

Chapter 137

ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Elbridge 5-13-1987 by L.L. No. 3-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 54.
Electrical standards — See Ch. 63.
Fees and costs — See Ch. 65.
Fire prevention and building construction — See Ch. 71.
Flood damage prevention — See Ch. 75.
Subdivision of land — See Ch. 121.

ARTICLE I General Provisions

§ 137-1. Title.

This chapter shall be known and may be cited as the "Zoning Local Law of the Village of Elbridge, 1987" (Zoning Law).

§ 137-2. Legislative findings; objectives.

The Board of Trustees of the Village of Elbridge hereby makes a specific legislative finding that the fine older mansions, homes and business establishments built in the Village of Elbridge over the past many decades lend to the Village a precious historic heritage, aesthetic character and a refined quality of life which the Board of Trustees hereby determines must be cultured, preserved and enhanced. The Board of Trustees hereby further finds that ultramodern and contemporary buildings are incompatible in the vicinity of these existing structures to be preserved. Notwithstanding any contrary provisions of this chapter, an objective of this chapter is to hereby authorize the imposition of design standards on all new structures and uses to secure the overall objectives of this chapter, all to the end that the existing quality of life shall at all times be preserved and enhanced and that the historic and aesthetic attributes are preserved. Therefore, the administration and enforcement of this chapter, the uses and structures permitted and the design, planning and location thereof and all Planning Board reviews and approvals shall all be performed with this paramount objective firmly in mind.

§ 137-3. Interpretation of terms.

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

- A. Words used in the present tense include the future tense.
- B. The singular includes the plural.

- C. The word "person" includes a corporation, a partnership or any other entity.
- D. The term "shall" is always mandatory.
- E. The term "may" is permissive.
- F. The term "used" or "occupied," as applied to any land or buildings, shall be construed to include the words "intended, arranged or designed to be used or occupied."

§ 137-4. Word usage; definitions.

- A. Generally. Except as otherwise indicated in this section, the words used in this chapter shall have the meanings commonly attributed to them. Doubts as to the precise meaning of any words used in this chapter shall be clarified by written appeal and public hearing held by the Zoning Board of Appeals under its power of interpretation.
- B. Specific terms. As used in this chapter, unless the context or subject matter otherwise requires, the following terms are defined:

ACCESSORY STRUCTURE — A detached structure used or occupied in conjunction with the principal use or occupancy of the premises or building thereon and which is located on the same lot. [Amended 12-6-1999 by L.L. No. 1-1999]

ACCESSORY USE — A use incidental to or subordinate to and used in connection with the principal use on the same lot with such principal use. [Amended 6-1-1992 by L.L. No. 3-1992]

ALTERATION OF A BUILDING — Any modification, change, rearrangement or addition to a building, other than repairs or any modification in the building equipment.

AMATEUR RADIO TRANSMISSION TOWER — A radio tower transmitting amateur radio broadcasting signals operated by an amateur operator over an amateur radio broadcasting station licensed by the Federal Communications Commission. [Added 11-5-1990 by L.L. No. 3-1990]

AREA VARIANCE — The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations. [Amended 11-7-1994 by L.L. No. 1-1994; 12-6-1999 by L.L. No. 1-1999]

BABY-SITTING — Short-term overseeing or care rendered by teenagers or adults to children under the age of 10 of a number not exceeding five children, exclusive of baby-sitter's children, at any one time. Such use shall be deemed an accessory use. [Amended 12-6-1999 by L.L. No. 1-1999]

BASEMENT — That space of a building which is partly below grade, which has more than half its height, measured from floor to ceiling, above the average established finished grade of the ground abutting the walls of the building.

BOARDINGHOUSE — A dwelling in which three or more persons are housed or lodged for hire, with or without meals, including bed-and-breakfast establishments.

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

BUILDING HEIGHT — The vertical distance measured from the average elevation of the

proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

BUILDING LINE — A line connecting points in each side line equidistant from the street line beyond which no portion of a building, including porches, shall extend, other than steps, eaves or cornices.

BUILDING LINE WIDTH — The length of the building line.

BUILDING PERMIT — A permit issued under the authority of the New York State Uniform Fire Prevention and Building Code or any other law specifically authorizing the issuance of such permit, there being no requirement for the issuance of a building permit under the terms of this chapter. [Amended 6-1-1992 by L.L. No. 3-1992]

CELLAR — That space of a building which is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average finished grade of the ground abutting the walls of the building.

CLUTTER, LITTER AND DEBRIS — Includes all manner of items not appurtenant to or part of the dwelling or necessary for the use of the dwelling for dwelling purposes, irrespective of whether discarded or not, excluding, however, vehicles bearing current licenses or registrations lawfully parked in driveways or defined parking areas. [Added 11-5-1990 by L.L. No. 3-1990]

COMPREHENSIVE PLAN — The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Village. [Added 12-6-1999 by L.L. No. 1-1999]

CONDOMINIUM — A system of separate ownership of individual units or apartments in a multiunit project.

COVERAGE — That percentage of the plot or lot area covered by the building area.

DAY-CARE CENTER — A place or premises, certified or approved by New York State and providing daytime care or instruction for five or more children away from their own homes for more than three but less than 24 hours per day, by an individual, association, corporation, institution or agency. [Amended 11-5-1990 by L.L. No. 3-1990; 12-6-1999 by L.L. No. 1-1999]

DOG KENNEL — A land use or structure in which three or more dogs older than two months old are kept or harbored. A dog kennel is not a permitted use in any zoning district.

DRIVE-IN FACILITIES — Any retail or personal service or office, excluding gasoline service stations, that provides goods or services to customers remaining in or by their vehicle or being served outside of the principal structure, including but not limited to drive-in restaurants and banks.

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

DWELLING — A house, apartment building, condominium, manufactured home or other permanent building located on a permanent foundation designed primarily for human habitation.

DWELLING UNIT — A complete self-contained residential unit with living, sleeping, cooking and sanitary facilities within the unit.

DWELLING, ONE-FAMILY — A building designated for or occupied exclusively by one family and containing only one dwelling unit. [Amended 12-6-1999 by L.L. No. 1-1999]

FOOTPRINT AREA OR FOUNDATION AREA — The square footage calculated by measuring the dimensions of the building foundation, exclusive of attached garage or breezeway.

FRONT FOUNDATION LENGTH — The length of the front wall of a dwelling facing the street, excluding any attached garage.

FRONT YARD — The open space extending across the entire width of the lot between the street or highway right-of-way line (street line) and the building line, into which space there shall be no structures or extensions of structures other than steps, eaves, cornices, bay windows or similar portions of structures.

FRONT YARD DEPTH — The distance from the front yard between the street line and building line, within which space no structure may be erected or maintained. The front yard line is the same as the street line or boundary line of the street right-of-way or fee simple title (as opposed to edge of pavement). [Amended 6-1-1992 by L.L. No. 3-1992]

GARDEN APARTMENT — A building arranged to be occupied by three or more families living independently of each other, which may have joint or common utility services and which have separate exterior access to each apartment.

GASOLINE SERVICE STATION — A building or other structure or lot used primarily for the servicing of motor vehicles. It may include a retail place of business engaged primarily in the sale of motor fuels and petroleum products and in supplying goods and services generally required in the operation and maintenance of motor vehicles, lubrication services, routine automotive maintenance and repair and the sales of consumables intended primarily for the traveling public.

HOME OCCUPATION — A home occupation is an activity that: [Amended 11-5-1990 by L.L. No. 3-1990]

- (1) Is customarily carried on in a dwelling unit.
- (2) Is clearly incidental and secondary to the use of the dwelling for residential purposes.
- (3) Conforms to the following regulations:
 - (a) The home occupation shall be carried on wholly indoors.
 - (b) There shall be no signs, show windows, display or advertising visible outside of premises to attract customers or clients.
 - (c) There shall be no exterior storage of materials.
 - (d) No external alterations, additions or changes to the structure shall be permitted

in order to accommodate or facilitate a home occupation.

- (e) The home occupation shall be carried on only by members of the immediate family residing in the dwelling, and there shall be no outside employees.
 - (f) The floor area devoted to the home occupation shall not be more than 25% of the ground area of the principal structure.
- (4) Home occupation shall not include:
- (a) Nursery schools.
 - (b) Day-care centers accommodating more than five children.
 - (c) Offices of doctors, chiropractors, veterinarians, dentists, architects, engineers, attorneys, accountants and tax consultants or any profession licensed or regulated under Title VIII of the Education Law, Articles 130 through 159.
 - (d) Group therapy work.
 - (e) Barbershops.
 - (f) Beauty culturists.
 - (g) Massage parlors or tattoo parlors.
 - (h) Real estate sales office.
 - (i) Home teaching school or craft schools teaching more than five persons at any one time.

HOSPITAL — An institution, sanatorium, clinic, rest home, nursing home, convalescent home, senior citizens' home, retirement home and any other place for the diagnosis, treatment or care of people.

HOSPITAL, ANIMAL — An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis, treatment or care of animals during recovery.

HOTEL — A building containing rooms intended or designed to be used primarily for sleeping accommodations by paying guests.

JUNK VEHICLES — A wrecked motor vehicle, an incomplete or partially dismantled vehicle, a vehicle requiring annual inspection but not in condition to pass annual inspection or parts of a vehicle.

JUNKYARD — A lot, land or structure or any part thereof used for the collection, storage or sale of wastepaper, rags, scrapping metal or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

LIGHT MANUFACTURING AND PROCESSING — Manufacturing and processing activities confined to enclosed structures and not offensive to adjoining uses by sight, sound or odor, including but not limited to parts assembly and fabrication.

LIVING AREA — The exterior square footage of all habitable rooms within a dwelling unit, including walls and partitions, i.e., the exterior dimensions of the foundation.

LOT AREA — Square footage within the property line of a lot, including easements and excluding land within dedicated streets or highway boundaries.

LOT, CORNER — A parcel of land at the junction of and fronting on two or more intersecting streets.

MANUFACTURED HOME — A permanent dwelling, not including a mobile home, fabricated or constructed off-site in sections, modules or halves and assembled or joined together on site on a permanent foundation.

MOBILE HOME — A structure built not exceeding 14 feet in width, built on a chassis capable of being hauled over the road and designed to be used without the necessity of a permanent foundation as a dwelling when connected to utilities.

MOBILE HOME PARK — Any lot on which two or more mobile homes are located, regardless of whether or not a charge is made for such accommodations.

MOTOR HOME — A self-propelled structure built on a chassis capable of being driven over the road and designed with live-aboard amenities. [Added 11-5-1990 by L.L. No. 3-1990]

MOTOR VEHICLE — Any motorized device designed primarily for the movement or transportation of persons or property over land, including but not limited to motorcycles, snowmobiles, all-terrain vehicles, automobiles, trucks, tractors and lawn mowers.

NONCONFORMING BUILDING OR STRUCTURE — A building or structure lawfully existing prior to the enactment of any prohibitory zoning regulations or amendments thereto, which, by reason of its size, dimensions or location, does not conform to the regulations of the district in which it is located by reason of such adoption or amendment. [Amended 6-1-1992 by L.L. No. 3-1992]

NONCONFORMING USE — A use of land lawfully existing prior to and at the time of the enactment of any prohibitory zoning regulations or amendments thereto, and which does not conform to the regulations of the district in which it is situated by reason of such adoption or amendment. [Amended 6-1-1992 by L.L. No. 3-1992]

NURSERY SCHOOL — A building designed to provide daytime care and instruction for three or more children from two to five years of age, inclusive, and operated on a fee basis.

OFFICES — Professional, business and bank structures or portions thereof utilized for the transaction of business, administrative operations or personal services, but excluding the sale and exchange of merchandise associated with retail services.

PERCENTAGE OF LOT COVERAGE — The aggregate percentage of the lot area covered by the footprint of all buildings or structures and accessory structures, including porches, patios, decks, pools and terraces.

PERSONAL SERVICES — Rendition or sale of services to the person without any or only incidental sale of merchandise, including but not limited to beauty parlors, barbershops and photograph studios and baby-sitting service, excluding dry cleaners and laundromats.

PRIVATE GARAGE — An attached structure to a dwelling or a detached structure used in connection with the dwelling for the housing of motor vehicles of the dwelling occupants, in which structure no repairs or service to motor vehicles of others shall be allowed.

PUBLIC GARAGE — An establishment used for the business of any manner of repairing and servicing of motor vehicles.

REAR YARD — The open space extending across the entire width of the lot between the rear lot boundary and a line parallel with the rear lot boundary, into which space there shall be no structure or extension of structures other than steps, eaves, cornices and similar portions of structures, excepting accessory buildings, woodpiles and television or satellite dishes.

REAR YARD SETBACK — The distance between the rear lot boundary line and a line parallel with the rear lot boundary, as defined above.

RECREATION AREAS — Grounds whereon public or private recreational facilities or equipment is maintained; provided, however, that such recreation areas shall not include race tracks of any name or nature, firing ranges for any kind of weaponry or any other uses which, by their nature, produce noise which would normally exceed the average level of noise existing within the particular zoning district or which would be annoying to the neighborhood. [Added 11-5-1990 by L.L. No. 3-1990]

RESTAURANTS — Establishments for the on-premises consumption of food and beverage at sit-down facilities, including but not limited to cafes, luncheonettes, taverns and bars.

RETAIL STORE — Establishments for the display and retail sale of all manner of products or merchandise, including grocery, hardware and clothing.

SHOPPING CENTER — A parcel of land developed in accordance with a common scheme or design, containing three or more adjoining retail stores, personal service shops or professional or business office uses, banks, restaurants, integrated fast-food restaurants and similar uses with common parking and driveway facilities, signage or other accessory accommodations. This term shall include strip shopping centers and shopping malls. This term excludes motor vehicle sales, service, rentals, car washes and freestanding fast-food restaurants. [Amended 3-14-1995 by L.L. No. 1-1995]

SIDE FOUNDATION LENGTH — The length of a side foundation wall facing the side yards, excluding any attached garage.

SIDE YARD — Open space extending across each side of a lot between the lot boundary and a line parallel with the lot boundary line extended from the front yard line to the rear yard line, into which space there shall be no structure or extension of structure other than steps, eaves, cornices and similar portions of structures.

SIDE YARD WIDTH — The distance between the side line of a lot and a line parallel with the lot boundary line passing through the nearest portion of any structure thereon.

SIGN[Amended 6-1-1992 by L.L. No. 3-1992; repealed 3-14-1995 by L.L. No. 1-1995]

STREET — Any public way dedicated to public vehicular travel.

