.

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4. Off-street parking spaces shall be allowed in side and back yards only.

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5. Off-street parking space shall be finished with necessary passageways and driveways. All required space must be on the lot on which it is situated.

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6. All parking areas, passageways and driveways shall be surfaced with a dustless, durable all-weather surface, adequately drained and subject to the approval of the Zoning Enforcement Officer.

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7. Space for maneuvering incidental to parking shall not encroach upon any public way.

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8. Every off-street parking space shall be accessible from a public way.

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**B. General requirements for Off-street Parking Spaces**

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~~A-1.~~ The size of off-street parking spaces shall be not less than ten (10) feet wide by twenty (20) feet long for all side-by-side parking or not less than eight (8) feet wide by twenty-three (23) feet long for all parallel parking.

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~~B-2.~~ Each off-street parking facility shall be located as herein after specified with respect to the building or use which such facility is required to serve. Where distance is specified, such distance shall be measured along public thoroughfares from the nearest point of the parking facility to the nearest point of the building or use which such facility is required to serve. Off-

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street parking spaces shall be allowed in required back or side yards except where specifically prohibited by this local law.

~~G.3.~~ For multi-family dwellings, not more than one hundred (100) feet from the building they are required to serve.

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~~D.~~ For hospitals, sanitariums, convalescent homes, nursing and rest homes, homes for the aged, retirement homes, private clubs, lodges and offices, not more than one hundred (100) feet from the building they are required to serve.

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~~E.4.~~ For legal uses other than those specified above, not more than three hundred (300) feet from the building they are required to serve.

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~~F.5.~~ In stadia, churches and other places of worship in which patrons or spectators persons occupy benches, pews or other similar seating facility each twenty (20) inches of seating facility shall be counted as one seat.

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~~G.6.~~ Whenever there is a change in use or an increase in floor area or in other unit of measurement, and the change and the increase of more than ten (10) percent in the number of required off-street parking spaces, as determined by the requirements in this Section, additional off-street parking spaces shall be provided in accordance with this Section for that addition or change in use.

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~~H.7.~~ For any building having more than one (1) use, parking requirements for each use shall conform to Section 304.00 P.

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~~I.8.~~ Off-street parking space shall be finished with necessary passageways and driveways. All the space shall be deemed to be required space on the lot on which it is situated, and shall not be encroached upon or reduced in any manner. All parking areas, passageways and driveways except where provided in connection with one-family residences shall be surfaced with a dustless, durable all-weather pavement clearly marked for car spaces and shall be adequately drained, all subject to the approval of the Zoning Enforcement Officer.

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~~J.9.~~ A required driveway shall be not more than twenty (20) feet in width or twenty-five (25) percent of the front yard, whichever is less.

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~~K.10.~~ The collective provisions of off-street parking areas by two (2) or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users.

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~~L.11.~~ All parking areas and appurtenant passageways and driveways serving uses shall be adequately illuminated during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided to protect adjacent residential areas from the glare of such illumination and from that of automobile headlights.

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~~M.12.~~ No access drives or walkways to any B District through any R District shall be permitted.

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~~N-13.~~ Off-street parking areas located in commercial zones which provide parking for twenty (20) or more vehicles shall be provided with shade trees of a type approved by the Zoning Enforcement Officer, and shall be located not farther apart than sixty (60) feet on center.

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~~O-14.~~ An off-street parking space shall comprise not less than one hundred eighty-four (184) square feet of parking stall plus necessary maneuvering space. Space for maneuvering incidental to parking shall not encroach upon any public way. ~~Every off-street parking space shall be accessible from a public way.~~

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~~P-15.~~ The number of off-street parking spaces required for specific uses shall be as follows:

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<del>4.a.</del> Assembly and Exhibition Halls without fixed seating	1 for each 100 feet of floor area used for assembly.
<del>2.b.</del> Auditoria, Theaters	1 for each 5 seats.
<del>3.c.</del> Banks, Businesses and Professional Offices	1 for each 200 square feet of floor area
<del>4.d.</del> Bowling Alleys	<del>3 for each alley plus the necessary space as set forth in this Section for affiliated uses including bars, restaurants, or other commercial uses.</del>
<del>5.e.</del> Churches	1 for each 5 seats.
<del>6.f.</del> Dwellings	2 for each family or dwelling unit.
<del>7.g.</del> Funeral Homes, Mortuaries	<del>6 for each reposing room.</del>
<del>8.h.</del> Hospitals	<del>4 for each 3 beds</del>
<del>9.i.</del> Hotels, Motels	<del>4 for each sleeping unit.</del>
<del>10.j.</del> Libraries, Museums or Galleries	1 for each 600 feet of floor area.
<del>11.k.</del> Restaurants, Cafes, Bars and Nightclubs	1 for each 50 square feet of floor area or every 2 seats, whichever is the greater.
<del>12.l.</del> Retail Shops, Stores	1 for each 200 square feet of floor area.
<del>13.m.</del> Rooming Houses	<del>4 for each bedroom.</del>
<del>14.n.</del> Sanitaria, Convalescent Homes, Homes for the Aged, Children's Homes	<del>4 for each 4 beds.</del>
<del>15.o.</del> In the case of a use not specifically mentioned above, the requirement for off-street parking spaces for a	<del>1 for each guest/lodger bedroom.</del>

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<del>similar use shall be set forth by the Zoning Enforcement Officer. Tourist Homes and Bed and Breakfasts</del>	
<del>16.p. Tourist Homes and Bed and Breakfasts. In the case of a legal use not specifically mentioned above, the requirement for off-street parking spaces for a similar use shall be set forth by the Zoning Enforcement Officer.</del>	<del>1 for each guest/lodger bedroom.</del>

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**Section 305.00 Signs and Outdoor Advertising**

A. Purpose

1. The purpose of this section is to promote and protect the public health, welfare, and safety by regulating outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the Village. It is further intended to reduce distractions and obstructions that may contribute to traffic accidents or other injuries, to provide more visual open space, and to curb the deterioration of the Village's appearance and attractiveness.
2. This section of the Village of Alfred Zoning Law is also intended to promote attractive signs which clearly present their messages in a manner that is compatible with their surroundings. The appearance, character, and quality of a community are affected by the location, size, construction, and graphic design of its signs. Therefore, signs should convey their messages clearly and simply in order to enhance their surroundings.
3. It is not the intent of this section of the Village of Alfred Zoning Law to regulate the content of signs or to abridge the right to free speech.

B. General Provisions

1. The provisions of this section shall govern outdoor and window signs.
2. No signs, except those exempted in Section 305.00 C., shall be erected or structurally altered except in accordance with the provisions of this local law.
3. All signs, except those exempted in Section 305.00 C., require a sign permit and approval by the Planning Board.
4. All signs in B-1, B-2, B-3, R-1, R-2, R-3, and RD Districts and in the Historic District require Site Development Plan Review. Signs within the E-1 District require Site Development Plan Review only if they are clearly visible from the Historic District, Main Street, or Route 244.
5. No sign shall project closer than two (2) feet to any curb face or traffic lane.

6. No sign shall be erected which would cause a traffic hazard.
7. No sign, including exempted signs, shall be located in such a way as to interfere with pedestrian traffic.
8. No person shall erect or maintain a sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.
9. No sign shall have the appearance of any traffic control device or traffic control sign.
10. No sign shall be permitted which is painted directly on the side or wall of any building.
11. For an externally illuminated sign, only indirect lighting shall be visible from any other property or right-of-way.
12. Any sign which no longer advertises a bona fide business conducted or a product sold must be taken down and removed within thirty (30) days.
13. No sign shall flash, move, be phosphorescent, or change in light intensity. No advertising banners, advertising flags, or advertising pennants are allowed.

C. Signs Exempted from Permit Requirement

1. Legal notices or other public notices or warnings required by a valid and applicable Federal, State, or Village Law, regulation, or ordinance.
2. Public signs erected by or on behalf of a governmental body.
3. House numbers.
4. Welcome signs, awnings, and other similar decorative items intended to improve the appearance of a house or yard.
5. Traffic control signs and devices.
6. Holiday displays.
7. Real estate signs no larger than six (6) square feet in area if removed within thirty (30) days of completion of transaction. Permanent real estate signs are not exempt from the permit requirement.
8. Construction signs no larger than forty-eight (48) square feet in area if removed within thirty (30) days of completion of project.
9. Political signs no larger than six (6) square feet in area ~~if removed within seven (7) days of pertinent election.~~
10. Temporary signs, posters, or advertisements affixed to or within two (2) feet of windows.

11. Sidewalk signs no larger than ten (10) square feet in area on each side if removed from sidewalk overnight; these should be placed so that pedestrian traffic is not obstructed.
12. Signs in the E-1 District not clearly visible from the Historic District, Main Street, or Route 244.
13. Signs displayed by a school, church, or not-for-profit organization for a period of less than ten (10) days.
14. Flags or insignia of a nation or association of nations or other state or municipal unit, or of any political, charitable, civic, professional, or religious organization, providing such flags or insignia are not larger than fifteen (15) square feet and providing that such flags or insignia are located in such a way so as not to create a safety hazard for drivers or pedestrians.

D. Non-conforming Uses

1. Signs existing prior to the passage of this revised section which conformed in all respects to the requirements then in effect and which have a sign permit shall be considered as conforming to this ordinance.
2. Any existing sign that was erected prior to the effective date of this revised section and which does not have a sign permit shall be removed or brought into conformance within one (1) year of the effective date of this section. Any individual applying for a sign permit within ninety (90) days of the effective date of this section for the purposes of bringing an existing sign into compliance with this section shall be exempted from the usual application fees.
3. Signs pertaining to or advertising products sold on the premises of a nonconforming building or use may remain in place only when the nonconforming use is permitted to continue. Any such signs shall not be permitted to be increased in area, height, illumination, or number.

E. Special Provisions

The following signs are permitted in each use district:

1. R-1 and R-2 Districts
  - a. For any home occupation and professional identification, one (1) unlighted sign not larger in area than two (2) square feet.
  - b. For any school, or public use, one (1) lighted or unlighted identification sign or bulletin board not larger in area than twenty (20) square feet.
2. R-3 District
  - a. One (1) unlighted sign not larger in area than six (6) square feet.
  - b. For any school, or public use, one (1) lighted or unlighted identification sign or bulletin board not larger in area than twenty (20) square feet.