STREET LINE — The outside limits of a street or highway right-of-way, whether or not set

forth in a deed or shown on a map.

STRUCTURE — Anything constructed, erected or otherwise situated, whether of a permanent or temporary nature, on the land.

SWIMMING POOL — Any body of water or receptacle for water having a depth at any point greater than one foot, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground. A swimming pool, including all decking and terraces, shall be deemed a structure for all purposes.

TELEVISION DISH ANTENNA — Includes any freestanding device designed for reception of television signals, radio, microwave or other electronic signals from space satellites. [Added 11-5-1990 by L.L. No. 3-1990]

TOWNHOUSE — A building, consisting of a series of noncommunicating one-family sections, under separate ownership, having a common wall between each two adjacent sections, with each section having separate utility services and each section being located on a separate filed lot.

USE VARIANCE — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. [Amended 11-7-1994 by L.L. No. 1-1994; 12-6-1999 by L.L. No. 1-1999]

ZONING PERMIT — A permit issued by the Codes Enforcement Officer upon his determination that the proposed use or structure complies with the provisions of this chapter. [Amended 6-1-1992 by L.L. No. 3-1992]

§ 137-5. Designation of districts.

For the purpose of the promotion of the public health, safety, morals and general welfare of the Village of Elbridge, Onondaga County, New York, the Village is hereby divided into the following types of districts:

- R-1 One-Family Residential Districts
- R-2 Minor Multiple-Family Residential Districts
- R-3 Multiple-Family Residential Districts
- B-1 Retail Business Districts
- B-2 General Business and Industrial Zone Districts
- S-1 Shopping Center Districts

§ 137-6. Zoning Map. [Amended 11-5-1990 by L.L. No. 3-1990]

Said zoning districts are bounded as shown on a map entitled "Zoning Map of the Village of Elbridge, New York," adopted and certified by the Village Clerk, which map is located in the office of the Village Clerk and which, with all explanatory matter thereon, is hereby made a part

of this chapter.¹ Such Zoning Map shall be periodically updated to show all changes in boundaries or classifications of lands shown thereon.

§ 137-7. Interpretation of district boundaries.

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

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as may be indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where the boundary of a district follows a stream or other body of water, said boundary line shall be deemed to be at the limit of jurisdiction of the Village of Elbridge, New York, unless otherwise indicated.

§ 137-8. Application of provisions.

Except as hereinafter provided:

- A. No building, structure or land shall hereinafter be used or occupied and no building or structure or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereinafter be erected or altered to:
 - (1) Exceed the height;
 - (2) Accommodate or house a greater number of families or dwelling units;
 - (3) Occupy a greater percentage or lot area; or
 - (4) Have narrower or smaller rear yards, front yards or side yards than is specified herein for the district in which such building is located.
- C. No part of a yard or other open space about any building or structure required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.
- D. All uses not specifically permitted in a zoning district or permitted after obtaining a special permit shall be deemed prohibited.

1. Editor's Note: The Zoning Map is included as an attachment to this chapter.

- E. The zoning regulations and districts herein set forth as outlined upon the Zoning Map are made in accordance with a Comprehensive Plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Village of Elbridge.
- F. In each case where any multiple-family dwelling, apartment house, townhouse, garden apartment house, condominium, subdivision or any B-1 or B-2 District or S-1 District use is proposed, the Codes Enforcement Officer shall refer a site plan of the proposal to the Planning Board for its review and approval before any building permit is issued. [Amended 6-1-1992 by L.L. No. 3-1992]
- G. No earth work, grading, tree removal, brush clearance or street grading shall be commenced on any land within the Village of Elbridge until a zoning permit has been validly issued and is in full force and effect. The provisions of this subsection shall not apply to routine yard and lot maintenance in relation to existing structures but shall apply only to site preparation for new construction. [Added 11-5-1990 by L.L. No. 3-1990]

ARTICLE II
District Regulations

§ 137-9. R-1 One-Family Residential Districts.

It is the intent to maintain in an R-1 District the quality of environment that is usually found in areas occupied by larger single-family detached homes built on large lots to preserve the character, aesthetics and historical values of the existing prime residential neighborhoods of the Village of Elbridge.

- A. Uses permitted. Uses permitted in R-1 Districts shall be as follows:
 - (1) One-family detached dwellings. Not more than one family unit shall be constructed on a single lot.
 - (2) Accessory uses and structures, provided that such uses or structures do not include any business activity.
 - (3) Schools, parks, playgrounds and recreation areas are permitted uses in any residential district subject to the noise level limitations contained in the definition of "recreation areas" in Article I, § 137-4B. [Added 6-1-1992 by L.L. No. 3-1992]
- B. Special permit uses. Uses permitted in R-1 Districts upon issuance of special permits shall be as follows:
 - (1) Churches, parish houses, libraries and community centers.

- (2) Home occupations.
- (3) Television dishes.
- C. Uses prohibited. Uses prohibited in R-1 Districts shall be as follows: all other uses.
- D. Lot sizes and yards. Every lot shall comply with the following: [Amended 11-5-1990 by L.L. No. 3-1990]
 - (1) Minimums. Minimums shall be as follows:
 - (a) Lot area: 20,000 square feet.
 - (b) Front yard depth: 35 feet.
 - [1] Maximum front yard depth: 50 feet.
 - (c) Side yard width, each: 12 feet.
 - (d) Rear yard depth: 40 feet.
 - (e) Building line width: 100 feet.
 - (f) Living area: 960 square feet.
 - (g) Front foundation length: 24 feet.
 - (h) Side foundation length: 24 feet.
 - (2) Maximums. Maximums shall be as follows:
 - (a) Building height: 35 feet.
 - (b) Percentage of lot coverage: 30%.

§ 137-10. R-2 Minor Multiple-Family Residential Districts.

It is the intent to maintain in R-2 Districts the quality of environment characteristic of large three- and four-family dwellings integrated into existing one- and two-family dwelling areas as distinct from large multiple-family buildings.

- A. Uses permitted. Uses permitted in R-2 Districts shall be as follows:
 - (1) One-family detached dwellings.
 - (2) Two-family dwellings.
 - (3) Three-family dwellings.
 - (4) Four-family dwellings.
 - (5) Accessory uses and structures, provided that such uses or structures do not include any business activity.
 - (6) Schools, parks, playgrounds and recreation areas are a permitted use in any residential district subject to the noise level limitations contained in the definition of "recreation areas" in Article I, § 137-4B. [Amended 6-1-1992 by L.L. No. 3-1992]

B. Special permit uses. Uses permitted in R-2 Districts upon issuance of special permits shall be as follows:

- (1) Nursery school buildings.
- (2) Day-care center buildings.
- (3) Churches.
- (4) Parish houses.
- (5) Libraries.
- (6) Community centers.
- (7) Home occupations.
- (8) Television dishes.

C. Uses prohibited. Uses prohibited in R-2 Districts shall be as follows: all other uses.

D. Lot sizes and yards. Every lot shall comply with the following: [Amended 11-5-1990 by L.L. No. 3-1990]

(1) Minimums. Minimums shall be as follows:

- (a) Lot area: 20,000 square feet.
- (b) Two-family lot area: 25,000 square feet.
 - [1] Additional lot area per added family: 3,500 square feet.
- (c) Front yard depth: 35 feet.
 - [1] Maximum front yard depth: 50 feet.
- (d) Side yard width, each: 12 feet. [Amended 11-7-1994 by L.L. No. 1-1994]
- (e) Rear yard depth: 40 feet.
- (f) Building line width: 100 feet.
- (g) Living area/family:
 - [1] One-family: 960 square feet.
 - [2] Two-family: 840 square feet.
 - [3] Three- or four-family: 600 square feet.
- (h) Front foundation length: 24 feet.
- (i) Side foundation length: 24 feet.

(2) Maximums. Maximums shall be as follows:

- (a) Building height: 35 feet.

- (b) Percentage of lot coverage: 30%.

§ 137-11. R-3 Multiple-Family Residential Districts.

It is the intent to maintain in R-3 Districts the quality of environment which will provide an atmosphere of spaciousness in order to preserve privacy, with emphasis on quality of design and architectural compatibility in projects dedicated to dwelling units in excess of four units.

- A. Uses permitted. Uses permitted in R-3 Districts shall be as follows:
 - (1) Apartment buildings, townhouses and condominiums.
 - (2) Accessory uses and structures, provided that such uses or structures do not include any business activity.
 - (3) Schools, parks, playgrounds and recreation areas are a permitted use in any residential district subject to the noise level limitations contained in the definition of "recreation areas" in Article I, § 137-4B. [Added 6-1-1992 by L.L. No. 3-1992]
- B. Special permit uses. Uses permitted in R-3 Districts upon issuance of special permits shall be as follows:
 - (1) Nursery school buildings.
 - (2) Day-care center buildings.
 - (3) Churches.
 - (4) Parish houses.
 - (5) Libraries.
 - (6) Offices of resident physician or dentists.
 - (7) Community centers.
 - (8) Television dishes.
 - (9) Beauty shops.
 - (10) Amateur radio transmission towers. [Added 11-5-1990 by L.L. No. 3-1990]
- C. Uses prohibited. Uses prohibited in R-3 Districts shall be as follows: all other uses.
- D. Lot sizes and yards. Every lot shall meet the following minimum requirements:
 - (1) Minimums. Minimums shall be as follows:
 - (a) Lot area per dwelling:
 - [1] One-bedroom unit: 3,500 square feet.
 - [2] Additional lot area for each additional bedroom: 2,000 square feet.
 - (b) Width of dwelling unit: 16 feet.

- (c) Minimum living area for dwelling unit: 384 square feet.
 - (d) Distance between buildings: 40 feet.
 - (e) Front yard depth: 20 feet.
 - (f) Rear yard depth: 40 feet.
 - (g) Side yard width: There shall be two side yards with a total width of not less than 60 feet. The minimum width of either side yard shall be 33 1/3% of the total minimum side yard width. [Amended 6-1-1992 by L.L. No. 3-1992]
 - (h) Minimum parcel size: No parcel of land shall be developed for R-3 District purposes which contains less than three acres.
- (2) Maximums. Maximums shall be as follows:
- (a) Maximum percentage of lot coverage: 30%.² [Added 11-5-1990 by L.L. No. 3-1990]
 - (b) Maximum building height: 35 feet. [Added 6-1-1992 by L.L. No. 3-1992]

§ 137-12. B-1 Retail Business Districts.

It is the intent to maintain in a B-1 District the quality of environment that is usually found in nonresidential areas with aesthetically pleasing and compatible office facilities and other permitted accessory uses. New residential uses shall not be permitted. Existing residential uses shall not be encouraged because the needs of business district properties are not compatible with residential objectives.

- A. Uses permitted subject to site plan review. Uses permitted in B-1 Districts subject to site plan review shall be as follows:
 - (1) Professional and business offices.
 - (2) Beauty parlor.
 - (3) Barbershop.
 - (4) Banks.
 - (5) Stores and shops for retail sale of merchandise.
- B. Uses allowed upon issuance of a special permit and subject to site plan review. Uses permitted in B-1 Districts upon issuance of special permits and subject to site plan review shall be as follows:
 - (1) Restaurants for on-premises consumption.
 - (2) Drive-in facilities.
 - (3) Motor vehicle sales, service and repair.

2. Editor's Note: Former Subsection D(2)(a), pertaining to the maximum number of units per building, was repealed 11-7-1994 by L.L. No. 1-1993. This local law also provided that former Subsections D(2)(b) and (c) be relettered as D(2)(a) and (b), respectively.

- (4) Public garage.
- (5) Gasoline service stations, with or without convenience food services.
- (6) Motels.
- (7) Car washes.
- (8) Dry-cleaning establishment.
- (9) Laundromats.
- (10) Other uses which, upon the issuance of a special permit by the Zoning Board of Appeals after a finding by the Zoning Board of Appeals under its power of interpretation that such particular use is of the same general character as those above listed in Subsections A and B of this section, and which are not detrimental to other uses permitted within the district or to adjoining legal land uses. [Added 11-7-1994 by L.L. No. 1-1994]

C. Uses prohibited. Uses prohibited in B-1 Districts shall be as follows: all other uses.

D. Lot sizes and yards. Every lot shall comply with the following: [Amended 11-5-1990 by L.L. No. 3-1990]

(1) Minimums. Minimums shall be as follows:

- (a) Lot area: 10,000 square feet.
- (b) Front yard depth: 35 feet.
- (c) Side yard depth, each: 12 feet.
- (d) Rear yard depth: 30 feet.

(2) Maximums. Maximums shall be as follows:

- (a) Building height: 35 feet.
- (b) Percentage of lot coverage: 40%.

E. Change of use or occupancy. Any change of use or occupancy in a B-1 Retail Business District shall be subject to site plan review, unless such review requirement is waived under the provisions of § 137-62 hereof. [Amended 11-5-1990 by L.L. No. 3-1990]

F. Perimeter strips. Where any B-1 District lands abut any residential district lands, a perimeter strip shall be provided as required in § 137-28 hereof. [Added 11-5-1990 by L.L. No. 3-1990]

§ 137-13. B-2 General Business and Industrial Zone Districts.

It is the intent of the B-2 District to accommodate heavier commercial and industrial uses not otherwise permitted under this chapter. It is intended that such uses be confined to remote areas where noise levels and processes will not be objectionable to residential areas.

A. Uses permitted. Uses permitted in B-2 Districts shall be as follows: none permitted as of

right.

- B. Uses allowed upon issuance of special permit and subject to site plan review. Uses permitted in B-2 Districts upon issuance of special permits and subject to site plan review shall be as follows:
 - (1) Wholesale establishments.
 - (2) Warehousing facilities.
 - (3) Light manufacturing and processing.
 - (4) Utility facilities.
 - (5) Commercial and industrial equipment sales and services.
 - (6) Lumberyards, building supply and construction equipment.
 - (7) Drive-in facilities.
 - (8) Motor vehicle sales, service and rental.
 - (9) Truck terminals.
 - (10) Public garage.
 - (11) Private indoor and outdoor recreation facilities.
 - (12) Laundromats.
 - (13) Dry-cleaning establishments.
 - (14) Other uses upon the issuance of special permits upon findings by the Zoning Board of Appeals under its power of interpretation that such uses are of the same general character as those listed and which will not be detrimental to other uses within the district or to adjoining legal land uses.
- C. Uses prohibited. Uses prohibited in B-2 Districts shall be as follows: all other uses.
- D. Lot sizes and yards. Every lot shall comply with the following: [Amended 11-5-1990 by L.L. No. 3-1990]
 - (1) Minimums. Minimums shall be as follows:
 - (a) Lot area: 10,000 square feet.
 - (b) Front yard depth: 35 feet.
 - (c) Side yard width, each: 12 feet.
 - (d) Rear yard depth: 25 feet.
 - (2) Maximums.
 - (a) Building height: 35 feet.
 - (b) Percentage of lot coverage: 40%.

- E. Perimeter strips. Where any B-2 General Business and Industrial Zone Districts abut any residential district, a perimeter strip shall be provided as required in § 137-28 hereof. [Added 11-5-1990 by L.L. No. 3-1990]

§ 137-14. S-1 Shopping Center Districts.

It is the intent to maintain in S-1 Districts the quality of environment that is usually found in both local and large shopping centers and where large off-street parking facilities are provided and where particular emphasis is placed upon compatibility with adjoining land uses.

- A. Uses permitted subject to special permit and site plan review. Uses permitted in S-1 Districts upon issuance of special permits and subject to site plan review shall be as follows:
- (1) Shopping centers.
- B. Uses prohibited. Uses prohibited in S-1 Districts shall be as follows: all other uses. (See definition of "shopping center."³)
- C. Percentage of lot coverage. Percentage of lot coverage in S-1 Districts shall be as follows: Any building or buildings shall not cover more than 20% of the lot.
- D. Lot sizes and yards. Every lot shall comply with the following: [Amended 11-5-1990 by L.L. No. 3-1990]
- (1) Minimums. Minimums shall be as follows:
 - (a) Lot area: three acres.
 - (b) Front yard depth: 150 feet.
 - (c) Side yard width, each: 40 feet.
 - (d) Rear yard depth: 50 feet.
 - (e) Perimeter strip as provided in § 137-28: 25 feet, in addition to all other minimums.
 - (2) Maximums. Maximums shall be as follows:
 - (a) Building height: 35 feet or two stories.
 - (b) Percentage of lot coverage: 20%.
- E. Perimeter strips. Where any S-1 lands abut any residential district, a perimeter strip as provided for in § 137-28 hereof shall be provided in addition to other requirements of this section.

§ 137-14.1. Planned Unit Development District. [Added 6-6-2016 by L.L. No. 3-2016⁴]

3. Editor's Note: See § 137-4B of this chapter.

4. Editor's Note: This was originally enacted as § 137-35 but was redesignated as § 137-41 to better fit the organizational structure of the chapter.

A. Statement of intent and objectives.

- (1) It is the intent of this Planned Unit Development (PUD) District to provide performance criteria in the application of flexible design and mixed land use — so that sites may be developed that incorporate a variety of residential, business, commercial, limited-agricultural-type activities (greenhouses), and general community facilities, that contain both individual building sites and common property, which are planned and developed as a single unit. The PUD District is a floating zone that may be affixed to parcels by the Board of Trustees as provided below and upon approval the location of which shall be recorded on the Official Zoning Map of the Village.
- (2) Where planned development techniques are deemed appropriate, the designation of land as a Planned Unit Development District by the Board of Trustees supersedes the use and dimensional specifications contained elsewhere in this chapter in which an approved plan becomes the basis for permanent land use controls for the designated parcel. Planned development has been identified in the Comprehensive Plan of the Village of Elbridge as an important tool to achieve the land use objectives of the Village and may be applied to the remaining vacant areas of the Village, underutilized areas with reuse potential and areas to be annexed into the Village.
- (3) Among the objectives to be achieved through use of the planned unit development technique are the following:
 - (a) The creative use of land to establish a more-desirable living environment than would be possible through the strict application of other sections of this chapter, including, but not limited to, diverse (mixed) uses of property such as business or commercial activity that is of an attractive appearance and appropriately scaled to nearby residential properties.
 - (b) The preservation of water bodies, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography, significant geological features and other areas of scenic, historic, cultural and ecological value to the community.
 - (c) The prevention or minimization of soil erosion and flood hazard.
 - (d) The opportunity for innovation, flexibility and variety in the type, design and layout of mixed-use development to enhance living and working environments.
 - (e) To maximize provision of community, recreational and other service facilities as integral parts of newly constructed residential neighborhoods.
 - (f) To create development patterns in harmony with the land use planning objectives and aesthetic character of the Village expressed in its Comprehensive Plan.

B. Definitions. As used herein, the following terms shall have the meanings indicated:

CLUSTER SUBDIVISION — A modification of the arrangement of lots, buildings, and infrastructure as permitted by the Zoning Law on a parcel(s) to be subdivided which results in

the placement of buildings and other improvements on a part of the parcel(s) in order to protect or preserve the natural, historic or scenic quality of the remainder of the land.

CONSERVATION SUBDIVISION — A residential development typically located in a rural setting that is characterized by compact lots and common open space where the natural features of the land are conserved and maintained to the greatest extent possible.

FINAL PLANNED UNIT DEVELOPMENT PLAN — An approved preliminary PUD plan prepared in sufficient detail showing the information required by this section illustrating the conditions or modifications of the layout and design required by the Board of Trustees requested at the time of the approval of the preliminary PUD plan.

FINAL PLANNED UNIT DEVELOPMENT PLAN APPROVAL — The signing and approval of the final PUD plan by a duly authorized officer of the Village pursuant to a resolution granting final approval to the plan or after conditions are met, if any, specifically identified in said resolution granting conditional approval of the plan. Final approval is complete after filing with the Village Clerk.

PLANNED UNIT DEVELOPMENT — A site upon which residential, commercial or other land uses, or any combination thereof, may be authorized in a flexible manner so as to achieve the intent and objectives of the PUD District in accordance with the Comprehensive Plan.

PLANNED UNIT DEVELOPMENT DISTRICT — An established and freestanding zoning district wherein the zoning regulations need not be uniform for each class or type of land use, but where the use of land shall be in accordance with a preliminary planned unit development plan approved by the legislative body of the Village.

PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN — A proposal for a PUD prepared in a manner prescribed by this section that sufficiently illustrates the proposed land uses, approximate location and dimensions of buildings and all structures and facilities, pedestrian and vehicular circulation shown in plan and profile views at a suitable and noted scale. The preliminary plan shall include architectural features, lot sizes, setbacks, heights, buffers and screening, open space areas, parking and loading areas, outside storage, fencing, lighting, signage, landscaping, public and private common areas, natural resources to be protected and adjacent physical features and existing land uses within a minimum of 500 feet of the proposed PUD.

PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN APPROVAL — The preliminary approval with conditions or modifications, if any, of the layout and design of a proposed PUD as provided in the preliminary PUD plan and the simultaneous amendment of the Zoning Law by the Board of Trustees to create and map a PUD District that encompasses the preliminary plan area subject to final approval of the plan pursuant to this section.

C. Authority. Article 7, § 7-703-a, of the New York Village Law regarding planned unit development zoning districts states, "A village legislative body is hereby authorized to enact, as part of its zoning local law, procedures and requirements for the establishment and mapping of planned unit development zoning districts. Planned unit development district regulations are intended to provide for residential, commercial, industrial or other land uses, or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in furtherance of the

village comprehensive plan and zoning local law."

D. Development standards and general requirements.

(1) Use and density standards.

(a) Minimum site area. The minimum site area required for a planned unit development shall be five contiguous acres.

(b) Ownership. The land proposed for a planned unit development may be owned by one or more persons or corporations but shall be combined into a single contiguous parcel of land at or prior to the time of approval of the application to the Village Board of Trustees. The application shall be jointly made by all record owners, and requirements of final approval shall be imposed jointly and severally on all of them.

(c) Permitted principal uses:

[1] Single-family detached dwelling units, commercial, business retail, greenhouses, and general community facilities and public uses.

(d) Permitted accessory uses:

[1] Accessory uses as permitted elsewhere in this chapter for principal uses allowed in the PUD.

[2] Other accessory uses related to the planned development and subordinate to the principal use, including, but not limited to, storage and maintenance buildings, recreation buildings and uses, clubhouses, management offices and utility structures serving the planned development.

[3] Common dining, laundry, security and housekeeping facilities, principally for the use of residents, in conjunction with dwelling units occupied as independent-living facilities.

(e) Prohibited uses:

[1] Any industrial-agricultural-type activity (unless otherwise permitted by the New York State Agriculture and Markets Law), including, but not limited to, rubbish disposal, sewage waste disposal, sale or rental of porta-potties or other such waste receptacle devices, and any kind or any use of large industrial heavy machinery of a mobile or stationary nature used for other than temporary construction purposes.

[2] Livestock, manure, storage of manure or other animal waste by providing storage, chemical storage, oil or sludge storage, explosives, temporary housing, mobile (manufactured) homes, no storage of liquid or solid waste of any kind, trash, or any other type industrial activity that creates or generates noise, waste, dust, debris, glare or significant changes in traffic volume and/or vehicle composition on adjacent roads deemed incompatible with nearby residential use.

(f) Residential density and standards.

- [1] Residential density. Approval by the Board of Trustees of a parcel for development pursuant to this PUD section shall be limited to density of residences in such PUD of one dwelling unit per acre, notwithstanding the density provided for by the underlying zoning district of the parcel as shown on the Official Zoning Map, and such density shall be further subject to the constraints enacted as Chapters 71, 121, and 137 of the Code of the Village of Elbridge. The Board of Trustees may authorize a cluster or conservation subdivision plan that does not exceed the maximum residential lot count attainable by the above formula.
- [2] Building types. The type of residential dwelling units permitted by a planned development shall be detached, single-family residences and shall be subject to the conditions set forth below.
- [3] Landscaped open spaces.
 - [a] Landscaped open spaces or open space areas left substantially in their natural state shall be provided at a ratio of not less than 500 square feet of open space for every bedroom proposed in the planned development. This open space shall be in addition to required watercourse, wetland and steep slope set asides that apply to the specific property and plan.
 - [b] A portion of the open space may be required for active recreational uses for the residents and guests of a planned unit development. The size, shape, access, location, buffer and uses of such area shall be determined during preliminary PUD plan review, site plan review, or both.
- [4] Distance between principal buildings. At a minimum, the distance between principal buildings shall be not less than the average height of principal buildings; except that, when principal buildings are single-family detached dwellings, the distance between principal buildings shall be no less than 30 feet.

(g) Business, commercial and general community facilities.

- [1] Uses. The uses allowed in the Village Code § 137-12, B-1 Retail Business District, shall be allowed in the Planned Unit Development Districts in such locations as are approved by the Village Board from time to time and, in addition, [veterinarian facilities and] health clubs shall be permitted.
- [2] Density. The density shall be as permitted in the B-2 District.
- [3] Arrangement of uses. Business and commercial facilities shall be located and arranged to encourage development of a neighborhood center for the use of Village residents.

- [4] Access. Convenient and practical access and public amenities, including, but not limited to, decorative lighting, streetscaping, street trees, and pedestrian features, shall be provided to the neighborhood center for all Village residents by use of its roads, sidewalks, bicycle paths, and other design elements.
- (h) Buffer areas.
 - [1] A buffer area shall be provided along the boundaries of the PUD, including all public street lines. The buffer shall be a minimum of 20 feet in depth. The buffer shall consist of natural vegetation, earthen berms augmented with approved grasses and shrubs, trees, berms and other elements. Native and noninvasive vegetation shall be used to the greatest extent practicable. No parking area and no principal or accessory building or use shall be located in the buffer area, but access- and drainageways serving the planned development may be permitted through buffer areas.
 - [2] Increased perimeter setbacks beyond that required above may be required whenever it is determined that they are warranted by the topography, the nature of the existing vegetation or the relationship to and impact on neighboring properties and uses.
- (i) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the ratios established in Article VI of this chapter.
- (j) Design considerations. The following design elements shall be considered by the Village Board and the Planning Board acting upon referral of the PUD proposal from the Village Board in addition to the specific provisions of the Village Land Subdivision Regulations⁵ and the factors examined in the preliminary PUD plan and/or site plan review:
 - [1] Visual screening between adjoining residential yards and between residences and nonresidential uses shall be designed for residents of the PUD as well as nearby non-PUD residents through the proper design of rear yards and/or patio spaces. Proper screening through the use of vegetation, landscaped berms, fencing and partially or fully enclosed porches and patios shall be provided.
 - [2] Buildings and accessory structures shall be set back a minimum of 75 feet from any public street intended to carry through traffic unless otherwise directed by the Village Board.
 - [3] Side yards shall be wide enough for a twelve-foot-wide driveway to provide access to a garage and required parking in the rear yard.
 - [4] Garage door openings should not be located on the front wall of a residence facing a street or be the visual focus of a building.

5. Editor's Note: See Ch. 121, Subdivision of Land.

- [5] Streets shall be designed according to Village requirements or as otherwise directed by the Village or other highway jurisdiction, such as with a thirty-foot width of pavement to permit alternate-side parking without encroaching on the traveled area of the street or the yards of the residences on the street, and shall have concrete or stone curbs.
- [6] Cluster subdivision or conservation subdivision design is encouraged and may be required.
- [7] The preliminary and final PUD approval shall set architectural guidelines to reflect the character of the Village and its neighborhoods in the PUD. Such details shall include the use of suitable building materials and colors, paving materials, exterior lighting fixtures, windows, landscaping, fencing styles and sign designs. Commercial signs illuminated from inside of the sign and exterior neon signs are not permitted in PUD developments.

(2) Common areas.

- (a) A common area in a planned unit development is a parcel or parcels of land, together with all improvements thereon, the use and enjoyment of which shall be preserved by a right and easement of use and enjoyment thereto, which right and easement shall be appurtenant to and pass with the title to each dwelling unit, whether such title be in fee simple absolute or represented by shares in a cooperative organization. If any portion of land comprising the common property is being used by a membership club, such use by such membership club, including nonowner/nonoccupant members thereof, may be permitted, provided that owners and occupants of the individual dwelling units are eligible for admittance to the membership club on an equal basis and status and subject to the same dues requirements.
- (b) Homeowners' association. Where common areas exist, the ownership, maintenance and preservation of such property shall be permanently assured to the satisfaction of the Village Board of Trustees by the filing of appropriate easements, covenants and restrictions and through a private land trust or association of all property owners (hereafter "homeowners' association" or "HOA") established in accordance with applicable laws and pursuant to the following requirements:
 - [1] The HOA certificate of incorporation, the bylaws and the organization's declaration of restrictions shall be submitted to the Village Attorney and the Village Board for approval before final PUD and/or site plan approval may be granted. They shall clearly provide:
 - [a] That the HOA will be responsible for all insurance, taxes, governmental assessments, utility costs, maintenance, operation, repair and the management of the common areas, including recreational facilities and other amenities.
 - [b] That a capital reserve fund for future major maintenance and repairs will be created.