3. B-1, B-2, R/D and E- I Districts

- a. Only two (2) exterior signs are allowed for each establishment exclusive of traffic control signs (churches and schools excepted). They may not be internally illuminated and may not be more than sixty (60) square feet total. No individual sign may exceed forty (40) square feet in area.
- b. Where two (2) or more businesses occupy the same building each business is allowed only one (1) sign; the total signage for that property shall not exceed sixty (60) square feet facing any one street. No individual sign may exceed forty (40) square feet.
- c. Window signs, both temporary and permanent, including exempted signs that are visible from the exterior and are attached to or are within two (2) feet of the glass area, shall be limited to no more than twenty percent (20%) of the glass display window area. For signs painted directly on the glass, only the actual area taken up by individual letters or other images will be measured.
- d. The measurement of a free standing sign shall be no more than thirty (30) square feet in area, including sign posts, and/or holders. Free standing signs shall be no more than six (6) feet in height including sign posts and/or holders. Signs shall be placed at a minimum distance of six (6) feet from any boundary, street or sidewalk. Both sides of free standing sign boards may be used. Signs may be placed parallel or at a ninety (90) degree angle to the front of the building they serve. If two (2) or more businesses occupy one (1) building, only one (1) free standing sign is allowed.
- e. Signs attached to the building shall be no more than forty (40) square feet in area. This measurement shall include the space enclosed by the smallest circumscribed rectangle to include all borders and scroll work inside this rectangle. Attached signs shall be placed on the front of the building, parallel to the front, and shall not project above the structure on which they are placed. They may be placed on the building itself or on an awning.
- f. Signs composed of single letters, numbers, or symbols affixed directly to the building shall be considered one sign. Such signs shall be no more than forty (40) square feet in area. This measurement shall include the space enclosed by the smallest circumscribed rectangle to include all borders and scroll work inside this rectangle.

F. Severability

If any clause, sentence, paragraph, or part of this section shall be judged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remaining portions of this section, but shall be confined to the clause, sentence, paragraph, or part directly involved in the controversy about which such judgment shall have been rendered.

G. Effective Date

This section shall take effect upon its adoption and filing with the Secretary of State.

**Section 306.00 Antennas** ~~Consider removal of section~~

- A. No person shall cause or permit the erection and/or maintenance of a parabolic dish or other similar antenna or device larger than 40 inches in diameter, the purpose of which is to receive television, radio and/or microwave or other electrical signals except as set forth herein. These provisions apply to all districts.
- B. Provisions
1. A Special Use Permit shall be required for the installation of an antenna. Application for the permit must include drawings showing proposed methods of installation and a Site Development Plan depicting structures and screening on the property and all adjacent properties.
  2. The applicant shall present documentation of any licenses required by federal, state or local agencies.
  3. The antenna shall be located on the same site it services. There shall be only one antenna per ~~dwelling unit~~.
  4. Lots must be of sufficient size to allow for side line set back and set back from existing structures equal to the height of the antenna measured from the base at ground level. No antenna shall exceed twelve (12) feet in height, depth or width.
  5. No antenna can be constructed, erected or maintained in the area between the rear line of the principal building or improvement located on the property and any public street facing the principal building or improvement located on the property.
  6. Any such antenna shall be constructed, erected or maintained at ground level, and the natural grade of the land shall not be changed to accommodate the antenna.

~~7. No parabolic dish-type antenna shall be placed on a roof.~~

~~8. An antenna shall not be erected or maintained except as an accessory structure.~~

~~9. A landscape screen shall be provided and maintained around the structure and accessory attachments.~~

**Section 307.00 Functional Family Unit**

It is the intent of this section of the Zoning Law to establish a rebuttable presumption that four (4) or more unrelated persons sharing a dwelling do not constitute the functional equivalent of a traditional family unless they can prove otherwise. The purpose of this regulation is to limit the density of tenants in rental units, to thereby promote the health, safety and welfare of the general public, and protect the nature of residential areas by limiting the institutional atmosphere caused by high-density rentals.

- A. It shall be presumptive evidence that four (4) or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.

- B. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
1. The group is one that in theory, size, appearance, structure and function resembles a traditional family unit that may include bona fide domestic servants employed at the premises on a full time basis.
  2. The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.
  3. The group (excluding bona fide domestic servants) shares expenses for food, rent or ownership costs, utilities and other household expenses.
  4. The premises are being occupied in strict accordance with all applicable health, safety and fire codes.
  5. The group is permanent and stable. Evidence of such permanency and stability may include:
    - a. The presence of minor dependent children regularly residing in the household who are enrolled in local schools.
    - b. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes.
    - c. Members of the household are employed in the area.
    - d. The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units.
    - e. Common ownership of furniture and appliances among the members of the household.
    - f. The group is not transient or temporary in nature.
  6. Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

ARTICLE FOUR
Administration and Enforcement

Section 400.00 Zoning Enforcement Officer

A. Purpose

The Village Board of Trustees shall appoint a Zoning Enforcement Officer for the purpose of administering and enforcing this local law. The records of the Zoning Enforcement Officer shall be kept in the Office of the Village Clerk.

B. Duties

It shall be the duty of the Zoning Enforcement Officer to receive all applications for permits and certificates and to inspect any buildings or premises under consideration for permits and certificates. The Zoning Enforcement Officer, in accordance with the provisions of Section 400.00, is hereby authorized to grant or deny the permits and certificates established by this local law.

C. Enforcement

1. If the Zoning Enforcement Officer finds that any of the regulations established by this law are being violated, he shall notify in writing both the person responsible for such violations and the Mayor, indicating both the nature of the violation and the necessary corrective action which the person responsible is required to take. The Zoning Enforcement Officer is hereby empowered to order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions; alterations or structural changes thereto; discontinuance of any illegal construction; or to take any other action authorized by this local law to insure compliance with or to prevent violation of the regulations herein established. In addition to the empowerments of the Zoning Enforcement Officer, the Police of the Village of Alfred are empowered to enforce compliance with these regulations.

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2. Upon determining that any new construction, improvements, uses or other activities are in violation of this Law, the Zoning Enforcement Officer shall transmit a written notice of violation, by certified mail, to the owner of record (with a courtesy copy of such notice to any tenants of which the Zoning Enforcement Officer has actual notice) of the property upon which the alleged violation occurs, describing the alleged violation, with a copy to the Mayor. The notice of violation shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Enforcement Officer within a reasonable time specified by the Zoning Enforcement Officer in such notice. The notice shall further state that, upon request of the owner of record, technical determinations of the nature and extent of the violation as alleged will be made and that, if a violation as alleged is found, costs of the determinations will be charged against the owner of record (as well as any others responsible for such violation), in addition to such other sanctions as may be appropriate.

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3. If, within the time limit set, there is no reply, but the alleged violation is corrected to the satisfaction of the Zoning Enforcement Officer, the notation "Violation Corrected" shall be made on the Zoning Enforcement Officer's copy of the notice and filed with the Zoning Enforcement Officer's records. If there is no reply within the time limit set and the alleged

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violation is not corrected to the satisfaction of the Zoning Enforcement Officer within the time limit set, the Zoning Enforcement Officer shall take action in accordance with this Law. If the property owner disputes the notice of violation, the property owner may file an appeal with the Board of Appeals.

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## Section 401.00 Certificates and Permits

The purpose of permits and certificates is to establish equitable enforcement and administration. Permits and certificates shall be in harmony with the general purposes and intent of this law and the Comprehensive Village Plan, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

### A. Zoning Compliance Permit

1. It shall be unlawful to construct or alter any building or structure or part thereof until a Zoning Compliance Permit has been signed by the Zoning Enforcement Officer stating that the proposed use of the building or land conforms to the requirements of this local law. Interior alterations to one-family residences shall be exempt from the provisions of this section.
2. All applications for Zoning Compliance Permits shall be made to the Zoning Enforcement Officer. Where the proposed use is a residential use in a residential district, the Zoning Enforcement Officer shall carefully consider the application and supporting documents for compliance with this local law and either issue or deny the Zoning Compliance Permit. When the application is for any other use in any other district, the Zoning Enforcement Officer shall, prior to the issuance of any permit, refer one (1) copy of such plans, drawings and statements to the Planning Board and one (1) copy to the Fire Code Inspector for review and recommendations. The Planning Board shall determine that the proposed site and structures compare favorably with the Comprehensive Village Plan, with community standards, and with the properly intended and planned appearance of any street or district.
3. All applications for Zoning Compliance Permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations of buildings already existing on the lot, and locations and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Enforcement Officer, including exterior views of and materials descriptive of existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot, and such matters as may be necessary to determine conformance with, and provide for the enforcement of this local law.
4. The Planning Board shall, within thirty (30) days after receipt of an application for a Zoning Compliance Permit, forward to the Zoning Enforcement Officer written approval or disapproval of the proposed development or construction. In the event of disapproval, the reasons for disapproval shall be clearly stated, and the Zoning Enforcement Officer shall not issue a Zoning Compliance Permit. The applicant may then revise and resubmit the application for approval, or may request an interpretation by the Zoning Board of Appeals under Section 406.00 A of this local law.

5. A temporary Zoning Compliance Permit may be issued by the Zoning Enforcement Officer for a period not to exceed six (6) months during alterations or partial occupancy of a building pending completion, provided the temporary permit requires conditions and safeguards to protect the safety of occupants and the public.
6. Nothing in this local law shall prohibit the filing of amendments to any application at any time before completion of the work for which the permit was sought, and such amendments after approval shall be made a part of the application and filed as such.
7. All applications, notices and sworn statements required by this local law shall be kept on file in the Office of the Village Clerk.
8. Any permit issued by the Zoning Enforcement Officer under provisions of this Section shall expire by limitation if no work is commenced within one (1) year from the time of issuance.
9. The Zoning Enforcement Officer may revoke any permit or approval issued under the provisions of this section in the case of any false statement or misrepresentation of facts in the application on which the permit or approval is based.
10. Ordinary maintenance to buildings or structures, but not to additions thereto, may be made without notice to the Zoning Enforcement Officer.
11. Failure to obtain a Zoning Compliance Permit shall be a violation of this local law, and punishable under the provisions of Section 404.00 of this local law.

B. Special Use Permit

1. All applications for Special Use Permit shall be made to the Zoning Enforcement Officer who shall cause copies to be sent to the County Planning Board and to the Village Planning Board for site development plan review and evaluation of the proposed use.
2. Upon receipt of the application by the Planning Board, the Board shall set a date for a public hearing concerning the proposed special use, such hearing to take place within forty-five (45) days of the Planning Board's receipt of the application. Due notice of the time and place of the hearing shall be given to the applicant. Public notice of the hearing shall be given in the official newspaper of the Village at least seven (7) days prior to the hearing. Within forty-five (45) days after the public hearing, the Planning Board shall deliver to the Zoning Enforcement Officer a written report indicating its approval or disapproval of the application and setting forth its reasons for said approval or disapproval.
3. If an application is approved by the Planning Board, the Zoning Enforcement Officer shall issue the permit applied for in accordance with conditions (if any) imposed by the Planning Board. If an application is disapproved by the Planning Board, the Zoning Enforcement Officer shall deny the application and shall provide the applicant with a copy of the Planning Board's reasons for disapproval.

C. Certificate of Occupancy

1. Following completion of construction, reconstruction or alteration of any building, or where a change in use of a structure is proposed, the applicant shall inform the Zoning Enforcement Officer that construction is complete or a new use has been proposed. Within seven (7) days of receipt of this information, the Zoning Enforcement Officer shall make all necessary inspections of the completed structure and proposed use to determine conformance with this local law. A Certificate of Occupancy shall be issued only if the Zoning Enforcement Officer finds that the construction and proposed use comply with all requirements and regulations established by this local law.
2. A Certificate of Occupancy is required for the following:
  - a. Occupancy and use of a building erected, altered, moved or extended.
  - b. Change in use of any existing building.
  - c. Change in the use of land, except for any use consisting primarily in tilling the soil or similar agriculture use.
  - d. Occupancy and use of vacant land, except for any use consisting primarily in tilling the soil or similar agriculture use.

D. Sign Permit

All signs must comply with Section 305.00 of this Zoning Law.

E. Demolition Permit

1. No existing building or structure or portion thereof may be demolished without a Demolition Permit signed by the Zoning Enforcement Officer. All applications for Demolition Permits shall be reviewed by the Planning Board and approved in writing before the Zoning Enforcement Officer may give final approval.
2. Failure to obtain a Demolition Permit prior to the destruction of a building shall be a violation of this local law and subject to penalties described herein.

F. Swimming Pool Permit

No swimming pool may be constructed without a Swimming Pool Permit signed by the Zoning Enforcement Officer and in complete compliance with the provisions of Section 302.00 B

**Section 402.00 Schedule of Fees**

The Village Board of Trustees shall establish a schedule of fees, charges and expenses and a collection procedure for Zoning Compliance Permits, Special Use Permits, Certificate of Occupancy, special permits and other matters pertaining to this local law. The schedule of fees shall be posted in the Office of the Village Clerk, and may be altered or amended only by the Village Board.

**Section 403.00 Complaints**

Wherever a violation of this local law occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the basis and causes thereof, shall be filed with the Village Clerk. The Village Clerk shall deliver it to the Zoning Enforcement Officer, who shall record the complaint, immediately investigate and report to the Mayor on the alleged violation within two (2) weeks. The Mayor shall take action thereon as provided by this local law.

**Section 404.00 ~~Violations~~ Failure to Comply: Enforcement and Penalties**

- A. ~~Any person, whether agent, architect, builder, contractor, owner, tenant or otherwise, who violates any provisions of this local law in any way shall for each and every day that said violation continues be subject to a fine of not more than two hundred fifty dollars (\$250.00). Failure to comply with any of the provisions of this Local Law (other than Sections 301.00 and 301.01) shall be a violation as contemplated by Article 10 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than Two Hundred Fifty Dollars (\$250) or imprisonment for not more than 10 days, or both, for the first offense. Any subsequent offense within a one-year period shall be punishable by a fine of not more than Three Hundred Fifty Dollars (\$350) or imprisonment for a period of not more than 30 days, or both. For purposes of this subsection 404.00 A., each week (or portion thereof) that noncompliance with this Local Law exists shall constitute a separate and distinct offense.~~
- B. ~~Whenever the Mayor of the Village or the Zoning Enforcement Officer shall certify that any building or any part thereof or any lands are being erected or used in violation of the regulations established by this local law, the Village Attorney is authorized to institute all actions and proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of this local law. Failure to comply with any of the provisions of Sections 301.00 or 301.01 of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both, for the first offense. Any subsequent offense within a one-year period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this subsection 404.00 B., each week (or portion thereof) that noncompliance with this Local Law exists shall constitute a separate and distinct offense.~~
- C. ~~Service of the notice of violation shall be sufficient if directed to the owner, agent of the owner or the contractor and left at the last known place of business or residence, if within the Village. If no place of business or residence can be found, then the notice shall be served by posting in a conspicuous place on the premises which are subject to the violation. In addition, an action or proceeding may be instituted by the Village Board in the name of the Village in any court of competent jurisdiction to prevent, restrain, enjoin, correct, enforce, and/or abate any violation of, or non-conformance with, any provision or requirement of this Local Law. Additionally, an action may be instituted by the Village Board in the name of the Village to declare the rights of the Village relative to any justiciable controversy arising from, under, or in relation to this Local Law, whether pertaining to its interpretation, application, legality, or enforceability, or otherwise. In any event, no such action or proceeding shall be commenced without the appropriate authorization from the Village Board. If equitable relief is requested in the form of a temporary restraining order, a temporary injunction, or an injunction, or by any other form of prohibition or similar relief, the Village shall not be required to post any bond or undertaking as a condition or requirement for~~

**Comment [O1]:** Note: In Section 404.00A, penalties of imprisonment for a set number of days were inadvertently included in the text. Those passages referencing imprisonment are void and will be removed from the final language of Section 404.00 A.

or of such relief, and the Village shall not be required to prove or show a lack of an adequate remedy at law. No right, remedy, or penalty specified in this Section 404.00 shall be the exclusive remedy of the Village, and each remedy or penalty specified in this Section 404.00 shall be in addition to, and not in substitution for or in limitation of, any other remedies or penalties specified in this Local Law or permitted by any applicable law, rule, order, or regulation. Any remedy or penalty specified in this Local Law may be pursued by the Village at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section 404.00.

D. In addition, any enforcement officer (Building Inspector, or Zoning Enforcement Officer) may issue stop work orders or compliance notices relative to any violation of this Local Law. The failure of any Person to comply with any such notice or order shall be and be deemed a violation of any other applicable law or ordinance, including, without limitation, the New York Executive Law, § 382, and, in each case, such non-compliance or violation may also be enforced as such.

G.E. In the event the Village desires or is required to take legal action to enforce this Local Law the violator will be responsible for any and all necessary costs and expenses incurred by the Village relative thereto, including attorneys,' engineering, consulting, and experts' fees; provided, however, any responsibility or liability therefor, and the amount thereof, shall be determined by a court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

#### **Section 405.00 Zoning Board of Appeals**

##### **A. Creation, Appointment and Organization**

The Village Board shall appoint a Zoning Board of Appeals consisting of five (5) members. The term of office of all members of the Zoning Board of Appeals shall be three (3) years. Vacancies shall be filled by appointment by the Village Board. The Zoning Board of Appeals shall elect a chairman from its members, shall appoint a secretary and shall prescribe rules for the conduct of its affairs. At the annual organizational meeting of the Village of Alfred, the Mayor of the Village of Alfred, with the advice and consent of the Board of Trustees, shall appoint up to three (3) alternate members of the Zoning Board of Appeals and up to three (3) alternate members of the Planning Board of the Village of Alfred (these being different persons appointed to each of the two (2) Boards). These appointments shall be for a term of one (1) year. In the event of a vacancy, the Mayor shall appoint a successor to serve until the end of the term of the vacated position. The initial appointment of alternate members to the Zoning Board of Appeals and the Planning Board will be made at the first scheduled meeting of the Village Board of Trustees following adoption of this amendment and the term of these appointments will run until the next annual organizational meeting. It shall be the duty and function of the alternate members of the Zoning Board of Appeals and of the Planning Board to serve in the place and stead of any regularly appointed member of such Board who is unable to serve due to absence, disqualification, resignation or conflict of interest. Such service shall be temporary in nature and be limited to a specific meeting, or a specific case, and shall be permitted only for the purpose and to the extent necessary to achieve a quorum. Such alternate members may participate in decision making only to the extent necessary, and only after they have been thoroughly informed of the facts and law of the case. Insofar as practicable, the service of such Alternate Members of each Board shall rotate among them.

##### **B. Zoning Board of Appeals Office**

The Office of the Village Clerk shall be the Office of the Zoning Board of Appeals and every rule, regulation, amendment or repeal thereof and every order, requirement, or decision of any other record of the Zoning Board of Appeals shall immediately be filed in said office.

C. Powers and Duties

The Zoning Board of Appeals shall have all the powers and duties prescribed by the Village Law of the State of New York and by this local law which are more particularly specified in the following section.

**Section 406.00 Actions of the Board of Appeals**

A. Interpretation

When the Zoning Enforcement Officer or other administrative officials make a decision that a person feels is unfair, arbitrary, or a misinterpretation of this local law or an erroneous application of zoning restriction, the aggrieved individual may apply to the Zoning Board of Appeals for an interpretation of this local law. The Zoning Board of Appeals is without authority to initiate the rendering of an interpretation. A review and decision can take place only if the following conditions are met:

1. The Zoning Enforcement Officer or other administrative official has performed an official action such as an order, requirement, decision, etc.
2. The appeal to the Zoning Board of Appeals has been made following the procedures outlined in Section 406.00 E.

B. Variances

On appeal from the decision or determination of the Zoning Enforcement Officer, or otherwise as contemplated by this Law, the Zoning Board of Appeals is authorized and empowered to grant use variances and area variances, subject to and upon the terms and conditions set forth herein.

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**Section 406.01. Use Variances**

A. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that otherwise applicable zoning regulations and restrictions have caused unnecessary hardship as set forth herein.

(1.) Unnecessary Hardship. In order to prove the existence of an unnecessary hardship for purposes hereof the applicant is required to clearly demonstrate to the Board of Appeals' satisfaction that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each and every of the following four criteria is satisfied: (i) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) 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 involved; (iii) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (iv) that the alleged hardship has not been self-created.

(2.) Reasonable Rate of Return. In evaluating whether the applicant can realize a reasonable rate of return, the Board of Appeals shall examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the applicant has clearly demonstrated, by detailed, written "dollar and cents" proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district (including those uses permitted by special use permit).

(3.) Unique Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.

(4.) Essential Character of the Neighborhood. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the proposed project will not alter the essential character of the neighborhood. In making its determination of whether the proposed project will alter the essential character of the neighborhood, the Board of Appeals shall take into account factors that are of vital importance to the citizens of the Village including without limitation: (i) the rural residential, agricultural and historic character of the Village, (ii) its irreplaceable recreation and tourism sites, (iii) the extent of hazard to life, limb or property that may result from the proposed project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (vii) whether the applicant will use a style of development that will result in degradation to the air quality, water quality or scenic and natural resources of the Village. In order to find that the proposed project does not alter the essential character of the neighborhood, the Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.

(5.) Self-Created Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the alleged hardship was not self-created. The Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that (i) the applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (ii) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (iii) when the applicant purchased the property, the applicant knew or should have known the property was subject to the zoning restrictions.

B. In addition to the application requirements from time to time established pursuant to law and this Law, an application for any use variance shall contain a typewritten narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for a use variance, including:

(1.) Competent Financial Evidence. Competent written financial evidence containing reasonable written specification of, and back-up (confirmation) for, the nature and factual particulars of such claim, and articulating the basis for the applicant's claim, and including, at a minimum (as to the entire parcel of which the proposed project is a part): (i) date of acquisition; (ii) the purchase price; (iii) present value of the property; (iv) the amount of real estate taxes; (v) the amount of mortgages or liens and other expenses; (vi) the asking price for the property when it had been offered for sale; (vii) the costs of

demolishing any existing structures on the property; (vii) cost of erecting a new building(s) for each and every permitted use in the zoning district (including uses allowed by special use permit); (viii) efforts to market the property; and (ix) a schedule of all other property in common ownership at either the date of the enactment of this law or thereafter.

Competent written financial evidence must include written "dollars and cents proof" such as appraisals, economic studies, and any other written evidence supporting the applicant's contention that the desired relief is appropriate, including appraisals relating to any alleged diminution of all or substantially all of the fair market value of property. For the purposes of this Law, common ownership means all other interests in property either located within the Village or contiguous to the Village that is held by the any of the applicants (if more than one), whether such ownership is of a legal or equitable interest, in whole or in part, contiguous or not, and whether such property interest is held by any of the applicants through a legal or equitable interest in a(nother) corporation, partnership, trust, business, entity, association, fund, joint venture, or individually.