- [c] That homeowners will be guaranteed the right to participate in the management of the HOA before they assume majority control thereof.
 - [d] That the assessments levied by the HOA against each unit owner will be determined by taking into account actual costs of insurance, maintenance, management, taxes and other governmental and utility assessments.
 - [e] What the initial developer's contribution will be and how it is to be calculated through the time of homeowner control.
 - [f] That the assessments should be at all times accurate reflections of all costs referable to the common property.
 - [g] That membership in the HOA will be mandatory for all unit owners within the planned development.
 - [h] That the assessments levied by the HOA which are unpaid in excess of 60 days shall become both a lien on individual title and a personal obligation against the unit owner.
- [2] The HOA must be formed prior to the issuance of a building permit for the first dwelling unit. The HOA must be formed pursuant to the applicable regulations promulgated by the New York State Attorney General's Office, as set forth herein. The HOA must be formed as either a homeowners' association pursuant to Title 13 of the New York Codes, Rules and Regulations, Part 22; a condominium pursuant to Title 13 of the New York Codes, Rules and Regulations, Part 20; or a cooperative pursuant to Title 13 of the New York Codes, Rules and Regulations, Part 21. All requirements in this chapter for HOAs shall be equally applicable to homeowners' associations, condominiums and cooperatives.
 - [3] Where there is to be a lease of any portion of the common areas, it must be submitted for approval to the Village Board of Trustees, which will examine the relationship of the lease to the HOA with regard to rights of use and access by the unit owners in and to the common areas.
 - [4] The developer shall convey unencumbered title to the common property in fee simple absolute to the HOA when the first unit is conveyed and shall send a copy of the recorded common property deed to the Village Board.
 - [5] The developer shall transfer control of the HOA to the unit owners no later than the earlier of three years after the conveyance of the first unit or after 50% of the units are conveyed.
 - [6] The HOA shall not be dissolved.
 - [7] The HOA shall not dispose of or convey any common areas for any uses other than those specified in the final approved PUD plan and as amended.
- (c) Planned development deed restrictions.

- [1] The developer shall, prior to final approval and as a condition thereof, designate common areas. The common areas shall consist of all land in residentially developed areas which is not to be developed as residential units or for other permitted uses. Such areas shall include, but not be limited to, all roadways, recreation facilities, common accessways, buffer zones and open space areas within the planned unit development and shall be duly noted as such on the preliminary PUD plan filed prior to final PUD plan approval, which plan shall also include a separate listing of all PUD plan approval conditions. The filed plan shall be referred to by its filing number in the deed restriction and incorporated by reference therein.
- [2] As a condition of approval, the Village Board of Trustees shall require that any deed granted by the developer with respect to the residential units or other permitted uses in the planned unit development shall contain a clause or clauses which create permanent rights of use and enjoyment in the designated common property, if any, and easements for the same which shall be appurtenant to each unit and benefit the owners thereof.
- [3] In addition, each deed granted by the developer shall contain a restrictive covenant, in recordable form satisfactory to the Village Attorney, restricting the disposal or conveyance of the common property, if any, for any purpose other than those specified in the approved planned unit development plan. The covenants as set forth above shall inure to the benefit of each individual purchaser of a residential unit within the planned unit development and shall further name the Village as third-party beneficiary for enforcement purposes and shall prohibit the extinguishment of said covenants.
- [4] The Village's emergency maintenance rights in and to the common property as described herein shall also be included in the deed restriction.
- [5] All mortgages, leases and similar encumbrances on the common property shall be subordinate to the deed restrictions and shall be reviewed by the Village Attorney to assure that they are actually subordinate thereto. In order to facilitate this review, the developer shall submit a full title report on the premises to the Village Attorney when the PUD plan application is submitted.
- [6] Prior to final PUD plan approval, the developer shall file a separate declaration of restrictions, thus encumbering the common property in the planned development coincident with final PUD plan approval and prior to any development thereon. In the event that the developer is a contract vendee for all or part of the site, such declaration of restrictions shall be filed simultaneously with the title closing on the site or part thereof.
- [7] The permanent rights of use and access and the restrictive covenants described herein shall run with the land, and no PUD or site plan shall be approved without the prior approval of the language and form of all documents describing such rights, covenants and restrictions by the

Village Board.

(d) Village's emergency maintenance rights.

- [1] In the event that the HOA established to own and maintain common property, or any successor organization, shall at any time after establishment of the planned development fail to maintain the common property in reasonable order and condition in accordance with the plan, the Village may serve written notice upon such organization or upon the residents and the owners of the planned development, setting forth the manner in which the organization has failed to maintain the common property in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing, the Village may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said 30 days or any extension thereof, the Village, in order to preserve the taxable values of the properties within the planned development and to prevent the common property from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners and accepted by the Village Board of Trustees after public hearing thereon. Before the expiration of said year, the municipality shall, upon its initiative or upon request of the organization theretofore responsible for the maintenance of the common property, call a public hearing upon notice to such organization or to the residents and owners of the planned unit development to be held by the Village, at which hearing such organization or the residents and owners of the planned unit development shall show cause why such maintenance by the Village shall not, at the election of the Village, continue for the succeeding year. If the Village shall determine that such organization is ready and able to maintain said common property in reasonable condition, it shall cease to maintain said common property at the end of said year. If the Village shall determine such organization is not ready and able to maintain said common property, it may continue to maintain said property for the next succeeding year, subject to a similar hearing and determination in each year thereafter.
- [2] The cost of such maintenance by the Village shall be assessed, equally, against the properties within the planned unit development that have a right to enjoyment of the common property and shall become a tax lien on said properties. The municipality, at the time of entering upon said common property for the purpose of maintenance, shall file a notice of such lien in the office of the County Clerk upon the properties affected by such lien within the planned development.

[3] Reference to Subsection B(2)(d) shall be included in the planned development deed restriction.

(3) Site and structure requirements.

- (a) Natural features, such as streams, rock outcrops, topsoil, trees and shrubs, shall be preserved or replaced and incorporated in the landscaping plan of the development.
 - (b) Where adequate surface drainage is not possible by grading alone, a supplementary drainage system, approved by the Village, shall be required.
 - (c) To improve the quality of the environment and to reduce inconvenience during bad weather, all electrical and telephone distribution lines shall be installed underground.
 - (d) Where minimum lot size or frontages, building dimensions, shape and location and maximum percentage of coverage are not specified herein, the standards set in this chapter for comparable uses, and in accordance with good planning practices, shall be used to the extent that the resulting development shall be compatible with the surroundings and to assure the stability of the uses proposed to be developed on the site.
 - (e) The right-of-way and pavement widths for internal roads shall be determined from sound planning and engineering standards to be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of firefighting equipment and police or emergency vehicles. The pavement of said roads shall be not less than 30 feet wide or as otherwise directed by the Village. All streets shall be subject to all other applicable Village ordinances.
 - (f) The developer shall provide all necessary fire hydrants, refuse disposal facilities, water and sewer/septic facilities, storm drainage, paved road access, paved parking and loading facilities and off-street lighting, making reasonable provision for utility service connections with adjoining properties in other ownerships.
 - (g) Parking and loading areas, refuse disposal facilities and other accessory uses within the planned unit development shall be located so as to be compatible with nearby residential uses. Such uses shall be adequately screened and buffered where adjacent to or in view of nearby residential development.
 - (h) All utilities and drainage facilities shall be built to the approval of the Village Engineer and Code Enforcement Officer.
- E. Performance guaranty. The Village Board may require that public improvements, recreational facilities and landscaping be secured by a performance guaranty in the same manner as prescribed in the Village Subdivision Regulations, or as the Village Board or Planning Board may require. Provision shall be made to secure the maintenance of landscaping by the HOA and approval and successors in interest.

F. Application procedure and approval process.

- (1) Application for a PUD District designation shall be by petition applied to a specific parcel(s), identifying such parcel(s) by Tax Map identification number and current ownership. A petition for the PUD District shall be made to the Village Board of Trustees accompanied by a preliminary PUD plan as defined in this section, illustrating the general layout, approximate dimensions, circulation patterns and mix of uses among other existing and proposed site features. The petition shall be accompanied by Part 1 of a New York SEQRA Long Environmental Assessment Form (EAF) completed by the applicant/developer. The Village Board of Trustees shall, upon receipt of said petition, consider the completeness of the information and may refer the PUD preliminary plan and other accompanying information, including the SEQRA EAF, to the Planning Board for its report and recommendations.
- (2) In order to allow the Village Board of Trustees and the applicant/developer to reach an understanding on the basic mix of uses, density and layout, the application for preliminary PUD plan approval shall meet the following minimum criteria:
 - (a) The preliminary plan shall be drawn to scale and shall include all items listed below:
 - [1] The disposition of various land uses and the areas covered by each, in acres.
 - [2] The outline of the interior road system of all existing and proposed rights-of-way and easements, whether public or private.
 - [3] Delineation of the various use areas, indicating the number of structures, buildings, dwelling units with the number of bedrooms by each housing type, and the floor area of business and general community facilities.
 - [4] The interior common open space system and a statement as to how said system is to be preserved as such throughout the life of the planned unit development and how it is to be owned and maintained.
 - [5] An illustrative site plan, indicating the relationship between the proposed road system, parking lots, buildings and open spaces.
 - [6] The proposed water, storm and sanitary sewer/septic systems and how they are proposed to be connected to the system of adjoining areas, if applicable.
 - [7] Environmental characteristics of the planned development, including topography, areas of slope in excess of 15%, soils, rock outcrops, streams, swamps, lakes, ponds and other wetlands and all proposed alterations of said environmental characteristics.
 - [8] Calculation of steep slopes, wetlands and watercourses and density calculation as noted in Subsection D(1)(f).
 - [9] Estimates of the school-age population, and the possible allocation of school children to existing and any proposed schools.

[10] Estimates of peak-hour traffic generation derived from the proposed development and its relation to surrounding development and its relation to surrounding roads and intersections, including design elements to mitigate traffic impacts.

[11] If the development is to be phased, a clear indication of how the phasing is to proceed. The preliminary plan shall show each phase of development, with the dates of anticipated commencement and completion of the same. The plan shall set forth the finalized phases of development with dates.

[12] Evidence of how the proposal would be consistent with the official planning objectives and Comprehensive Plan of the Village.

- (b) Every application for a planned development shall be accompanied by a fee as set forth in Chapter 210 of the Code of the Village, § 210-65, Planning, zoning and building fees.⁶
- (c) The Planning Board shall render a report to the Village Board. The Planning Board may, at its discretion, recommend modifications of the preliminary plan to the Village Board.
- (d) The Planning Board shall submit its report within 30 days of receipt of a complete petition, unless, within such 30 days, the Planning Board shall determine that, by reason of complexity of the questions presented or like considerations, an additional period of time, not exceeding 30 days, is reasonably required for the proper evaluation thereof.
- (e) A favorable report shall be based on the following findings, which shall be included as part thereof:
 - [1] The proposal meets all the general requirements of Subsection A.
 - [2] The proposal meets all the general requirements of Subsection D.
 - [3] The proposal is conceptually sound in that it meets a community need and it conforms to desirable design principles in the layout of the proposed roadway system, in the land use mix and configuration, open space and drainage system and in the scale of the elements, both absolute and as they relate to one another and adjoining land uses.
 - [4] There are adequate public facilities, services, utilities and road access available for the development.
- (f) An unfavorable report shall state clearly the reasons therefor and, if appropriate, recommend changes to be put in the plan.
- (g) The Village Board of Trustees may then determine, on its own initiative, whether or not it wishes to proceed to a public hearing.

(3) Village Board action on the petition for a Planned Unit Development District

6. Editor's Note: Current fees are on file in the Village offices.

designation.

- (a) Upon receipt of the report from the Planning Board, the Village Board of Trustees may set a date for and conduct a public hearing for the purpose of considering an amendment to the Zoning Map to apply the PUD as an overlay district designation to the subject property. A public hearing shall be conducted within 45 days of the receipt of the report, if the Board of Trustees elects to proceed with consideration of the petition.
 - (b) The Village Board of Trustees shall refer the petition to local, state, county, regional and federal agencies having jurisdiction for their review, including Onondaga County Planning for General Municipal Law § 239-m review.
 - (c) The Village Board shall approve or disapprove the petition in accordance with the provisions of Article IX of this chapter, in the form of a local law.
 - (d) The Village Board, in its discretion, may impose reasonable conditions on an approved planned development as necessary to assure conformance of the planned development with the intent and objectives of the planned development regulations, including the requirement of filing any agreement to be recorded in the County Clerk's office and to be covenants and restrictions running with the land, and any mortgage or lien shall be caused to be subordinate to such agreement.
 - (e) The approved PUD shall be shown on the Zoning Map of the Village of Elbridge, New York.
- (4) Conditions regarding planned unit development approval. The development of the planned unit development shall be conditioned upon the following:
- (a) Securing of preliminary PUD plan and site plan approval in accordance with the Site Plan Law of the Village of Elbridge, New York,⁷ including the requirement of filing any agreement to be recorded in the County Clerk's office and to be covenants and restrictions running with the land, and any mortgage or lien shall be caused to be subordinate to such agreement.
 - (b) Compliance with all conditions and requirements as may be set forth by the Village Board in its granting of the planned unit development petition.
 - (c) It shall be a condition of approval of all planned developments, whether stated or not, that if a complete application for preliminary PUD plan and site plan approval is not presented to the Planning Board for approval within six months of the date of approval of the planned development designation or if no development is initiated on the site within 12 months of the date of approval of the planned development site plan by the Planning Board, the zoning of said parcel shall revert back to the zoning of said parcel prior to its change to a planned unit development.