(2.) Unique Nature of the Property. The applicant must provide evidence demonstrating the unique nature of the parcel as a whole. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto. Exceptional topographic conditions are an example of a factor demonstrating the unique nature of the property.

(3.) Alteration of the Essential Character of the Neighborhood. The applicant must demonstrate that the proposed project will not adversely change the essential character of the neighborhood with regard to physical, economic, social or environmental elements. Adverse impacts to the essential character of the neighborhood include, but are not limited to, decreased quality or increased quantity of stormwater runoff, increased soil erosion, increased traffic congestion, decreased road quality, impairment of the scenic or rural character of roads, increased noise, dust, odor and/or glare, reduced wildlife habitat, decreased air quality, decreased water quality, impairment of the viewshed, creation of solid wastes, negative impacts on sustainability efforts, increased social costs, increased emergency response times, negative impacts to public infrastructure, decreased property values, and negative impacts on the health of area residents.

(4.) Hardship Not Self-Created. In order to show that the hardship is not self-created, the applicant must demonstrate that either (i) when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or did not otherwise apply, or (ii) some other change has occurred since the applicant's purchase which makes the use non-conforming, as long as that change was not caused by the applicant.

C. The Board of Appeals, in the granting of use variances, shall grant only the minimum variance that it shall deem necessary and adequate to allow an economically beneficial use of the property, and at the same time preserve and protect the essential character of the neighborhood and the health, safety and welfare of the community.

D. The Board of Appeals, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such use variance may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety and general welfare

and as may be necessary to carry out the intent of this Law. If the applicant refuses to accept such requirements and conditions, the use variance shall be denied.

**Section 406.02. Area Variances.**

A. In making a determination whether to grant, grant conditionally, or deny an application for an area variance, the Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, and balance this benefit against the detriment to the health, safety and welfare of the neighborhood or community by making such grant. In making such determination the Board shall consider each of the following factors: (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (c) whether the requested area variance is substantial; (d) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (e) whether the alleged difficulty was self-created. (In contrast to the context of a use variance, in the context of an area variance application whether or not the alleged difficulty was self-created shall be relevant to the decision of the Board of Zoning Appeals but a finding that the difficulty was self-created shall not in and of itself preclude the granting of the area variance.)

B.

1. The Zoning Board of Appeals may authorize a departure from the text of this local law and grant a variance when, owing to special conditions, a literal enforcement of the regulations established by this local law would result in unnecessary hardship. There are two types of variances:

a. Area Variance: Any authorized departure from the regulations governing size or shape of lot, yard, building coverage, parking, or other area requirements established by this local law.

b. Use Variance: Any authorized departure from the regulations governing uses permitted in the districts established by this local law.

C. A variance from the regulations established by this local law shall not be granted by the Zoning Board of Appeals unless and until a written application for a variance is submitted which demonstrates all of the following:

1. That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the same district.

2. That literal interpretation of the regulations established by this local law would deprive the applicant of rights commonly enjoyed by other properties in the same district under the regulations established by this local law.

3. That the special conditions and circumstances do not result from the actions of the applicant.

4. That the variance granted will not be detrimental to the public welfare, injurious to the property of others or change the character of the neighborhood in which it is located.

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~~D.C. \_\_\_\_\_ The variance granted by the Zoning Board of Appeals shall be the minimum variance that will accomplish the purpose. The Board of Appeals, in the granting of area variances, shall grant the minimum area variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The Board of Appeals shall, in the granting of area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such area variance may have on the neighborhood or community. If the applicant refuses to accept such requirements and conditions, the area variance shall be denied.~~

D. Where the Board of Appeals denies (on other than procedural grounds) a request for a use variance or area variance or otherwise rules against the applicant, the Board of Appeals may not consider another application requesting any or all of the same legal relief for a period of one (1) year from the date of such denial or withdrawal, except: (i) where ordered to do so by a court of competent jurisdiction, or (ii) where the application is accompanied by an affidavit setting forth facts, to the satisfaction of the Board of Appeals, showing a substantial change of circumstances justifying a rehearing.

E. The procedures of a request for an interpretation or a variance shall be as follows:

1. The aggrieved individual shall obtain an Appeals Form from the Village Clerk. Every appeal or application shall refer to the specific provision of this local law involved in the request for an interpretation or a variance. The aggrieved individual must explain in writing why the official interpretation is questionable or wrong or why a variance should be granted.
2. The Village Clerk will transmit the form to the Zoning Board of Appeals within ten (10) days of receipt of the application.
3. The Zoning Board of Appeals will set the date for the hearing.
4. At least thirty (30) days before the date of the hearing the secretary of the Zoning Board of Appeals shall submit to the Planning Board a copy of the Appeals Form under discussion. One (1) week prior to the hearing, the Planning Board will transmit to the Zoning Board of Appeals its opinion on the application or appeal. Failure to submit such a report will constitute approval of said application or appeal by the Planning Board.
5. Final action by the Zoning Board of Appeals on the requested interpretation or variance shall take place within thirty (30) days of the public hearing.

F. The Zoning Board of Appeals shall fix a reasonable time for the hearing of appeals and shall give due notice of the time set for the hearing to the applicant. Public notice shall be by the publication of a notice in the official newspaper of the Village and shall briefly describe the nature of the appeal and the time and place of the hearing. The applicant shall, at least seven (7) days prior to the date of the hearing, give notice in writing by Certified Mail or by service in person, with adequate proof of contact thereof to all property owners within two hundred (200) feet of the property to be considered in said appeal or to all property owners of contiguous land or properties adjoining said property to be considered, and to other interested property owners as may be

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designated by the Zoning Board of Appeals. The applicant shall furnish proof of services in writing and property notarized.

#### Section 407.00 Interpretation

The interpretation and the application of the regulations established by this local law shall be held to be the minimum requirements for the promotion of the health, safety and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this local law imposes greater restrictions upon the use of buildings or premises or land or upon the height or bulk of buildings, or requires larger open spaces, the regulations established by this local law shall govern.

#### Section 408.00 Conflict with Other Laws

- A. From and after the date when this local law takes effect, any and every existing ordinance or local law of the Village of Alfred inconsistent herewith is hereby repealed.
- B. Whenever the regulations established by this local law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or those which impose the higher standards shall govern.

#### Section 409.00 Severability Planning Board

~~Should any section or provision of this local law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this local law as a whole nor any part thereof other than the part so declared to be unconstitutional or invalid.~~

#### Section 409.01. Establishment and Membership

##### A. Planning Board Established, Membership

~~There is hereby established a Planning Board pursuant to the NYS Village Law. Said Board shall consist of seven (7) members, including a chairperson appointed by the Village Board. Appointments shall be in accordance with the NYS Village Law and an appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. In the absence of a Village Board appointment of a chairperson or in the absence of the Board member so appointed, the Board of Appeals may designate a member to serve as acting chairperson. The Village Board may also provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper in connection with the operation of the Planning Board. In making such appointments, the Village Board may further require Planning Board members to complete training and continuing education courses.~~

##### B. Alternative Members

~~The Village Board hereby provides, pursuant to clause 16. of NYS Town Law Section 7-718, for the appointment of up to two (2) alternate members of the Planning Board to serve for a term of one (1) year or until a successor is appointed. Such alternate member shall attend meetings, and shall act in the capacity of a full member whenever regular members are absent, abstain, or must recuse themselves due to conflicts of interest.~~

##### 409.02. Powers and Duties

The Planning Board shall have all the power and duties prescribed by law, including without limitation, NYS Village Law Section 7-718 and by this Law, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Planning Board that is conferred by law: (a) to issue upon application, after public notice and hearing, and in accordance with the requirements of law and this Law, special use permits; (b) to conduct upon application, after public notice and hearing, and in accordance with the requirements of law and this Law, site plan review and (where appropriate) approval when this Law requires the same; (c) to issue upon application, after public notice and hearing, and in accordance with the requirements of law, the Village of Alfred subdivision regulations and this Law, subdivision approvals; and (d) to hear and decide such other matters, according to the terms of this Law or other statutes, and upon which the Planning Board may be authorized to pass under this Law or other law.

#### 409.03. Procedures of the Planning Board

The Planning Board shall act in accordance with the procedure specified by law and by this Law.

##### A. Public Hearings

The Planning Board shall fix a time for any required public hearings, give public notice thereof and issue decisions in accordance with the provisions of law and this Law. The applicant shall bear the cost of advertising and required public notice for public hearings.

##### B. Appearances

On hearing of an application, a party may either appear in person or by a representative who need not be an attorney. If the party is to be represented by a person who is not an attorney, a notarized affidavit of appointment of a representative for the party must be presented to the Planning Board prior to the hearing. An application may be made by an applicant other than the owner of record, provided that the owner(s) shall join in any application.

##### C. Conduct of Proceedings

The Planning Board shall be primarily concerned with facts, and not with technicalities, and shall decide the matters before it fairly and equitably having regard to the welfare of the community as a whole and to the rights of the applicant and neighbors. The Planning Board shall make its findings and determinations based upon substantial evidence contained in the record of its proceedings.

##### D. Inspection

The Planning Board may defer decision on any matter for the purpose of an appropriate inspection by the Planning Board or any other agency that the Planning Board deems to be an interested agency or to hear witnesses or procure the submission of pertinent records. An appeal or application on which determination by the Board is to be deferred shall become the first order of business at the next public meeting.

#### 409.04. Special Use Permits

##### A. Special Use Permits Authorized

Special uses are uses for which approval of the Planning Board is required and for which conformance to additional standards is required, in addition to all other requirements of this Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific case or use shall

be considered as an individual case that requires consideration of the merits and details of each proposed use to assure that such proposed use is in harmony with this Law and the Comprehensive Plan, and that such proposed use will not adversely affect the general character of the surrounding area if the conditions of the special use permit are met.

#### B. Required Findings

In granting a special use permit, the Planning Board shall require evidence of the satisfaction of each and every of the following standards by findings entered into the record of the proceedings:

(a) that the special use is specifically authorized by this Law (the decision shall set forth the exact subsection of this Law containing the jurisdictional authorization);

(b) that the special use meets all of the criteria set forth in the provisions of this Law authorizing such special use; and

(c) that the granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this Law of the Comprehensive Plan. In evaluating compliance with this clause (c), the Planning Board shall consider factors such as: (i) location and size of the proposed development project; (ii) the nature and intensity of the operations involved; (iii) the size of the site in relation to the size of the proposed development project; (iv) the location of the site with respect to the existing or future streets giving access to it with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; (v) whether the location, nature and height of buildings walls, and fences will discourage the appropriate development and use of adjacent land and buildings and properties generally in the district or impair the value thereof; (vi) whether the operations in connection with the proposed development project will be more objectionable in nature to nearby properties and properties generally in the district by reason of noise, fumes, vibration, flashing lights, increased traffic or any other objectionable reasons, than would be the operations of any permitted use; (vii) the impact on existing and planned capacity of infrastructure systems, including but not limited to roads, water, sewer, energy and drainage; (viii) whether environmentally sensitive features will be protected; and (ix) whether any authorization hereunder shall create fiscal burdens upon the community at large.

Section If the Planning Board finds that the imposition of conditions will not be sufficient to enable the proposed development project to comply with all applicable special use permit criteria, it shall deny the special use permit application.

#### C. Additional Required Submissions for Special Use Permit

In addition to complying with all other applicable requirements set forth in this Law, applications for special use permits shall contain a typewritten narrative explaining what the application is for, and how the development project meets or exceeds all applicable criteria for the special use permit.

#### D. Imposition of Conditions

The Planning Board, in the granting of special use permits, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and as are, in the opinion of the Planning Board, required to promote the intent and purposes of the Comprehensive Plan and this Law. Such conditions shall be imposed for the purpose of minimizing any adverse impact such special use permit may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening,

architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this Law. If the applicant refuses to accept such requirements and conditions, the special use permit shall be denied. Failure to abide by any conditions attached to a special use permit shall constitute a violation of this Law.

#### E. Special Use Permit Conditioned Upon Periodic Renewal

The grant of a special use permit may be conditioned upon periodic renewal, which renewal may only be granted following public notice and hearing. Such renewal shall be withheld or granted subject to terms or conditions additional to or different from those in the original grant only upon a determination that (a) the factors which justified the original grant no longer exist or have changed sufficiently to require additional or different terms and conditions; or (b) the terms and conditions of the original special use permit have not been or are not being complied with, in whole or in part. A pending notice of violation shall be prima facie evidence of lack of conformity with such terms and conditions.

### **Section 410.00 Amendments**

The Board of Trustees may from time to time on its own motion or on petition or on recommendation from the Planning Board, amend, supplement, or repeal any of the regulations, provisions or sections of this local law after proper and legal requirements have been met. ~~Every proposed amendment shall be referred to the Planning Board for review before a public hearing is held.~~ The Village Board shall refer proposed zoning code amendments to the Planning Board, in order that the Planning Board will have an opportunity to review the proposed amendment and make a non-binding recommendation regarding the same to the Village Board; provided, however, that no failure of the Planning Board to make such non-binding recommendation shall invalidate or otherwise affect any action the Village Board may take with regard to the proposed amendment. The Village Board, by resolution adopted at a stated meeting, shall fix the time and place of the public hearing on the proposed amendments and cause notice to be given according to law.

**ARTICLE FIVE  
Aquifer Protection Zone**

**Section 500.00 Aquifer Protection Zone**

A. Purpose

1. An Aquifer Protection Zone has been established to prevent contamination and depletion of the groundwater resources within the aquifer area that provides drinking water for private residential wells and municipal wells operated by the Village of Alfred. The Aquifer Protection Zone is not restricted to any particular zoning district, but overlays other existing districts shown on the Zoning Map. Any uses permitted in the underlying zoning districts shall be permitted in the Aquifer Protection Zone, except where the Aquifer Protection Zone prohibits or imposes greater or additional restrictions and requirements. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply. If a lot or combination of parcels for which a single development is proposed is wholly or partially within the Aquifer Protection Zone, the provisions of the Aquifer Protection Zone shall apply to all property within such lot or combination of parcels.
2. For the purposes of this law, land included in the Aquifer Protection Zone shall be delineated on a map entitled "Village of Alfred Aquifer Protection Zone" filed with the Village Clerk's Office. Boundaries were determined by the New York Rural Water Association using best available information.

B. Prohibited Uses and Activities in the Aquifer Protection Zone

Without in any way limiting the application or generality of the provisions of Section 301.00 hereof regarding Explicitly Prohibited Uses, the following uses and activities shall be prohibited in the Aquifer Protection Zone:

1. Establishment of any solid waste management facility, radiological waste facility, pathological or medical waste facility or hazardous waste treatment, storage or disposal facility. The Village of Alfred waste treatment plant is not covered under this statute as a prohibited use.
2. Surface land application of septage, sewage, sludge or human excreta.
3. Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste or non-sewage wastewater into or onto land. Exception: Small amounts of medical waste, radiological material and other wastes used periodically in testing by Alfred State College and Alfred University and disposed of in an environmentally safe method, under the direction of a professor of Alfred State College or Alfred University.
4. Outdoor uncovered stockpiling or bulk storage of coal, deicing compounds, pesticides or fertilizers.
5. Underground storage of petroleum products, hazardous substances, hazardous waste, pesticides and fertilizers. All pre-existing, or proposed new underground storage tanks, must meet USEPAS regulations and standards for UST's as found in 40 CFR Part 280 and 40 CFR Part 281.

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- C. Except for single-family residential use, any proposed use to be implemented in the Aquifer Protection Zone shall be reviewed by the Village Planning Board before granting a Zoning Permit.
- D. A Site Development Plan with specific uses located on a map and described in detail shall be submitted to the Village Planning Board for all uses pursuant to this law. This plan will include details regarding the location of the premises and all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of storm water, processes wastes, wastewater, petroleum, hazardous substances and wastes, solid waste and incidental wastes provided, however, that the preceding language is not intended and shall not be construed to allow or authorize any Explicitly Prohibited Uses to be conducted. In addition, description of the means of water supply will be provided including an estimate of the total daily groundwater withdrawal rate if applicable. The Village Planning Board, in its review of the Site Development Plan, shall be guided by the following standards:
1. Any proposed use will not adversely impact the quality of water resources supplying private wells and/or any and all wells serving as water sources for the Village of Alfred water supply.
  2. Any proposed use will not adversely impact the quantity of water resources supplying private wells and/or any and all wells serving as water sources for the Village of Alfred water supply.
  3. The Village Planning Board may require the applicant to submit detailed technical data concerning: (a) the effects of the use on water quality and quantity; and (b) the design of control measures proposed to reduce any such effects.
  4. The Village Planning Board may require changes or additions to the Site Plan as a condition of approval to safeguard water resources. No permit shall be issued unless and until such conditions have been fully met or performed. All improvements to the site shall be completed in strict conformance with the Site Development Plan as approved.
  5. Granting approval for any use shall not constitute a guarantee of any kind of the municipality, or by any officer or employee, of the safety of any use and shall create no liability upon or cause of action against any public body, officer or employee for any damage that may result from the approval of a Zoning Permit.

## **ARTICLE SIX Site Development Plan**

### **Section 600.00 Site Development Plan Review**

- A. It is the intent of this Article to promote through the Site Development Plan Review process the public health, safety, and general welfare of the Village of Alfred. The Village Board of Trustees has resolved that a clean, wholesome, attractive environment contributes to the health and safety of the residents of the Village, and that such an environment is essential to the maintenance and continued development of the economy of the Village and to the general welfare of its residents. It is further the intent of this Article to ensure the optimum overall conservation, preservation, development, and use of the natural resources and built environment of the Village by regulating land use activity through the Planning Board's review and approval of Site Development Plans. It is not the intent of this article to prohibit per se any land use activities that meet the standards and guidelines below. It is further the intent of this Article to ensure the appropriateness and quality of rehabilitation and new construction within the Alfred Historic District. A map of the Historic District is available from the Village Clerk.
- B. All land use activities within the Village shall require Site Development Plan review and approval before being undertaken, except the following:
1. Construction of one-family dwellings outside the Historic District, and their ordinary accessory structures and related land use activities.
  2. Exterior alterations or additions to existing one-family dwellings outside the Historic District.
  3. Interior alterations to existing structures.
  4. Landscaping or grading in connection with a land use which is not regulated by the provisions of this Article.
  5. Signs outside of B1, B2, B3, R-D Districts and the Historic District and signs in the E-1 District which are not clearly visible from the Historic District, Main Street or Route 244.
- C. The Zoning Enforcement Officer will review each application for a Zoning Compliance Permit, a Special Use Permit, a Certificate of Occupancy, a Sign Permit, a Demolition Permit, or a Swimming Pool Permit which involves a construction activity, to determine that the application complies with all provisions of this local law other than with those of this Article.
- D. Prior to the issuance of a Zoning Compliance Permit for construction, demolition, rehabilitation, or relocation of any structure or element of the landscape in any district, the Zoning Enforcement Officer shall require Site Plan approval by the Planning Board pursuant to this Article. The Zoning Enforcement Officer shall, in writing, notify the applicant for a zoning compliance permit of the provisions of this Article, where the Site Development Plan approval is required.
- E. Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any structure located within the Village of Alfred which does not involve a change in design and/or material.

### **Section 601.00 Pre-Submission Conference with the Board**

A pre-submission conference can be held between the applicant and the Planning Board prior to the applicant's preparation and submission of a formal Site Development Plan. The purpose of this conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant of potential problems and concerns, and generally to determine the information required on the detailed Site Development Plan. In order to accomplish these objectives, the applicant should provide:

- A. An area map showing the parcel under consideration for the site plan review, and all properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries thereof;
- B. A statement and a rough sketch describing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations; and
- C. A topographic map of adequate scale and detail to show site topography.

### **Section 602.00 Application for Site Development Plan Review**

An application for Site Development Plan approval shall be made in writing to the chairman of the Planning Board and shall be accompanied by the information set forth on the following checklist or by such information from the following checklist as was determined necessary by the Planning Board at the sketch plan conference:

- A. Title of drawing(s), including name and address of applicant and person responsible for preparation of such drawing(s);
- B. North arrow, scale, and date;
- C. Boundaries of the property plotted to scale;
- D. Existing watercourses;
- E. Grading and drainage plan, showing existing and proposed contours;
- F. Location, design, construction materials, exterior dimensions, and proposed use of all structures, including all elevations in the case of new structures or all affected elevations in the case of additions or alterations;
- G. Location, design, and construction materials of all parking and loading areas, showing access and egress;
- H. Provision for pedestrian access;
- I. Location of outdoor storage, if any;
- J. Location, design, and construction material of existing and proposed site improvements, including drains, culverts, retaining walls, and fences;
- K. Description of the method of securing public water and location, design, and construction materials of such facilities;
- L. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar;
- M. Location, size, design, and construction materials of proposed signs; location, type and proposed development of buffer areas, including existing vegetative cover;
- N. Location and design of outdoor lightning facilities;

- O. Designation of the amount of building area proposed for retail sales or similar commercial activity;
- P. General landscaping plan and planting schedule;
- Q. An estimated project construction schedule;
- R. Identification of all state or county permits required for project execution;
- S. A record of application for and approval status of all necessary permits from state or county officials;
- T. Other elements integral to the proposed development as considered necessary by the Planning Board.