7. Editor's Note: See Article IX, Site Plan Review and Special Permits, of this chapter.

- (d) The requirements of Chapter 121, Subdivision of Land (Articles I through VII), of the Code of the Village of Elbridge and Article IX, Site Plan Review and Special Permits, and Article XI, Violation and Penalties, of this chapter.
 - (e) Upon approval by the Village Board of the Planned Unit Development District, the Official Zoning Map shall be so noted. The Board may, if it feels it is necessary to protect the public health, safety and welfare of the community, attach to its zoning amendment resolution approving such district any additional conditions or requirements for the applicant to meet. Such requirements may include, but may not be limited to:
 - [1] Visual and acoustical screening to protect neighborhood aesthetics.
 - [2] Order of phased development, including construction and/or occupancy.
 - [3] Vehicular and pedestrian circulation systems.
 - [4] Protection of natural and cultural resources, including surface and underground water-based resources, wetland and floodplain features and drainageways, historic and archaeological resources, important and prime farmland soils, and steep slopes.
- G. Compliance with New York State Environmental Quality Review Act (SEQRA). In its review process and prior to final approval of an application to create a Planned Unit Development District pursuant to this section, the Village Board of Trustees shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations contained in 6 NYCRR Part 617.
- H. Effective date. This section shall take effect immediately upon its filing in the office of the Secretary of State of the State of New York.
- I. Severability. The provisions of this section shall be severable; and if any clause, sentence, paragraph, subdivision, section or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. The invalidity of any section or provision of this section shall not invalidate any other section or provision of this section.

ARTICLE III
Supplementary Regulations

§ 137-15. Applicability of provisions.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the supplementary regulations contained in this article.

§ 137-16. Storage of recreational vehicles. [Amended 11-5-1990 by L.L. No. 3-1990; 3-3-2003 by L.L. No. 1-2003]

Boats, utility trailers, motor homes, recreational vehicles, or campers shall not be parked on a lot anywhere within the front yard depth area, and, furthermore, with regard to any corner lot, there shall be conformance with the requirements of § 137-22, Visibility at intersections, as follows:

- A. On a corner lot in any district, no boat, utility trailer, motor home, recreational vehicles, campers or other objects or structure more than 2 1/2 feet in height shall be erected, parked, placed or maintained within the triangular area formed by the intersection of street lines and a straight line joining said street lines at points where they are 30 feet distant from the point of intersection, measured along said street lines.

§ 137-17. Storage of unlicensed or uninspected vehicles.

Unlicensed or unregistered operable vehicles shall not be stored where they are visible from a road or highway.

§ 137-18. Storage of clutter, litter, debris, junk and junked vehicles. [Amended 11-5-1990 by L.L. No. 3-1990]

The outdoor storage or parking of any of the above is prohibited anywhere within the Village of Elbridge.

§ 137-19. Parking of large trucks.

- A. No tractors, tractor-trailers or dump trucks shall be parked on the streets or upon any lot in any residential district, except in those cases where such items are parked wholly within enclosed private garages.
- B. The overnight parking of tractor-trailers left with the compressor engine running anywhere in the Village of Elbridge shall constitute a violation of this chapter.

§ 137-20. Accessory buildings or structures.

- A. No accessory building shall be used for dwelling purposes.
- B. Maximum area. The total maximum area of all accessory buildings on a lot shall not exceed 40% of the foundation area of the principal structure, excluding any attached garage; provided, however, that no accessory structure shall be larger than a three-car garage.
- C. Rear and side yard setback. Accessory buildings shall in no event be located closer to the rear yard line or either side yard line than six feet; in no event shall an accessory building, wood pile, radio or television antenna or satellite dish or any other similar structure be located within any front yard setback. [Amended 11-5-1990 by L.L. No. 3-1990; 11-7-1994 by L.L. No. 1-1994]
- D. Front yard setback. No accessory building or structure shall be located within a front yard depth area, other than fences and screening devices installed and maintained pursuant to § 137-33 hereof. [Amended 11-5-1990 by L.L. No. 3-1990]

§ 137-21. Addition or removal of earth. [Amended 3-3-2003 by L.L. No. 1-2003]

- A. Except as otherwise provided herein.
- (1) No person, firm or corporation shall fill, strip, excavate or otherwise remove or add topsoil or earth components from or to any lot, except in connection with the construction, repair or alteration of a building on such premises and the excavation or grading incidental thereto. In no event shall any of these activities be undertaken without a zoning permit having been issued therefor. No grading, landscaping, movement of earth or plantings shall be done in any manner that surface water runoff or drainage is channelized to run onto adjoining lands, and all such runoff or drainage shall be caused to be designed to be retained on the lot on which such work is being performed and percolate into the soil on that same lot.
 - (2) No person, firm or corporation shall be required to obtain a zoning permit, pursuant to this section, to and for the purposes of planting grass, flowers, shrubbery, creating new or repairing or redesigning existing landscaping, including landscaping berms or raised planting beds and other plantings.
- B. In the event the work does not require a zoning permit as set forth herein, such person, firm or corporation shall still comply with the requirements in this section regarding surface water runoff and drainage.

§ 137-22. Visibility at intersections.

- A. On a corner lot in any district, no fence, wall or hedge or other structure or planting more than 2 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 30 feet distant from the point of intersection, measured along said street lines.
- B. No fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained within a thirty-foot setback, measured perpendicularly from the street line. [Amended 11-5-1990 by L.L. No. 3-1990]

§ 137-23. Yard area encroachments.

- A. A paved ground level terrace shall not be considered in determination of yard sizes or lot coverage; provided, however, that such terrace is unroofed and without walls, parapets or other forms of enclosure and shall not project into any yard to a point closer than 12 feet to any lot line.
- B. Any open or enclosed porch shall be considered a part of the building in the determination of the size of yard or lot coverage.
- C. Bay windows, including their cornices and eaves, may project into any required yard not more than two feet.
- D. Open fire escapes may extend into any required yard not more than four feet six inches.

§ 137-24. Front yard depth.

- A. Developed areas. In any residence district, each dwelling hereafter shall have a front yard

equal to the average depth of the front yards of the lots immediately adjoining thereto on either side, but no front yard depth shall be less than 10 feet, nor shall any front yard have a greater depth than 50 feet.

§ 137-25. Yards abutting district boundaries.

- A. Where the frontage on one side of the street between two intersecting streets is zoned partly as residential and partly as business or industrial, the front yard depth in the business or industrial district shall be equal to the required front yard depth of the residential district [or equal to 1/2 the required front yard depth of the residential district or equal in depth to 1/2 the required front yard depth for a distance of 50 feet into the business or industrial district].
- B. On every corner lot in a residential district, there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street.

§ 137-26. Business use of side streets in residential districts.

Where a residential district is bounded by a portion of a business district, any side street extending through such residential district into such business district shall not be used for any business purpose, except as herein set forth. The business structure erected in said business district shall face and open upon the street set aside for business purposes, except that show windows in such business structure may be built and exposed upon said side street within the area set aside as a part of such business but the business structure must face on the business street, except that entrances may be made from such residential street to the upper stories of such business structure.

§ 137-27. Driveways in residential districts. [Added 12-7-1998 by L.L. No. 1-1998]

- A. Number of driveways per lot.
 - (1) Each lot shall be permitted to have one driveway for each 100 feet of street frontage.
 - (2) Corner lots shall be permitted to have two driveways, one on each road frontage, provided that the frontage on each side of the lot is a minimum of 100 feet.
- B. Location of driveways.
 - (1) Driveways shall not be located and placed directly across the road or street from another driveway and otherwise shall be located as remotely as practical from nearby driveways to ensure they do not cause or create any traffic safety hazards.
 - (2) The edge of any driveway shall be located a minimum of six feet from any property line.
 - (3) Driveways shall not be located or designed so as to cause water to flow onto the public street nor into any adjoining lot or property.
 - (4) Driveways shall be constructed perpendicular to the street they intersect at a ninety-degree-angle, and extend a distance of 20 feet maintaining the ninety-degree-angle.

- (5) Driveways shall be constructed and located in conformance with the general aesthetic, historical and safety concerns as set forth in the Code of the Village of Elbridge, Chapter 137, Zoning, § 137-2.

C. Construction standards for new driveways.

- (1) Minimum width shall be 10 feet, with a maximum of 20 feet.
- (2) Any driveway intersecting a Village street shall have a flare with a ten-foot radius at the mouth.
- (3) New driveways shall have topsoil removed and be constructed with a minimum of eight inches of gravel underneath.
- (4) The asphalt/tarvia shall have, prior to compaction, a minimum depth of four inches, or six inches, if made of concrete.
- (5) Each driveway shall not cause run-off or water to flow into the Village street and shall be pitched away from the Village street at the rate of 1/4 inch per foot from the street surface towards any drainage ditch or, where there is no drainage ditch, to the edge of the right-of-way.

D. Nonconforming driveways. If recoating or covering existing driveway with asphalt, cement, gravel, stone or brick, which already has an adequate base, then these regulations will not be applicable, except that such work to a preexisting driveway shall not be located or designed so as to cause water to flow onto the public street nor into any adjoining lot or property.

§ 137-28. Perimeter strips. [Amended 11-5-1990 by L.L. No. 3-1990]

Where a perimeter strip is required by this chapter, there shall be provided along such abutting lines a perimeter strip having a minimum width on all sides adjoining other use districts of 25 feet. This strip is in addition to all side and rear yard requirements and shall be developed, used and maintained for lawn, shrubs, trees and bushes to the end that such strip shall afford a screen at least six feet high, effectively barring visibility; provided, however, that such perimeter strip plantings shall not exceed three feet in height where located within the front yard setback. The perimeter strip shall remain inviolate of any other use, including piling, plowing or storage of snow or parking or any other use other than such plantings.⁸

§ 137-29. Junkyards and dumps.

Junkyards and dumps are prohibited uses throughout the Village of Elbridge.

§ 137-30. Cellars.

No part of any cellar shall be used for living and sleeping quarters. Such spaces may be used for game rooms, private shops, laundry or storage.

⁸. Editor's Note: Original Section 114-28, Schools, parks, playgrounds and recreation areas, which immediately followed this section, was repealed 6-1-1992 by L.L. No. 3-1992.

§ 137-31. Mobile home parks or courts.

The Village of Elbridge hereby makes a legislative determination based on its own knowledge and investigation that there are an abundance of mobile home courts or parks located within the surrounding Town of Elbridge having facilities adequate to satisfy all of such needs of the community and that, by reason thereof, no provision for such uses are established in the Village of Elbridge.

§ 137-32. Transmission towers and dish antennas. [Added 11-5-1990 by L.L. No. 3-1990; 6-1-1992 by L.L. No. 3-1992]

No amateur radio transmission tower or television dish antenna of any nature, whether freestanding or attached to any structure or natural growth, shall be erected, maintained or replaced without a zoning permit having been issued therefor by the Codes Enforcement Officer. All amateur radio transmission towers and television dish antennas shall be deemed "structures" for all purposes under this chapter.

§ 137-33. Fences and screening devices. [Added 11-5-1990 by L.L. No. 3-1990]

- A. Purpose. It is the purpose of this section to establish standards in the Village of Elbridge that reflect the community decision to preserve and enhance the natural, historic and scenic environment of the Village of Elbridge and to promote the health, safety and welfare of the community. It is the intent of this section to encourage pleasant, uncluttered neighborhood aesthetic appearance with openness and clear view, especially in front yards, including both front yards on corner lots, to the end that pedestrian and traffic safety may be promoted and that clutter may be minimized.
- B. Permit required. All screening and fencing, except natural vegetation, are hereby determined to be structures. No such screening or fencing shall be installed or replaced without prior issuance of a zoning permit therefor.
- C. Height and location.
 - (1) Front yard. No fence of any type or size shall be constructed, replaced or maintained within the front yard depth area of any lot without a special permit therefor having been issued by the Planning Board pursuant to Article IX hereof. In addition to the criteria set out in Article IX, no special permit shall be approved which would obstruct clear view of the driver of any motor vehicle entering or exiting any driveway. [Amended 11-7-1994 by L.L. No. 1-1994]
 - (2) Side and rear yards. No basket weave or stockade fence located in side or rear yards shall exceed six feet in height.
- D. Placement and maintenance.
 - (1) Screening and fences shall be placed so that they do not project onto adjoining properties but may be located abutting the property line.
 - (2) All screening devices and fences shall be maintained in a safe, sound condition. Permitting screening devices or fences to fall into disrepair shall constitute a violation and, upon order made by the Codes Enforcement Officer, shall be either repaired or

- removed. [Amended 6-1-1992 by L.L. No. 3-1992]
- (3) Barbed wire or other fencing posing serious threat or personal injury is prohibited.
 - (4) All fences shall be constructed so that all posts, frames and supports face toward the interior of the lot and so that the finish surface of the fence faces toward abutting property. [Added 11-7-1994 by L.L. No. 1-1994]
- E. Accessibility. All portions of lots enclosed by screening devices or fences shall be made accessible for firefighting purposes by the provision of at least one pedestrian gate not less than three feet in width.

ARTICLE IV
Nonconforming Uses and Structures

§ 137-34. Intent. [Amended 11-5-1990 by L.L. No. 3-1990]

- A. Where within the districts established by this chapter, or amendments that may later be adopted, there exist lots, structures, uses of land and structures and characteristics of use which were lawful before this chapter was passed or amended but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but to discourage their survival; such legal nonconformities run with the land and do not terminate on account of sale or conveyance. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended in any direction or manner or be used as grounds for adding other structures or stories or uses prohibited elsewhere in the same district. [Amended 11-7-1994 by L.L. No. 1-1994]
- B. Nonconforming uses and structures are declared by this chapter to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure and land in combination shall not be extended or enlarged in any dimension or direction. After passage of this chapter, the attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of other uses of a nature which would be prohibited generally in the district involved are hereby declared illegal. [Amended 11-7-1994 by L.L. No. 1-1994]
- C. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any parcel of land on which actual or constructive construction was lawfully begun prior to the effective date of adoption of this chapter. "Constructive construction" is hereby defined to include all proposed construction for which a building permit has been obtained from the Village of Elbridge. "Actual construction" is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently, and a legally issued building permit for such work has been obtained from the Village of Elbridge. [Amended 11-7-1994 by L.L. No. 1-1994]
- D. If the work described in any building permit hereinabove included under the definition of

"constructive construction" has not begun within 90 days from the date of adoption or amendment of this chapter, then said permit shall expire, and said proposed construction shall require the issuance of a new building permit.

- E. If the work described in any building permit hereinabove included under the definition of "constructive construction" or any work of whatever nature proposed or desired where actual construction began prior to the effective date of adoption of this chapter has not been substantially completed within 24 months to the effective date of adoption of this chapter, any and all further work shall cease, and a new building permit shall be required as hereinafter provided.

§ 137-35. (Reserved) ⁹

§ 137-36. Continuation of nonconforming uses of land.