#### **Section 603.00 Planning Board Review of Site Development Plan**

- A. The Planning Board's review of the Site Development Plan shall include, as appropriate, but is not limited to, the following general considerations:
  - 1. Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs;
  - 2. Adequacy and arrangement of pedestrian traffic and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience;
  - 3. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, pavement surfaces, dividers, and traffic controls;
  - 4. Location, arrangements, appearance, sufficiency of off-street parking and loading;
  - 5. Adequacy of storm water and drainage facilities;
  - 6. Adequacy of water supply and sewage disposal facilities;
  - 7. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between an applicant's adjoining lands, including the maximum possible retention of existing vegetation;
  - 8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation;
  - 9. Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features;
  - 10. Adequacy of fire lanes and other emergency zones and provision of fire hydrants;
  - 11. Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to erosion, flooding, or ponding.
- B. For the construction of new buildings, parts of buildings, and elements of the landscape, the Planning Board will seek to assure the compatibility of the new construction with the existing character and appearances of the Village, of the neighborhood, and of the immediate block, sites, and surroundings of the construction.
- C. For the renovation and rehabilitation of the existing structures located within the Historic District and for the additions thereto, the Planning Board will seek to assure that the construction reflects and enhances the original character, proportions, materials, and colors of the structure and those of its immediate block, sites, and surroundings. For major renovation, rehabilitation, and addition projects located within the Historic District, the Planning Board encourages adoption of recommendations contained in the most currently available publication of The Secretary of the Interior's Standards of Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
- D. For the relocation of buildings to sites within the Village of Alfred, the Planning Board will seek to assure that the building to be moved is compatible with the existing character and appearances of

the Village, of the neighborhood, and of the immediate block, sites, and surroundings of the proposed site for relocation, and that the building is suitably situated on that site.

- E. For the demolition of all or parts of existing buildings, the Planning Board will seek to assure the serious public consideration of feasible alternatives.
- F. Special Considerations for signs:
  - 1. Signs should be designed to be compatible with their surroundings and appropriate to the architectural character of buildings on or in front of which the signs are placed. Sign panels and graphics should relate with and not cover architectural features, and should be in proportion to them.
  - 2. Signs and sign elements should express uniformity and create a sense of harmonious appearance with contiguous and nearby buildings, especially in the Historic District.
  - 3. Layout should be orderly and uncluttered.
  - 4. Colors and materials should be compatible with the sign design and the building. The number of colors used should be the minimum consistent with the design.
  - 5. If illumination is used, it should be appropriate to the character of the sign and its surroundings. Lights must not produce a glare beyond the limits of the property nor impair visibility for motorists.
- G. The Planning Board may consult with the Zoning Enforcement Officer, Fire Inspector, other local and county officials, and its designated private consultants, in addition to representatives of state and federal agencies including, but not limited to, the State Departments of Transportation and Environmental Conservation and the Soil Conservation Service.
- H. Prior to taking action on the final site plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with Section 239 of the General Municipal law.

#### **Section 604.00 Planning Board Action on Site Development Plan**

- A. The Planning Board may conduct a public hearing on the Site Development Plan, if considered desirable by a majority of its members, within forty-five (45) days of the receipt of a complete application for Site Development Plan approval. Notice of the Public Hearing shall be advertised in the official newspaper at least five (5) days before the public hearing.
- B. Within forty-five (45) days of the receipt of a complete application for Site Development Plan approval, or if a public hearing is held, within forty-five (45) days of the public hearing, the Planning Board shall:
  - 1. Approve the application;
  - 2. Approve the application subject to the applicant's acceptance of the modification(s) proposed by the Planning Board; or
  - 3. Disapprove the application.

- C. The time within which a decision must be rendered may be extended by mutual written consent of the applicant and the Planning Board.
- D. For all applications whose review period has been extended, the Planning Board shall render its decision within the forty-five (45) day extension period in the manner set forth in Section 604.00A.
- E. For all applications which have been approved, and upon payment by the applicant of all fees and reimbursable expenses due the Village, the Planning Board shall endorse its approval on a copy of the Site Development Plan and shall immediately file the approved plan and its decision in writing with the Village Clerk. This would be considered the legally approved plan and the written decision shall be mailed to the applicant by certified mail, return receipt requested. A copy of the approved plan and the written decision shall be given to the Zoning Enforcement Officer, who may then issue the appropriate permit(s) if the project conforms to all other applicable requirements.
- F. For all applications which have been approved with modifications, a copy of the Planning Board's written statement of the modifications required for approval shall be mailed to the applicant by certified mail, return receipt requested. Upon adequate demonstration to the Planning Board by the applicant that all conditions have been met, and upon payment by the applicant of all fees and reimbursable expenses due the Village, the Planning Board shall endorse its approval on a copy of the Site Development Plan and shall immediately file the approved plan and its decision in writing with the Village Clerk. This shall be considered the legally approved plan with which all development on the site must conform. A copy of the approved plan and the written decision shall be mailed to the applicant by certified mail, return receipt requested. A copy of the approved plan and the written decision shall be given to the Zoning Enforcement Officer, who may then issue the appropriate permit(s) if the project conforms to all other applicable requirements.
- G. For all applications which have been disapproved, the Planning Board shall clearly state the reasons for such disapproval, and shall immediately file its decision in writing with the Village Clerk. A copy of the written decision shall be mailed to the applicant by certified mail, return receipt requested. A copy of the written decision shall be given to the Zoning Enforcement Officer, who shall then deny the appropriate permit(s).

#### **Section 605.00 Appeal**

Any person aggrieved by any decision of the Planning Board or any officer, department, or board of the Village may apply to the New York State Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of said decision in the office of the Village Clerk.

#### **Section 606.00 Reimbursable Costs**

Reasonable costs incurred by the Planning Board for the review of an applicant's proposed site plan, such as for, but not limited to, engineering, legal and technical assistance, shall be required to be paid for by the applicant. Such payment shall be in addition to any fees or costs associated with the State Environmental Quality Review (SEQRA), which are separate and distinct costs to be paid by the applicant.

**Section 607.00 Performance Guarantee**

No certificate of occupancy shall be issued until all improvements shown on the Site Development Plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board in consultation with the Zoning Enforcement Officer or other competent person.

**Section 608.00 Inspection of Improvements**

The Zoning Enforcement Officer shall inspect and record, photographically or in narrative form, all site improvements, and shall coordinate such inspections with other officials and as appropriate.

**Section 609.00 Integration of Procedures**

The Planning Board shall, where possible, integrate the Site Development Plan Review process with the procedural and submission requirements for other compliances.

## ARTICLE SEVEN Definitions

For purposes of this Law, unless otherwise specifically provided the following terms and words shall have the meanings set forth below:

ACCESSORY STRUCTURE a structure customarily incidental and subordinate to the principal building on the same lot, where the principal building is lawful and where there is unity of ownership between the principal building and accessory structure. A structure which dominates the principal building in area is not eligible to qualify as an accessory structure.

ACCESSORY USE a use customarily incidental and subordinate to the principal use, where the principal use is lawful, where there is unity of ownership between the principal and accessory use, and where the principal and accessory uses are located on the same lot. A use that dominates the principal use in area, extent or purpose shall not be eligible to qualify as an accessory use. Under no circumstances shall any Explicitly Prohibited Use qualify as an accessory use.

~~ACCESSORY BUILDING~~ Any building which is subordinate to and whose use is incidental to the use of the principal building on the same lot or on an adjoining lot under the same ownership.

**ADVERTISING BANNER** Any sign of lightweight fabric or similar non-rigid material. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered advertising banners. Small banners or flags affixed to residences for decorative purposes only and which do not contain lettering of any type shall not be considered advertising banners.

**ADVERTISING FLAG** Any fabric containing distinctive colors, patterns, or lettering designed to draw attention to a building or product. The term "advertising flag" does not include the flag or pennant or insignia of any nation or association of nations or of any state, city, or other political unit or of any charitable, educational, philanthropic, civic, or religious organization. Small banners or flags affixed to residences for decorative purposes only and which do not contain lettering of any type shall not be considered advertising flags.

**ADVERTISING PENNANT** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind in order to call attention to a business or other commercial enterprise.

AGRICULTURE; AGRICULTURAL USE The use of land and on-farm buildings and equipment employed in the production of crops and/or livestock and livestock products (as those terms are defined at NYS Agriculture and Markets Law § 301) as a commercial enterprise.

**ALLEY** An established service way providing a secondary means of access to abutting property.

**ALTERATION** When applied to a building, means any change or rearrangement in the structural parts or of the existing facilities or an enlargement, whether by extending on a side or by increasing in height, or in the moving from one location to another.

**AMUSEMENT CENTER** Any establishment whose premises contain more than five (5) coin-operated amusement devices.

**AMUSEMENT DEVICE** Any coin-operated device primarily for the entertainment of the customer, the use of which results in electronic or mechanical display.

**AQUIFER** A geologic formation, group of formations or part of a formation that contains sufficient saturated permeable material to yield adequate quantities of groundwater to wells.

**AUTOMOTIVE SALES** Premises including open spaces other than a street or passageway and showrooms, enclosed within a building used for the display or sale of new or used automobiles, cargo trailers or boats.

**AUTOMOTIVE REPAIR** The use of any land or building for the major mechanical repair of vehicles.

**BAR** Any establishment whose primary purpose is the purchase and consumption of alcoholic beverages on the premises.

**BED AND BREAKFAST** A tourist home that has provisions for furnishing breakfast. (See TOURIST HOME)

**BELOW-REGULATORY CONCERN** Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR §20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Village.

**BOARDINGHOUSE** A building other than a hotel where, for compensation, lodging and meals are served for five (5) or more persons.

**BUFFER AREA** An area between a residential and nonresidential district reserved for plantings, fencing or other similar screening devices.

**BUILDING** Any structure having the roof supported by columns or walls, intended for the shelter, housing or enclosure of persons, animals or property.

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

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

**BUILDING HEIGHT** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof and to the average height between the plate and the ridge of a gable, hip or gambrel roof.

**BUILDING LINE** A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In the case of a cantilevered section of a building or a projected roof or porch, the vertical plane coincides with the farthest projecting surface. All yard requirements are measured to the building line.

**BULK STORAGE** Materials stored in large quantities which are usually dispensed in smaller units for use or consumption.

**BUSINESS; BUSINESS USES** Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "business," "business uses," or any variation thereof, be construed to mean, be, include, or authorize within the Village any Explicitly Prohibited Use.

**CARPORT** A roofed structure, with or without enclosing walls, used for the storage of one or more automobiles.

**CERTIFICATE OF OCCUPANCY** A certificate issued by the Zoning Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all requirements of this local law and such adjustments as may be granted by the Village Board, the Planning Board or the Zoning Board of Appeals.

**CLUB, PRIVATE SOCIAL** A nonprofit social organization whose premises are restricted to members and their guests.

**CLUSTER DEVELOPMENT** A development of residential lots, each containing less area than the minimum lot area required for the district within which such development occurs, but complying with the density limitation imposed by said lot area through the provision of open space as a part of the subdivision plan.

COMMERCIAL; COMMERCIAL USES Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "commercial," "commercial uses," or any variation thereof, be construed to mean, be, include, or authorize any Land Application Facility, Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes Dump, Underground Injection, Underground Storage of Natural Gas, or any other Explicitly Prohibited Use.

**COMMERCIAL STUDIO** An artist's studio, with retail sales of unique artistic works produced on the premises by the artist who resides on the premises. (See HOME OCCUPATION for restrictions.)

COMPREHENSIVE PLAN Any document, styled comprehensive or master plan or otherwise, adopted by the Village Board for the protection, enhancement, growth, and development of the Village, immediate as well as long-range, specifically pursuant to § 7-722 of the NYS Village Law, together with all other materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, adopted by the Village Board, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the protection, enhancement, growth and development of the Village.

**COMPREHENSIVE VILLAGE PLAN** A comprehensive plan for the growth, protection and development of the Village of Alfred, showing existing and proposed features that provide for the public health, safety and general welfare of the population. The Comprehensive Village Plan and all modifications thereto shall be on file with the Planning Board, and a certified copy on file in the Office of the Village Clerk.

**CONSTRUCTION SIGN** Any sign that identifies a property on which construction activity is taking place during the course of construction and which may include information on the project, owner, developer, architect, engineer, contractor and subcontractors and funding sources, among other related information.

**CONTAMINATION** The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

**CURB LEVEL** The officially established grade of the curb in front of the midpoint of the lot.

**DEAD STORAGE** An object out of context with its surroundings which is stored for a period of more than thirty (30) days in any calendar year; or a vehicle (land, water or air) which is stored for a period of more than thirty (30) days in any calendar year and which is not properly registered, does not have a valid

inspection sticker or would be in violation of the Motor Vehicle and Traffic Law if it were to be driven on a Village or other public street.

**DEICING COMPOUNDS** Any bulk quantities of chloride compounds and/or other deicing compounds (e.g. urea or calcium magnesium acetate) intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight (8) percent of the mixture. Bulk quantity of deicing compounds means any quantity, but does not include any chloride compounds in a solid form, which are packaged in waterproof bags or containers, which do not exceed one hundred pounds each.

**DETACHED** Standing on its own and not joined to another building, a detached residence is not a unit of a town house, duplex, row house, apartment complex, multi-family dwelling, or commercial building.

**DISPOSAL** The abandonment, discharge, deposit, injection, dumping, spilling, leaking or placing by any other means of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or wastewater into or onto land. Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "disposal" or any variation thereof contained in this Law, be construed to mean, be, include, or authorize within the Village a Land Application Facility, a Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Disposal/Storage Facility, a Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes Dump, or any other Explicitly Prohibited Use.

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**DRIVE-IN RESTAURANT, DRIVE-IN ICE CREAM SHOP** Any place where customers enter the premises and are served in automobiles. Deposit and pickup services shall not be considered drive-in businesses.

**DUMP** Land used for the disposal by abandonment, dumping, burning, or any other means and for whatever purposes, of garbage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**DWELLING** A building or portion thereof used exclusively as the residence of one or more persons.

**DWELLING UNIT** One or more rooms designed for occupancy by one family for cooking, living, sanitary and sleeping purposes.

**DWELLING, ONE-FAMILY** A building or dwelling unit designed or occupied by one or more persons living as a family.

**DWELLING, TWO-FAMILY** A building or portion thereof containing two dwelling units and used exclusively for occupancy by two families living independently of each other.

**DWELLING, MULTI-FAMILY** A building or portion thereof containing three or more dwelling units and used for occupancy by three or more families living independently of each other.

**EXPLICITLY PROHIBITED USE(S)** Shall mean and be the Explicitly Prohibited Uses defined and described in Section 301.00 of this Law.

**FACILITY** A device or structure built to achieve the particular purpose in disposing of waste. Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "facility" or any variation thereof contained in this Law, be construed to mean, be, include, or authorize within the Village a Land Application Facility, a Natural Gas and/or Petroleum Exploration, Extraction Or

Production Wastes Disposal/Storage Facility, a Natural Gas and/or Petroleum Extraction, Exploration or Wastes Dump, or any other Explicitly Prohibited Use

**FAMILY** One, two, or three persons occupying a dwelling unit; or four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family. The foregoing shall not prevent temporary occupation of premises, as would be customary for guests, boarders, foster children, and exchange students.

**FENCE** An artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected for the enclosure of yard areas.

**FERTILIZERS** Any commercially produced mixture generally containing phosphorous, nitrogen and potassium, which is applied to the ground to increase nutrients from plants.

**FLOOR AREA, TOTAL** The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or conduct business. Said area shall be measured from the inside faces of exterior walls, or from the center lines of walls separating differing uses.

**FRATERNITY, SORORITY, CHAPTER OR MEMBERSHIP ASSOCIATION HOUSE** ~~A place of residence or assembly that is occupied and/or operated by a membership association of college or university students or the members thereof, such as a fraternity, sorority or social organization, whether unincorporated or incorporated under the laws of the State of New York, and officially recognized by an institution of higher learning, that provides domestic, social, or other facilities or services to the association as a whole or the members thereof. This term shall include the grounds, buildings, appurtenances, adjacent premises, if directly or indirectly under the control of such association or members thereof.~~ A place of residence or assembly, occupied either as a rooming house or multi-unit dwelling, that is occupied and/or operated by a membership association of college or university students or the members thereof, such as a fraternity, sorority or social organization, whether unincorporated or incorporated under the laws of the State of New York, and officially recognized by an institution of higher learning, that provides domestic, social, or other facilities or services to the association as a whole or the members thereof. This term shall include the grounds, buildings, appurtenances, adjacent premises, if directly or indirectly under the control of such association or members thereof.

**FREESTANDING SIGN** Any sign anchored to the ground and not affixed to a building.

**FUNCTIONAL EQUIVALENT OF TRADITIONAL FAMILY** Four (4) or more unrelated persons in a single dwelling constitute the functional equivalent of a traditional family; can be evidenced by whether the group (1) shares the entire house, (2) has a stable, rather than transient, living arrangement (except in cases of disabled persons), (3) shares expenses for food, rent, utilities or other household expenses, (4) lives and cooks together as a single housekeeping unit, (5) the presence of one individual acting as head of household, (6) the presence of minor children regularly residing in the household.

**GARAGE, PRIVATE** Any building used for the parking of not more than three private vehicles for the use of the residents of the house to which the garage is accessory. No occupations, businesses, or services for profit may be carried on in this structure.

**GARDEN FENCE** An artificial, non-permanent barrier erected for the enclosure of and located within three (3) feet from the edge of a garden or shrubbery.

**GRADE, FINISHED** The completed surface of lawns, walks, and roads brought to grade, as shown on official plans or designs relating thereto.

**GROUNDWATER** Water below the land surface in a saturated zone of soil or rock. This includes perched water separated from the main body of groundwater by an unsaturated zone.

**HAZARDOUS SUBSTANCE** Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1) because of its quantity, concentration, or physical, chemical or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

**HAZARDOUS WASTE** A waste, or combination of wastes, which is identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous wastes include, but are not limited to, petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to 2.0, alkalis with a pH of greater than or equal to 12.5, radioactive substances, pathological or infectious wastes or any material exhibiting the characteristics of ignitability, corrosivity, reactivity or fails the Toxicity Characteristic Leaching Procedure (TCLP).

**HOME OCCUPATION** An occupation or business activity that results in a product or service for financial gain and is conducted in whole or part in a dwelling unit or its accessory building(s), and is clearly an incidental use and subordinate to the residential use of the dwelling unit and its lot. (For more detailed descriptions of what constitute "major" and "minor" home occupations, please visit Section 302).

**HOTEL** Any building of two or more stories containing rooms which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where a general kitchen and dining room are provided within the building or in an accessory building.

**HUMAN EXCRETA** Human feces and urine.

INDUSTRIAL; INDUSTRIAL USES; INDUSTRY Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "industrial," "industrial uses," "industry," or any variation thereof contained in this Law be construed to mean, be, include, or authorize within the Village Natural Gas and/or Petroleum Exploration Activities, Natural Gas and/or Petroleum Extraction Activities, a Land Application Facility, a Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, a Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump, or any other Explicitly Prohibited Use.

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INJECTION WELL A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension of the hole, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.

**JUNK YARD** Any lot, land, structure, or part thereof used primarily for the collection, storage, or sale of waste paper, rags, scrap metal, or other scrap or discard material or for the collecting, dismantling, storage, or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

LAND APPLICATION FACILITY A site where any Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes are applied to the soil surface or injected into the upper layer of the soil.

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LOT Any parcel of land occupied or designed to be occupied by one building and the accessory buildings or uses allowed by this local law, including such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not be shown as a lot on a duly recorded plot.

LOT AREA The total horizontal area included within lot lines.

LOT LINE Any boundary of a lot. Any lot lines neither a rear line nor a front line shall be deemed a side line.

LOT MEASUREMENTS Depth of a lot is the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the corollary points of the side lot lines in the rear. Width of a lot is the distance between straight lines connecting front and rear lot lines at each side of the lot measured across the rear of the required front yard.

LOT OF RECORD Any lot or parcel of land the description of which has been so recorded.

MANURE Animal feces and urine.

MEDICAL WASTE Any solid waste generated in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, excluding hazardous waste identified or listed under 40 CFR Part 261 or any household waste as defined in 40 CFR Sub-section 261.4(b)(1).

*Mining Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "mining" or any variation thereof contained in this Law be construed to mean, be, include, or authorize within the Village any Natural Gas and/or Petroleum Extraction Activities, or any other Explicitly Prohibited Use.*

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MOBILE HOME Any movable dwelling unit standing on wheels or on a rigid support.

MORTUARY Any dwelling or other structure used and occupied by a professional licensed mortician for burial and preparation and funeral services.

MOTEL A building or group of buildings, whether detached or in connected units, and providing the necessary off-street parking, containing rooms which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes primarily by transient automobile travelers.

*NATURAL GAS Methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.*

*NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, but only to the extent that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.*

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NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES Any of the following in any form, and whether or not such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," "hazardous," or "toxic," and *whether or not* such substances are generally characterized as waste: (a) natural gas or petroleum drilling fluids; (b) natural gas or petroleum exploration, drilling, production or processing wastes; (c) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (d) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (e) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (f) drill cuttings from natural gas or petroleum wells; or (g) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as "solid wastes which are not hazardous wastes" under 40 C.F.R. § 261.4(b). The definition of Natural Gas and/or Petroleum Extraction, Exploration Or Production Wastes *does not include* (i) recognizable and non-recognizable food wastes, or (ii) waste generated by use for agriculture.

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NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES DISPOSAL/STORAGE FACILITY Any of the following: (a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES DUMP Land upon which Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

NATURAL GAS COMPRESSION FACILITY A facility constructed or operated to compress natural gas that originates from a gas well or collection of such wells, operating as a midstream facility for delivery of gas from a gas field for entry into the transmission pipeline system; the term shall not include the transmission pipeline itself; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

NATURAL GAS PROCESSING FACILITY Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO2 separated from natural gas streams.

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NONCONFORMING BUILDING Any building which in its design, use, or location on a lot does not conform to the regulations established by this law for the district in which said building is located.

**NONCONFORMING LOT** Any lot of record existing as of the date of enactment of this local law which does not have the minimum depth or width or contain the minimum area for the district in which it is located.

**NONCONFORMING USE** Any use of any building, structure, or land existing as of the date of the enactment of this local law which does not conform to the use regulation of the district in which it is located.

**OVERLAY ZONE** Overlay zoning is the creation of a special zoning district, placed over existing zoning districts, which identifies special provisions, uses or requirements in addition to (or instead of) those in the underlying base zones(s). Overlay districts can share common boundaries with the base zone or cut across underlying zone boundaries. Such districts can be either permitting or prohibitory in approach, allowing or limiting particular uses and activities. The purpose of overlay zones can be to promote particular development objectives, encourage sustainable design and building, protect natural resources or specific areas, such as floodplains, or existing neighborhoods, such as historic districts. They can be combined with other tools such as incentive zoning to promote specific goals of the community. Establishing zoning districts and imposing zoning restrictions are justified in New York State in order to preserve the character of the community; reduce parking and traffic problems; control population density; and prevent noise and disturbance.