Where, at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter and where such use involves no individual structure with a replacement cost exceeding \$1,000, the use may be continued so long as it remains otherwise lawful, provided that:

- A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land or height than was occupied at the effective date of adoption or amendment of this chapter. [Amended 11-7-1994 by L.L. No. 1-1994]
- B. No such nonconforming use shall be moved in whole or in part to any portion of the lot, parcel or building other than that occupied by such use at the effective date of adoption or amendment of this chapter. [Amended 11-7-1994 by L.L. No. 1-1994]
- C. If any such nonconforming use of land ceases for any reason for a period of more than 60 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- D. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

§ 137-37. Continuation of nonconforming structures.

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

- A. No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity or its height regardless of height limitations set out in this chapter, but any structure or portion thereof may be altered or replaced to decrease its nonconformity; no nonconforming mobile home may be replaced with another mobile home having any

9. Editor's Note: Former § 137-35, Nonconforming lots of record, was repealed 11-7-1994 by L.L. No. 1-1994.

dimensions which increase its nonconformity or which are in any dimension larger than the existing mobile home. A mobile home replacement which does not bear a seal or label certifying that it is built in compliance with the Federal Manufactured Construction and Safety Standards administered by the United States Department of Housing and Urban Renewal (HUD Code) is not allowed. [Amended 11-7-1994 by L.L. No. 1-1994; 12-6-1999 by L.L. No. 1-1999]

- B. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be constructed except to the exact or more conforming dimensions as it existed on the date of its destruction, which reconstruction shall be commenced and completed with due diligence; provided, however, that if a dwelling in the Village of Elbridge is destroyed by accidental fire, hurricane, tornado or other act of God, said homeowner may rebuild said residence to the original type and size or structure. [Amended 11-7-1994 by L.L. No. 1-1994]
- C. Should such structure be moved for any reason to any district whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

§ 137-38. Continuation of nonconforming uses of individual structures or of structures and premises combined.

If lawful use involving individual structures with a replacement cost of \$1,000 or more or of structures and premises in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use in a portion of a building shall not be extended throughout such building, and no such use shall be extended to occupy any land outside such building. [Amended 11-7-1994 by L.L. No. 1-1994]
- C. If no structural alterations are made, any nonconforming use of a structure or structure and premises may by way of interpretation be changed to another nonconforming use, provided that the Zoning Board of Appeals shall make an interpretive ruling in the specific case and shall find that the proposed use is of the same general character and which is not more detrimental than the original use or to adjoining legal land uses is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter. [Amended 11-7-1994 by L.L. No. 1-1994]
- D. Any structure or structure and land in combination in or on which a nonconforming use was partially superseded by a permitted use shall thereafter be permitted only after consideration of the plans and specifications for the same have been approved by the governing body or shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

- E. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six consecutive months during any three-year period (except when government action impedes access to the premises), the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this subsection, is defined as damage to an extent of more than 50% of the replacement cost at the time of destruction. [Amended 11-7-1994 by L.L. No. 1-1994]

§ 137-39. Repairs and maintenance.

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

§ 137-40. Exception of special permit uses.

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

**ARTICLE V
Swimming Pools**

§ 137-41. Zoning permit required; survey. [Amended 11-5-1990 by L.L. No. 3-1990]

- A. Zoning permit. A zoning permit for construction, erection or alteration of any swimming pool or part thereof shall be required prior to construction, alteration or erection thereof.
- B. Survey. A current survey showing the proposed swimming pool in its exact relation to lot and building lines, water mains, electric lines, gaslines, sewer lines and telephone lines shall be furnished to the Codes Enforcement Officer. Said survey maps shall also show the exact location of existing septic tanks, drain fields and leach fields. No part of any

swimming pool shall be located on top of any such facilities. If proof as to exact locations of the above is furnished in form satisfactory to the Codes Enforcement Officer so that he can confirm compliance, then the requirement for a survey may be waived. [Amended 6-1-1992 by L.L. No. 3-1992]

§ 137-42. Safety, installation, lighting and maintenance requirements.

- A. (Reserved)¹⁰
- B. Yards. All swimming pools and appurtenances, including enclosures thereto, shall be constructed and located so as to have a yard not less than 12 feet in width on all sides, except where the pool is attached to or part of a principal structure.
- C. Lighting. No lighting shall be permitted in, on or about a swimming pool, except such lighting that shall shine into or upon the pool which shall cast no light or reflection onto abutting properties. The voltage of any wiring therefor shall not exceed 12 volts.
- D. Overhead wires. No overhead electric lines shall be maintained within 20 feet of the nearest portion of a pool or appurtenances.
- E. Perimeter. A perimeter of at least four feet around all edges of the pool shall be maintained between the edges of the pool and the fence erected around the pool.
- F. Disposal of wastewater. Wastewater shall not be discharged into any public sewer of the Village. Wastewater shall be prevented from flowing over or into the land of any adjoining property owner or over any abutting street.
- G. Abandonment. Should the owner abandon the pool, he shall arrange to remove the depression and return the surface of the ground to its original grade and approximately in the same condition as before the pool was constructed, and the Codes Enforcement Officer shall be notified therefor. Discontinuance of use and maintenance as a pool for 12 months or more shall constitute abandonment within the meaning of this provision. [Amended 6-1-1992 by L.L. No. 3-1992]
- H. Pool pumps and motors. Pool pumps and motors shall be located so that any noise therefrom does not unreasonably interfere with the use and enjoyment of abutting properties. [Amended 11-7-1994 by L.L. No. 1-1994]

ARTICLE VI
Off-Street Parking

§ 137-43. Minimum required spaces for new uses. [Amended 11-5-1990 by L.L. No. 3-1990]

All new land use activities shall provide the minimum number of parking spaces as follows:

- A. Multiple dwellings: 1 1/2 spaces per dwelling unit.
- B. Stores and shops: one space per 300 square feet of gross floor area.
- C. Office buildings, laboratories and industrial plants: one space per 400 square feet of gross

10. Editor's Note: Former Subsection A, Enclosures, as amended, was repealed 9-14-1992 by L.L. No. 4-1992.

floor area, exclusive of warehouse and storage areas.

- D. Schools, institutions, theaters and community facilities: one space per 300 square feet of gross floor area.
- E. Restaurants: one space for every five seats.

§ 137-44. Applicability to existing uses.

The provisions of this article shall not apply to the existing uses, subject to the following exceptions:

- A. No existing uses shall be allowed to reduce existing parking spaces below the minimum required by above.
- B. Where an existing use is changed to another use, the provisions of the above parking schedule shall apply.
- C. Where an existing use is modified in such a way that factors used in determining the applicable minimum spaces indicate an increase numerically over existing spaces, such increased spaces shall be provided in accordance with the provisions of the above parking schedule.

§ 137-45. On-premises parking facilities.

All parking facilities shall be located on the same property as the principal use within the required setbacks of the applicable district.

§ 137-46. Off-premises parking facilities.

- A. For the nonresidential uses enumerated in only the B-1 and B-2 Zone Districts, up to 50% of the required number of parking spaces for principal uses may be located on a different property upon issuance of a site plan approval by the Planning Board.
- B. Findings for off-premises parking. Findings for off-premises parking shall be as follows:
 - (1) It is impractical to provide the required number of parking spaces on the same lot with the principal structure.
 - (2) Documentation, satisfactory to the Planning Board, shows that the required spaces will be provided in a permanent and accessible manner.
 - (3) The off-premises parking area is within 500 feet of the principal property, is within the same or less restricted zone district and complies with the setback requirements of the applicable district.
 - (4) A safe means of pedestrian access between the off-premises parking area and the principal property is available.

§ 137-47. Parking facilities prohibited in required yards.

- A. No parking facilities shall be allowed within the required front yard setback or within the

required perimeter strip of any B-1, B-2 or S-1 District lands. Access driveways may pass through the front yard setback to parking facilities to the rear of the front yard setback line, but not through any perimeter strip. [Amended 11-5-1990 by L.L. No. 3-1990]

- B. On corner lots, no parking facilities shall be allowed within the required side yard contiguous to a public right-of-way, except for access driveways.

§ 137-48. Parking space size and access.

Each parking space or stall shall have a minimum width of 10 feet and a minimum length of 20 feet and have direct access to a maneuvering area, aisle or access driveway.

§ 137-49. Maneuvering area.

Each parking facility shall provide an area so that parking maneuvers can be accomplished without encroaching upon a public right-of-way, walkway or landscaped area.

§ 137-50. Driveways.

- A. Access driveways from the public right-of-way to the parking area shall be a minimum of 10 feet in width for one-way traffic and 20 feet in width for two-way traffic.
- B. Driveways which form the maneuvering aisle or area for contiguous parking spaces must provide a maneuvering area of 24 feet in width for two-way traffic and 15 feet in width for one-way traffic.
- C. Greater width may be required, at the discretion of the Planning Board, to improve the safety and efficiency of vehicle movements.

ARTICLE VII

Signs

§ 137-51. (Reserved) ¹¹

§ 137-51.1. Legislative findings; intent. [Added 3-14-1995 by L.L. No. 1-1995]

- A. The Board of Trustees makes the following legislative findings:
 - (1) The Village of Elbridge had its genesis in the late 1700's and 1800's along the major east-west trade route (now N.Y. Route 5) in a rural setting midst several drumlins common to the area and at the crossing of this trade route over Skaneateles Creek.
 - (2) In those early settlement days several large Colonial, Victorian and Dutch houses were built on large lots with deep front yards along this trade route (now Main Street). These large early American homes, together with the large trees now lining Main Street, create a strong visual impression, a sense of history, of character, an asset to be preserved. These homes are the best evidence of these historic and architectural resources. These assets can enhance property values, increase local pride

¹¹. Editor's Note: Former § 137-51, Zoning permit required, amended 11-5-1990 by L.L. No. 3-1990, was repealed 3-14-1995 by L.L. No. 1-1995.

and bolster economic development of the Village as a nice place to live.

- (3) This cultural heritage is worthy of protection.
 - (4) It is recognized that signs have the potential for imperilment or destruction of historical assets, especially where those assets are underappreciated and signs are not regulated. In many cases signs may be unattractive, too large, too numerous, improperly placed or out of character with the Village.
 - (5) New and existing signs in the Village must respect these historic assets, their character, their architectural features and their aesthetics.
 - (6) The most common problems encountered with signs are:
 - (a) Too garish.
 - (b) Too large or out of proportion with the building.
 - (c) Too much information on one sign.
 - (d) Too many signs on one property.
 - (e) Signs that are too tall.
 - (f) Signs that are improperly located on the property (too close to the road or adjacent properties).
 - (g) Signs that are out of character with the historic atmosphere of the Village (plastic, internally-lit signs).
 - (h) Deteriorating signs; lack of maintenance.
 - (i) Poor choice of colors.
 - (j) Amateurish handpainted signs.
 - (k) Flashing or glaring lights on signs.
 - (l) Too many signs competing with each other for attention.
 - (7) Entry images which one sees upon entering the Village are important to the overall image of the Village and create lasting impressions. It is the intent of this chapter that those entry images be improved and enhanced.
- B. It is the further intent that existing signs which are significantly incompatible with the purposes and objectives of this chapter will be eliminated over a period of time.
- C. The Village of Elbridge therefor intends to make reasonable zoning regulations as to sign standards, types, size and height. Additionally this article makes provision to address aesthetic standards in order to protect the Village historic character.

§ 137-51.2. Purpose. [Added 3-14-1995 by L.L. No. 1-1995]

- A. It is hereby declared to be in the interest of the public health, safety and general welfare of the inhabitants of the Village of Elbridge that design guidelines related to new and existing

signs be adopted in order to:

- (1) Stabilize and reinforce property values to protect private and public investment.
 - (2) Reverse neighborhood decline and upgrade housing quality.
 - (3) Preserve and reinforce the natural, historic and architectural qualities of neighborhoods.
 - (4) Establish and enhance aesthetic and architectural compatibility within neighborhoods and commercial areas.
 - (5) Attract residential, business and industrial development and redevelopment by establishing neighborhood and commercial conditions that make for an aesthetic and pleasant living and working community.
 - (6) Reduce any traffic hazard created by signage.
- B. The intent of these design guidelines is to ensure that signs are compatible with the characteristics of the neighborhood in terms of scale, mass, facade articulation, incorporating design elements of prevalent neighborhood architectural styles, and that signs are compatible with the principal structure and area.
- C. Signs should convey their messages clearly and simply to enhance their surroundings.
- D. It is the purpose of this chapter to establish a framework of comprehensive sign standards for the Village of Elbridge that reflect the community decision to preserve and enhance the historic character, aesthetics and architecture of the Village; the natural, scenic environment of the Village; and to promote the health, safety and welfare of the community. It is the intent of this chapter to permit only those signs that:
- (1) Address and satisfy the problems listed in § 137-51.1A(6) above.
 - (2) Substantially protect the historical assets of the Village and protect and enhance the cultural heritage of the Village.
 - (3) Enhance entry images upon entering the Village.
 - (4) Encourage legibility of sign information along street frontage.
 - (5) Reduce visual clutter and glare in order to:
 - (a) Promote traffic and pedestrian safety; and
 - (b) Encourage the clearest possible visual perception of existing adjacent businesses and existing signs.
 - (6) Minimize light intrusion onto adjacent property.
- E. Whenever a conflict arises in the enforcement of this article or more than one interpretation is possible, the purpose statement shall serve as a guideline in reaching a decision.

§ 137-51.3. Definitions. [Added 3-14-1995 by L.L. No. 1-1995]

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

ABANDONED SIGN — A sign which advertises, identifies or gives notice of a business which is no longer in operation or an activity which has already occurred. A permanent on-site sign which applies to a temporarily suspended business shall not be deemed to be abandoned unless the suspension exceeds six months.

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

BANNER SIGN — Any cloth, paper or flexible material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interest of any person, business or cause when such is placed in view of the general public.

BILLBOARD SIGN — An off-site sign displaying advertising sign copy that is pasted, painted or fastened in a manner to permit its periodic replacement and that does not direct attention to a use, activity, facility, product or service existing on the zone lot on which the sign is placed.

BUSINESS SIGN — A sign which directs attention to a business, commodity, service, industry or other activity which is sold, offered or conducted, other than incidentally, on the premises upon which such sign is located or to which it is affixed. Such sign shall include freestanding, marquee, projecting, window, wall, portable and awning signs, banners and pennants.

DIRECTIONAL SIGN — An on-site informational sign which includes information for drivers or pedestrians such as "no parking," "entrance," "exit," "loading only," "telephone" and other similar directives. Incidental signs shall not include any commercial message.

DIRECTORY SIGNS — An on-site sign attached to a building listing only the names and locations of the businesses or activities within a building or multi-tenant development. Such sign must be wall-mounted.

FREESTANDING SIGN — A type of business sign which is supported by one or more uprights or braces in or upon the ground and which is independent from any building or other structure.

HOME OCCUPATION SIGN — A generic announcement sign.

IDENTIFICATION SIGN — A sign showing name and address only.

LIGHT DISPLAY SIGN — Any use of lights; searchlights, lasers and flashing lights intended to attract attention or convey information.

LIMITED PURPOSE SIGN — A content-neutral sign including real estate for sale signs, real estate for rent signs, yard sale signs, garage sale signs, open house signs; community, civic, political, charitable, social or educational message signs; or announcing a new business. Such sign shall be treated as a temporary sign.

MARQUEE SIGN — A sign attached to or hung from a structure projecting from a building.

NONCONFORMING SIGN or **LEGAL NONCONFORMING SIGN** — Any sign legally existing on the effective date of this article but which does not conform to the requirements of

this article.

OFF-SITE SIGN — A sign unrelated to any activities being conducted on the site.

ON-SITE SIGN — A sign directing attention to a use, activity, facility, product or service existing at the property on which the sign is placed.

POLITICAL SIGN — A sign relating to a political candidate, political party or issue in a public election.

PORTABLE SIGN — Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels, signs converted to A- or T-frames, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business or used for transportation to and from work.

PROJECTING SIGN — A sign which is affixed to any building wall or structure and extends beyond the building wall or parts thereof.

REAL ESTATE SIGN — A type of limited-purpose sign designating specific real property for sale, including folding and post signs.

ROOF SIGN — A sign attached to the roof but which does not project above the roofline.

SHARED COMMON ENTRY SIGN — Where two or more businesses share a common entry and building frontage, the signage maximum shall be limited to one business sign.

SIGN — Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interest of any person, business or cause when such is placed in view of the general public.

SIGN STRUCTURE — Supports, uprights, bracing and framework for a sign. In the case of a sign structure consisting of two or more sides, where the angle formed between any two sides or the projection thereof is 30° or more, each side shall be considered a separate sign structure.

SNIPE SIGN — A sign fastened to a tree, utility pole or fence.

TEMPORARY SIGN — Same as "limited purpose sign."

VEHICLE SIGN — A sign placed on any movable parked vehicle or trailer whose function it is to be moved or placed onto a site to provide additional business signage.

WALL SIGN — A type of business sign which displays only one sign surface and which is affixed and parallel to an exterior wall of a building projecting not more than 15 inches therefrom. A "wall sign" includes any sign which extends above the roofline.

WINDOW SIGN — Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the

window, irrespective of whether the message is permanent or temporary.

§ 137-51.4. Classification of signs. [Added 3-14-1995 by L.L. No. 1-1995]

All signs are classified into the following categories:

- A. Billboards.
- B. Business signs which include freestanding signs, window signs, wall signs, marquee signs, projecting signs and awning signs.
- C. Directory signs (names of tenants, etc.).
- D. Directional signs (information for drivers and pedestrians).
- E. Professional announcement or home occupation signs.
- F. Limited-purpose signs (same as "temporary sign" content-neutral).
- G. Identification signs (name and address only).

§ 137-51.5. Exempt signs. [Added 3-14-1995 by L.L. No. 1-1995]

- A. Exempt signs require no permits. The following types of signs may be erected and maintained without permits or fees, provided that such signs comply with the general requirements of this chapter and other conditions specifically imposed by this article:
 - (1) Historical markers, tablets and statutes, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations; provided, however, that none of the foregoing shall exceed six square feet in area.
 - (2) Flags and insignia of any government, except when displayed in connection with commercial promotion.
 - (3) Directional signs for the convenience of the general public, identifying public parking areas, meetings, conventions, assemblies, fire zones, entrances and exits and similar signs, internally illuminated or nonilluminated, not exceeding four square feet per face. Must be on premises.
 - (4) Nonilluminated warning, including private drive, posted or no trespassing signs, not exceeding one square foot per face.
 - (5) Identification sign (number and name plates identifying residents) mounted on a house, apartment or mailbox, not exceeding one square foot in area.
 - (6) Private-owner merchandise sale signs for garage sales and auctions, not exceeding four square feet and maintained in place for a period not exceeding seven days.
 - (7) Temporary nonilluminated "for sale," "for rent," real estate signs and signs of similar nature, concerning the premises upon which the sign is located. In a residential zoning district, one sign not exceeding four square feet per side. In a business or

industrial zoning district, one sign not exceeding nine square feet.

- (a) All such signs shall be removed within seven days after the sale, lease or rental of the premises.
 - (b) Banner type signs allowed for 21 days.
- (8) One temporary sign for a roadside stand selling agricultural produce grown on the premises in season, provided that such sign not exceed nine square feet.
- (9) Temporary, nonilluminated window signs and posters in any nonresidential zoning district not exceeding 50% of the window surface of any given window. Such percentage shall not be cumulative.
- (10) Christmas holiday decorations, including lighting, are exempt from the provisions of this section and may be displayed in any district without a permit for a period from three days before Thanksgiving until the first week in the following year.
- (11) At gasoline service stations:
- (a) Integral graphics or attached price signs on gasoline pumps.
 - (b) Two auxiliary signs per station, each not exceeding two square feet.
- (12) One sign, not exceeding six square feet in residential districts nor 16 square feet in business districts, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress. Such sign shall be removed within seven days of the completion of said construction, renovation or repair. [Amended 12-6-1999 by L.L. No. 1-1999]
- (13) Political posters, political banners, political promotional devices and similar political signs, not exceeding four square feet in the residential districts nor 16 square feet in the business districts, provided that:
- (a) Placement shall not exceed 30 days.
- B. Signs of one of the above types but which exceed the specific size parameters are declared to be illegal signs.

§ 137-51.6. Prohibited signs. [Added 3-14-1995 by L.L. No. 1-1995]

- A. Prohibited signs. Except as otherwise provided, the following types are prohibited anywhere within the Village:
- (1) Abandoned signs.
 - (2) Off-site signs, except billboards.
 - (3) Roof signs projecting above the highest roofline.
 - (4) Satellite dishes containing sign copy.
 - (5) Light display signs.

- (6) Snipe signs.
- (7) Signs emitting visible matter or sound.
- (8) Signs resembling an official traffic signal.
- (9) Outline lighting of a building, including neon lights and neon outline, excluding decorative holiday lighting.
- (10) Vehicle as a sign.
- (11) Moving or animated signs.
- (12) A billboard sign on a permanent storage tank or barn.
- (13) A marquee sign located over a sidewalk.
- (14) Flashing, rotating or revolving signs or lights, with the exception of barber poles.
- (15) Any sign suspended and/or illuminated by a series of lights.
- (16) Any sign painted or drawn on a rock or other natural feature.
- (17) Any banner sign or sign of any other type across a public street except a temporary sign approved by the Board of Trustees upon determination to be of general benefit to the municipality or for public convenience, necessity or welfare.
- (18) Signs which contain, include or consist of any flashing, intermittent, moving light or lights, letters or numbers except those giving public service information such as time, date, temperature, weather or similar information.
- (19) Arrow signs (flashing.)

§ 137-51.7. General development standards. [Added 3-14-1995 by L.L. No. 1-1995]

A. Measurement standards.

- (1) Sign area measurement. The area of a sign is calculated by including the maximum dimensions of the sign structure, including the frame but excluding supporting posts.
- (2) The area of a freestanding sign having two faces back-to-back shall be treated as one face. The area of a freestanding sign having faces at 30° to one another, or more, shall be limited to the area for one permitted freestanding sign.
- (3) Sign height measurement. The sign height is measured as the vertical distance from the average finished grade beneath the sign to the topmost feature of the sign.
- (4) Front yard setback measurement. Setback is measured from the edge of the highway right-of-way boundary line (not to be confused with pavement edge or curb).

B. Design standards.

- (1) Signs shall be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings on which there are architectural features and should be in proportion to them.

- (2) Signs should be appropriate to the types of activities they represent.
- (3) Layout should be orderly and graphics should be of simple shape, such as rectangle, circle or oval.
- (4) The number of colors used should be the minimum consistent with the design.
- (5) Illumination should be appropriate to the character of the sign and surroundings.
- (6) Groups of related signs should express uniformity and create a sense of harmonious appearance.
- (7) Corporate logos or franchise standards or sign size or height are not binding on the Village.

C. Illumination standards.

- (1) No signs shall be illuminated except business signs and directional signs.
- (2) The lighting for illuminated signs shall be turned off at 10:00 p.m. or 1/2 hour after closing if your store closes after 10:00 p.m.
- (3) The light source shall not be directed nor shall the light source be of such magnitude as to cause distraction, blindness, difficulty with visibility to motorists or annoyance to adjoining landowners, and such light or illumination shall be directed and constructed and shielded so as to cause the beam or illumination to not spill over onto another person's property.

D. Construction standards.

- (1) A sign is a structure and shall meet all pertinent provisions of the Zoning Law and shall require a building permit and/or zoning permit.
- (2) In order to ensure the safety of persons, all internal illuminated signs shall be constructed in conformance with the National Electric Code, Standards for Electric Signs (UL 48) of Underwriters Laboratories, Inc., or inspected by an approved electrical underwriter.
- (3) All signs, including wall-mounted and projecting signs, shall be securely anchored.
- (4) All signs, sign finishes, support and electric work shall be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose supports, braces, guys and anchors.
- (5) All projecting, freestanding or wall signs shall employ acceptable safety materials.

E. Location and setback standards. No sign shall be located:

- (1) Within a public right-of-way or on public property.
- (2) Within 30 feet of a street corner if the Planning Board determines such location interferes with traffic visibility across the corner. [Amended 7-7-1997 by L.L. No. 1-1997]
- (3) So as to obstruct the view of an authorized traffic sign, signal or device.

(4) So as to obstruct the view of a motorist entering a road from a parking area, alley or other vehicular access point.

F. Sign size limitation standards. Signs shall conform to dimensional requirements as follows:
[Amended 12-6-1999 by L.L. No. 1-1999; 3-3-2003 by L.L. No. 1-2003]

Schedule A

| Type | Maximum Area (square feet) | Maximum Height (feet) |
|--|---|--------------------------------------|
| Billboards | 32 | 16 |
| Freestanding [Amended 7-7-1997 by L.L. No. 1-1997] | | |
| S1 | 32 | 22 |
| B1 | 32 | 06 |
| R3 | 32 | 06 |
| Marquee | 16 | 12 |
| Wall or roof | Total square footage of sign shall not exceed 1 1/2 feet times the building width, said building width in feet to be equivalent to the frontage of said building in feet or allocated to said business in its lease if not otherwise defined or demarcated by side walls, but in no event shall the size of the sign exceed 50 square feet, nor shall said sign project above the roof height, nor shall said sign project or extend beyond the actual wall | |
| Directory | 4 | 6 |
| Limited-purpose sign in any: | | |
| Residential district | 4 | 4 |
| Business district | 9 | 4 |
| Home occupation | 2 | 3 |
| Professional | 2 | 3 |
| Identification | 1 | 3 |
| Directional | 2 | 5 |
| Portable (no more than 2 sides) | 6, per side | 3 |

- G. Permitted signs by zone. No more than one sign of a specific type may be located on a single lot or used in connection with a single business; except with regard to portable signs, no lot shall be permitted to have more than one portable sign per every 30 feet of road frontage. [Amended 3-3-2003 by L.L. No. 1-2003]

Schedule B

| Types | Zone | | | | | |
|---|------|-----|-----|-----|-----|-----|
| | R-1 | R-2 | R-3 | B-1 | B-2 | S-1 |
| Billboards | | | | | | |
| Freestanding sign | | | * | | | ** |
| Wall sign or roof sign | | | | X | X | X |
| Awning sign | | | | | | X |
| Marquee sign | | | | | X | |
| Window sign | | | | X | X | X |
| Directory sign | | | | X | X | X |
| Directional sign | X | X | X | X | X | X |
| Limited-purpose sign | X | X | X | X | X | X |
| Professional announcement sign | X | X | | X | X | X |
| Home occupation sign | X | X | | | | |
| Identification sign (name and address only) | X | X | X | X | X | X |
| Portable sign*** | | | | X | X | X |

NOTES:

- * Not more than 1 per use
- ** Not more than 1 per shopping center or multiple business center. Maximum size: 32 square feet.
- *** Not more than one per 30 feet of road frontage per lot.

§ 137-51.8. Specific type limitations. [Added 3-14-1995 by L.L. No. 1-1995]

A. Freestanding sign.

- (1) No freestanding sign shall be more than 22 feet in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including supporting structures.
- (2) No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.

- (3) Freestanding signs under which a pedestrian walkway or driveway passes must have an eight-foot vertical clearance.
- B. Awning signs.
- (1) No sign shall project from an awning.
 - (2) Awning graphics may be painted or affixed flat to the surface of the front or sides and shall indicate only the name and/or address of the enterprise or premises.
- C. Window signs.
- (1) Limit no more than one sign per window.
 - (2) The area of a window shall not include other unsized windows or second-story windows.
 - (3) The area of a window sign shall not exceed 50% of the glass dimension area of the window.
 - (4) Copy-change window signs shall not exceed 50% of the area of the particular window.
- D. Directory signs.
- (1) Sign directories shall contain identification of and direction to several business enterprises within the building to which the sign is affixed, but shall contain no promotional advertising.
- E. Wall signs.
- (1) Wall signs shall not extend beyond the ends or over the top of the walls to which attached and shall not extend above the level of the second floor of the building.
 - (2) Wall signs shall not extend more than 15 inches from the face of the buildings to which attached.
 - (3) Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of eight feet six inches.
 - (4) Shared common entry wall or awning signs shall not exceed sign area required for single business.
- F. Ballfield fence signs. Ballfield fence signs, ballfield and recreation field advertising signs may be located on the interior face of any ballfield or recreation field fence, provided that:
- (1) Such sign does not project above the top of the fence structure.
 - (2) Such sign faces into the focus of the field to attract the attention of persons lawfully using the field.
 - (3) Such sign is not so oriented as to attract persons who are not patrons of the field event.
 - (4) A permit for each advertiser has been issued. So long as replacement sign copy does

not exceed the dimensions approved in the original permit, successive permits for changed copy shall not be required.