**PATHOLOGICAL WASTE** Human or animal remains consisting of carcasses, organs and solid organic wastes, consisting of up to 8.5% moisture and 5% incombustible solids.

**PERMANENT SIGN** Any sign intended and installed to be permanently in place at a given location by means of suitable fastening to a building or to a structure specifically erected to hold such sign(s) or to the ground.

**PESTICIDE** Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, fungi, weeds or other form of plant or animal life or viruses, except viruses on or in living man/or other animal; and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. These substances include, but are not limited to, herbicides, fungicides, insecticides and rodenticides.

**PETROLEUM** Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined or otherwise processed for the purpose of (1) being burned to produce heat or energy; (2) as a motor fuel or lubricant or (3) in the operation of hydraulic equipment.

**PLANNING BOARD** The Village of Alfred Planning Board appointed by the Village Board and empowered by them to perform the duties of a Planning Board as specified in Article 7 of the Village Law of the State of New York.

**POLITICAL SIGN** Any sign promoting a political candidate, political party or political issue displayed in conjunction with an election.

**PUBLIC UTILITY; PUBLIC UTILITY STATION** An entity which operates as a monopoly, and whose rates charged to customers are established by a utility commission. A public utility station, structure, or use is a facility, structure, or use which is operated by a public utility, and which provides electric, gas, steam, CATV, telephone or other communication service, water or sewerage directly to the general public. In no event shall 'Public Utility,' 'Public Utility Building,' 'Public Utility Facility,' or 'Utility' be construed to mean,

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be, include, or authorize within the Village a Natural Gas Compression Facility, Natural Gas Processing Facility, or any other Explicitly Prohibited Use.

PRINCIPAL USE The main use for which a building or lot is to be used.

RADIATION The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

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~~RADIOACTIVE MATERIAL Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.~~ Material in any form that emits radiation. For purposes of Sections 301.00 and 301.01 of this Law: (a) this definition specifically includes NORM (naturally occurring radioactive material), but only if such naturally occurring material has been moved from its naturally occurring location through a mechanical or other man-made process, and (b) all material that emits radiation is "radioactive material" for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency. For all other purposes of this Law (that is, for all purposes other than Sections 301.00 and 301.01 hereof, this definition excludes radioactive materials which are exempt from licensing and regulatory control pursuant to applicable regulations of the NYS Department of Labor or the United States Nuclear Regulatory Commission.

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REAL ESTATE SIGN Any sign that advertises the sale, rent, or lease of the real estate upon which sign is located, together with the information identifying the owner or agent.

REFUSE Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless.

RESIDENCE A dwelling.

RESTAURANT Any establishment which is regularly and in a bona fide manner used and kept open for the serving of meals to guests and which has suitable kitchen facilities connected therewith. A cook and necessary help shall be in charge of the facilities at all times. The premises shall comply with all regulations of the Allegany County Department of Health. "Meals" shall mean the usual assortment of foods commonly ordered at various hours of the day. The serving of sandwiches or salads only shall not be deemed in compliance with this requirement.

RIGHT OF WAY The line determining the street or road or public limit or ownership.

ROOMING HOUSE Any dwelling or other residential structure in which lodging facilities are supplied for pay over an extended period of time.

SEPTAGE The contents of a septic tank, cesspool or other individual wastewater treatment work which receives domestic sewage wastes.

SERVICE STATION, MOTOR VEHICLE Any building or land used to disperse, sell, or offer automotive fuels, oils, or accessories, including lubrication, washing or polishing or cleaning and the installation or replacement of minor parts and accessories, but not including any major mechanical repair, body work, or painting.

**SETBACK** The horizontal distance from a particular street line to the building line. In determining setback for any particular property, the street line shall be determined as follows: 1. If the property is bordered by a sidewalk, the setback is to be measured from the inside edge of the sidewalk to the nearest point on any building line. 2. If there is no sidewalk: (a) The setback is to be measured from a point ten (10) feet outside the outer top edge of the curb to the nearest point on any building line ; (b) If there is no curb and the street is paved, the setback is to be measured from a point ten (10) feet from the closest point at the inner edge of the street paving to the nearest point on any building line; (c) If there is no curb and the street is unpaved, the setback is to be measured from a point twelve (12) feet from the inner edge of the developed roadway to the nearest point on any building line. (See also BUILDING LINE; LOT LINE; STREET LINE.)

**SEWAGE** The combination of human and household waste with water which is discharged to the home plumbing system.

**SIDEWALK SIGN** Any portable or freestanding sign designed to be displayed on a sidewalk in front of a business or other enterprise and designed to be taken inside at night or when the associated enterprise is closed.

**SIGN** Any material, structure, or device or part thereof composed of lettered or pictorial matter or upon which letter or pictorial matter is placed when used or located out of doors or outside or on the exterior of any building, including window display area, for display of an advertisement, announcement, notice, directional matter or name. The term "sign" includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs, and window signs. The term "sign" does not include the flag or pennant or insignia of any nation or association of nations or of any state, city, or other political unit or of any charitable, educational, philanthropic, civic, or religious organization.

**SITE PLAN** Any plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, right-of-way, boundaries, and all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

**SLUDGE** The solid, semi-solid or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

**SOCIAL CLUB AND LODGE** A place of assembly that is occupied and/or operated by a membership association or the members thereof, whether unincorporated or incorporated under the laws of the State of New York, that provides domestic, social or other facilities or services to the association as a whole or the members thereof. This term shall include the grounds, buildings, appurtenances, adjacent premises, if directly or indirectly under the control of such association or members thereof. This definition does not include social associations of college or university students such as fraternities, sororities, chapter and membership associations or associations that provide residence or overnight accommodations to association members or the public.

**SOLID WASTE** Any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant or air pollution control facility and other discarded materials including solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations and from community activities.

**SORORITY HOUSE** (See FRATERNITY, SORORITY, CHAPTER OR MEMBERSHIP ASSOCIATION HOUSE.)

**SPECIAL USE PERMIT** A permit allowing a designated special use in a district, subject to review by the Planning Board and approval by the Village Board.

**SPILL** Any escape of a substance from the containers employed in storage, transfer, processing or use.

**STORY** That portion of a building which lies between the surface of any floor and the surface of the floor next above; also any portion of a building used for human occupancy between the topmost floor and roof.

**STREET** Any public thoroughfare which affords the principal means of access to abutting properties.

**STREET LINE** That line determining the limit of the street rights of the public, either existing or contemplated.

**STRUCTURE** Anything constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground.

**SUBSURFACE** Below the surface of the earth, or of a body of water, as the context may require.

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**SWIMMING POOL, PRIVATE** Any structure intended for swimming or recreational bathing that contains water over eighteen (18) inches deep, operated as an accessory use to a residential dwelling unit or units. This includes in-ground, above ground, on ground, temporary, and inflatable pools.

**TAVERN** (See BAR)

**TEMPORARY** Lasting or designed to last for a limited time. A period of less than ninety (90) days unless defined elsewhere in this document when in reference to a time frame and not having or requiring permanent attachment to the ground when in reference to buildings or structures (e.g. Carport).

**TEMPORARY ADVERTISEMENT** (See TEMPORARY SIGN)

**TEMPORARY POSTER** (See TEMPORARY SIGN)

**TEMPORARY SIGN** Any sign, banner, pennant, or advertising display, not attached to poles or other such objects, displayed for less than forty-five (45) days during a calendar year; not re-permitted for more than two (2) consecutive time periods regardless if or if not it remains in the same location.

**TRUE VALUE** That dollar amount derived from assessed tax value, shown on the tax card, divided by the State Equalization Rate, as follows: Assess Value/Equalization Rate = True Value; for example: 12,000/60% = \$20,000

**TOURIST HOME** A dwelling occupied by a resident owner, or agent thereof, and his family, in which overnight accommodations are provided or offered to transient guests or travelers for compensation.

**UNDERGROUND INJECTION** Subsurface emplacement of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes, including emplacement by or into an Injection Well.

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**UNDERGROUND NATURAL GAS STORAGE** Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location, whether for the purpose of load balancing the production of natural gas or for any other reason, including without limitation short-term, long-term, or intermittent storage for product quality, processing, or transportation purposes, or because of market conditions. Without limitation, this term includes compression and dehydration facilities.

**UNDERGROUND STORAGE** Storage within a tank or other container which is completely covered with earth or other backfill material.

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

**VARIANCE** ~~Any relief granted by the Zoning Board of Appeals from the regulations established by this local law where such relief will not be contrary to the public interest. An area variance or a use variance, as the context may admit.~~

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VARIANCE, AREA The authorization by the Board of Appeals for the use of land in a manner that is not allowed by the dimensional requirements of the applicable zoning regulations.

VARIANCE, USE The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

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**VILLAGE BOARD** The Village of Alfred Board of Trustees.

**WASTEWATER** Aqueous carried waste including, but not limited to, dredge spoil, solid waste, hazardous waste, incinerator ash and residue, septage, garbage, refuse, sludge, chemical waste, infectious waste, biological material, radioactive materials, heat and commercial, industrial, municipal and agricultural waste.

**WINDOW SIGN** A sign installed inside a window for purposes of viewing from the outside of the premises. A window sign may be painted or affixed directly on window or door glass or other transparent material or may be located inside the building, within two (2) feet of the window or door. The term "window sign" does not include merchandise located in or near a window.

**YARD** Any space which surrounds or is surrounded by a building or group of buildings.

**YARD, FRONT** That open space, not occupied by buildings or structures except fences or walls, on the same lot with a building, and situated between the nearest roofed portion of the building and the front street line of the lot, and extending from side lot line to side lot line.

**YARD, REAR** That space within and extending the full width of the rear lot line to that part of the principal building which is nearest to such lot line.

**YARD, SIDE** That space within the lot extending the full distance from the front yard to the rear yard and from the side lot to that part of the principal building which is nearest to such side lot line.

**YARD, SIDE FRONT** That area of a corner lot, other than the front yard, facing the street which intersects that street which defines the front yard.

**ZONING BOARD OF APPEALS** The Village of Alfred Zoning Board of Appeals appointed by the Village Board and empowered by them to perform the duties of the Zoning Board of Appeals as specified in Article 7 of the Village Law of the State of New York.

**ZONING COMPLIANCE PERMIT** Any permit issued by the Zoning Enforcement Officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and with all other regulations established by this local law for the district in which it is located or is to be located.

ZONING ENFORCEMENT OFFICER The Village of Alfred Zoning Enforcement Officer appointed by the Village Board and empowered by them to perform the duties of a Zoning Enforcement Officer as specified in Article 7 of the Village Law of the State of New York.

### **2.8 Severability**

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Village Board of the Village hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

### **2.9. Effective Date of this Local Law**

This Local Law shall be effective upon filing with the office of the Secretary of State, and the Village Clerk is directed to immediately file a copy of this Local Law with the New York State Secretary of State as required by law.

Adopted by the Alfred Village Board on \_\_\_\_\_