- G. Portable signs. Advertising signs of any kind as well as any direction, name or information attached to, painted upon or posted on trees, fences, stones, sidewalks, utility poles or curbs and signs of the sandwich-board or A-frame or other portable signs; freestanding signs or limited purpose signs type are prohibited in the Village unless they conform to the following requirements:
- (1) All such portable sandwich/A-frame signs shall be subject to the same permit requirements as provided for the existing Code of the Village of Elbridge except as otherwise expressly provided herein.
 - (2) No such portable sandwich/A-frame signs shall be permitted to be located in a public right-of-way.
 - (3) No lighting or illumination of any kind is permitted of any portable sandwich/A-frame signs.
 - (4) All such portable sandwich/A-frame signs and appurtenances shall be removed and stored inside at the close of business each day and shall only be permitted for use during the operating hours of business each day. All such signs shall, when erected and displayed, be designed with sufficient weight or design to prevent being moved or disturbed by wind conditions.
 - (5) All such portable sandwich/A-frame signs shall require the owner to apply for a permit pursuant to all other provisions of the Village of Elbridge with the exception that the permit shall be valid for a six-month period, at which time the owner shall be required to renew the permit.
 - (6) Size. All such portable sandwich/A-frame signs shall not exceed three feet high by no more than two feet in width and shall not contain more than two sides.

§ 137-51.9. Permit required. [Added 3-14-1995 by L.L. No. 1-1995; amended 3-3-2003 by L.L. No. 1-2003]

- A. Sign permits. (All existing legal signs or legal nonconforming signs will be issued a conforming permit at whatever charge is set forth in the Uniform Fee Schedule. These permits will be issued by the proper authority within a six-month time period following the date of the new sign law.) Subsequent to this initial application, a permit shall be required for a new sign or for existing signs for repainting only if there is a change of color or change of message. Illegal nonconforming signs shall not be issued a permit. No permit shall be required for general, normal and routine maintenance.
- B. Application procedure; sign approval. Applications shall be made, in writing, to the Codes Enforcement Officer on forms prescribed and provided by the Village. The Codes Enforcement Officer shall transmit the same for final approval to the Planning Board in terms of compliance with the legislative findings, design, content, color as set forth in § 137-51.1 hereof. All other issues with reference to conformance with size and other conformity with the Village of Elbridge Code shall be determined by the Codes

Enforcement Officer and receive approval prior to referral to the Planning Board. The application shall contain the following information:

- (1) The name, address and telephone number of the:
 - (a) Applicant.
 - (b) Owner of the property.
- (2) The location of the building, structure or land upon which the sign now exists or is to be erected.
- (3) If a new sign is to be erected, the applicant shall include elevation and plan drawings to scale. In addition, a full description of the placement and appearance of the proposed sign should be included and should cover the following:
 - (a) Location on the premises, specifically, its position in relation to adjacent buildings, structures and property lines.
 - (b) The method of illumination, if any, and the position of lighting or other extraneous devices, and a copy of the electrical permit related to the electrical connections.
 - (c) Graphic design, including symbols, letters, materials and colors.
 - (d) The visual message, text, copy or content of the sign.
 - (e) If freestanding, a land survey made by a licensed land surveyor shall be furnished, showing location and setbacks of all structures, the front and side yard setback lines prescribed by the Zoning Law and the exact location of the proposed freestanding sign.
- (4) Written consent, or a copy of the contract made with the owner of the property upon sign is to be erected, if the applicant is not the owner.

§ 137-51.10. Planning Board approval. [Added 3-14-1995 by L.L. No. 1-1995]

- A. No sign permit for a new or replacement sign shall be issued for any of the following signs except after approval by the Planning Board:
 - (1) Freestanding sign.
 - (2) Business sign.
 - (3) Wall sign.
 - (4) Roof sign.
 - (5) Ballfield sign.
- B. The following standards shall apply to Planning Board Review:
 - (1) The Planning Board shall make determinations supported by findings of fact as to whether the issues, concerns and problems set out at § 137-51.1A, Legislative

findings; intent, and whether the purposes set out above under § 137-51.2 will be supported or fulfilled by approval of the grant of a sign permit. Such review shall not include the criteria for special permits and site plan review set out in § 137-68 of this Code.

- (2) The Planning Board shall also determine whether the proposed sign is in furtherance of promoting the historic character of the Village; whether the sign creates an entry image that promotes said historic character; and whether the sign is consistent with existing architecture.
- (3) The Planning Board shall have the power to approve, approve with conditions or to disapprove any sign permit approval. The Planning Board shall have the power to impose reasonable conditions upon the grant of any sign permit approval. Such conditions include style, character, coloring, lighting, historic compatibility, compatible aesthetics and other conditions which will help beautify the community and reduce clutter, distraction and confusion to motorists.

§ 137-51.11. Codes Enforcement Officer processing. [Added 3-14-1995 by L.L. No. 1-1995]

- A. If the application is for a sign requiring Planning Board approval, the Codes Enforcement Officer shall examine the application for completeness and, when complete, shall forward the same to the Planning Board.
- B. If the application is for a sign not requiring Planning Board approval, the Codes Enforcement Officer shall, within 15 days, issue a permit for the erection of the proposed sign or for an existing sign; provided, however, that such sign is in full compliance with this article. The issuance of a permit shall not excuse the applicant from conforming to the other laws and ordinances of the municipality.

§ 137-51.12. Assignment of sign permits. [Added 3-14-1995 by L.L. No. 1-1995]

A current and valid sign permit for a fully conforming sign or legal nonconforming sign shall be freely assignable by the owner of the property to the successor or to the holder of a business license for the same premises.

§ 137-51.13. Nonconforming signs. [Added 3-14-1995 by L.L. No. 1-1995]

- A. Any sign which was legally in existence on or prior to the effective date of this section is hereby protected as a legal nonconforming structure and shall be issued a legal nonconforming sign permit if an application is timely filed.
- B. A legal nonconforming sign shall not be relocated, replaced, increased in size or height, except in conformance with the provisions of this section.

§ 137-51.14. Violations and penalties. [Added 3-14-1995 by L.L. No. 1-1995]

- A. Any person, firm or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, reerect, construct or structurally alter any sign without first applying for and obtaining the necessary permit, or who in any other way violates any provision of this article, shall be guilty of an offense and receive punishment as established in the Penal

Law. Each week's continuous violation shall constitute a separate additional violation.

- B. In case of a violation of this article, the municipality and its officers may, in addition to any other remedies specifically conferred by law or ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this article.

§ 137-51.15. Interpretation; conflict with other laws. [Added 3-14-1995 by L.L. No. 1-1995]

In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or local laws, provided that whenever the requirements of this article are at variance with the requirements of any other lawfully adopted regulations, rules or local laws, the most restrictive, or those which impose the highest standards, shall govern.

§ 137-51.16. Severability. [Added 3-14-1995 by L.L. No. 1-1995]

- A. The provisions of the sign law supersede and replace any and all previously enacted regulations relating to signs.
- B. If any section, subsection, phrase, sentence or other portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§ 137-51.17. Repealer. [Added 3-14-1995 by L.L. No. 1-1995]

Upon the enactment of this local law amending the Code of the Village of Elbridge, the following sections of the present code are repealed and are replaced by the above local law:

- A. Section 137-4 defining "shopping center" where it sets out "and one shopping center identification sign;"
- B. Section 137-4 defining "sign," "business sign," "advertising sign," "illuminated sign," "flashing sign;"
- C. Section 137-51.
- D. Section 137-52.
- E. Section 137-53.
- F. Section 137-54.

§ 137-51.18. Effective date.

This chapter shall become effective upon filing a certified copy in the office of the Secretary of State as required by the Municipal Home Rule Law.

§ 137-52. through § 137-54. (Reserved) ¹²

ARTICLE VIII
Administration and Enforcement

§ 137-55. **Zoning Board of Appeals created.** [Amended 12-6-1999 by L.L. No. 1-1999]

The Zoning Board of Appeals of the Village of Elbridge, consisting of five members, is hereby created in accordance with the provisions of Village Law § 7-712.

§ 137-56. (Reserved) ¹³

§ 137-57. **Zoning Board of Appeals procedure.** [Amended 11-5-1990 by L.L. No. 3-1990; 6-1-1992 by L.L. No. 3-1992; 11-7-1994 by L.L. No. 1-1994]

- A. Meetings, minutes, records. Meetings of such Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. Such Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- B. Filing requirements. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the Village Clerk within five business days, and shall be a public record.
- C. Assistance to Zoning Board of Appeals. Such Board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Board of Trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
- D. Hearing appeals. Unless otherwise provided by this chapter, the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Codes Enforcement Officer charged with the enforcement of any local law adopted pursuant to articles of the Village Law. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such Codes Enforcement Officer, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Village.
- E. Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Codes Enforcement Officer charged with the enforcement of this chapter by filing with such Codes Enforcement Officer and with the Zoning Board of Appeals a notice of appeal, specifying the grounds

12. Editor's Note: Former §§ 137-52 through 137-54, Signs in residential districts, Signs in business and shopping center districts, and Maintenance, as amended, were repealed 3-14-1995 by L.L. No. 1-1995.

13. Editor's Note: Former § 137-56, Zoning Board of Appeals membership; terms, as amended, was repealed 12-6-1999 by L.L. No. 1-1999. The definitions of "area variance" and "use variance" which were contained in Subsection A of this section can now be found in § 137-4.

thereof and the relief sought. The Codes Enforcement Officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

- F. In order to perfect a timely appeal, the applicant must file, in triplicate, with the Codes Enforcement Officer the following documents:
- (1) A notice of appeal.
 - (2) The original application for the zoning permit.
 - (3) The notice of rejection.
 - (4) A current survey of the subject property made by a licensed land surveyor showing the courses and distances of each boundary line of the property, the front, side and rear yard setback lines, the actual setbacks of all existing buildings and the setbacks of all proposed structures. Said survey shall also show one-foot-interval contours, street boundary lines, the pavement width, utility easements, creek and stream channels, ponds, regulated and unregulated wetlands, the names of the owners of all abutting properties, the zoning district classification and the current use of such abutting properties.
- G. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Zoning Board of Appeals. Every appeal or application shall refer to the specific provision of this chapter involved and, in case of an interpretation, shall set forth exactly the interpretation that is claimed or, in the case of a variance, the details of the variance that is applied for and the grounds upon which it is claimed that the variance should be granted.
- H. Upon receipt of any appeal to the Zoning Board of Appeals, the Codes Enforcement Officer shall immediately determine whether the application satisfies Subsection F(4) above and is otherwise complete, and, if so, he shall immediately transmit the original to the Chairperson of the Zoning Board of Appeals and shall forward a copy of the complete application to the attorney for the Zoning Board of Appeals. A second copy shall be referred to the Planning Board for its recommendations as to Comprehensive Plan conformance and for factors bearing on the impact to the neighborhood, aesthetics and historical character, availability of utility services and traffic impacts. Such review shall not include the standards of proof to be satisfied by the applicant. [Amended 12-6-1999 by L.L. No. 1-1999]
- I. Stay upon appeal. An appeal shall stall proceedings in furtherance of the action appealed from, unless the Codes Enforcement Officer charged with the enforcement of this chapter, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the Codes Enforcement Officer, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Codes Enforcement Officer from whom the appeal is taken and on due cause shown.

- J. Hearing on appeal. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Village at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal upon the hearing. Any party may appear in person, or by agent or attorney.
- K. Time of decision. The Zoning Board of Appeals shall decide upon the appeal within 62 days of said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- L. Filing of decision and notice. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- M. Notice to park commission or county planning board or agency or regional planning council. At least five days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the parties, to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the county planning board or agency or regional planning council as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in Subdivision 1 of § 239-m of the General Municipal Law. [Amended 12-6-1999 by L.L. No. 1-1999]
- N. Compliance with State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Codes, Rules and Regulations.

§ 137-57.1. Powers and duties of the Zoning Board of Appeals. [Added 11-7-1994 by L.L. No. 1-1994]

- A. Orders, requirements, decisions, interpretations, determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Codes Enforcement Officer charged with the enforcement of such zoning local law and to that end shall have all the powers of the Codes Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Use variances.
 - (1) The Zoning Board of Appeals, on appeal from the decision or determination of the Codes Enforcement Officer charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.
 - (2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the

applicant shall demonstrate to the Zoning Board of Appeals that:

- (a) Under the zoning regulations for the particular district where the property is located, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; [Amended 12-6-1999 by L.L. No. 1-1999]
 - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) The alleged hardship has not been self-created.
- (3) The Zoning Board of Appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Area variances.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Codes Enforcement Officer charged with the enforcement of this chapter, to grant area variances as defined therein.
- (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:
 - (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 as provided in Village Law § 7-712-b, Subdivision 3(b)(1); [Amended 12-6-1999 by L.L. No. 1-1999]
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (3) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- D. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and 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, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this zoning local law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 137-57.2. Article 78 Proceeding. [Added 11-7-1994 by L.L. No. 1-1994]

- A. Application to Supreme Court by aggrieved persons. Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals or any officer, department, board or bureau of the Village may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision of the Board in the office of the Village Clerk.
- B. Costs of appeal. Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.
- C. Preference of appeal to court. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.
- D. Power of court. If, upon the hearing of the Supreme Court, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review determining all questions which may be presented for determination.

§ 137-58. Planning Board created.

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

§ 137-59. Powers and duties of Planning Board.

- A. Staff. The Planning Board shall have the power and authority to employ experts and a staff and to pay for their services and such other expenses as may be necessary and proper, not exceeding the appropriations that may be made for such Board.
- B. Rules and regulations. The Planning Board may recommend to the Village Board of Trustees regulations relating to any subject matter, over which the Planning Board has jurisdiction under this chapter or any other statute, or under any local law of the Village. Adoption of any such recommendations by the Village Board of Trustees shall be by local law. [Amended 12-6-1999 by L.L. No. 1-1999]
- C. Specific powers and duties. The Planning Board shall hear and exercise the powers and

duties as follows:

- (1) **Comprehensive Plan.** To review and make recommendations on a Comprehensive Plan for the development of the entire area of the Village of Elbridge, to make investigations and reports relating to the planning of the Village and its future growth and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population. [Amended 12-6-1999 by L.L. No. 1-1999]
- (2) **Plats.** To review, approve, approve with modifications or disapprove all plats showing lots, blocks or sites, with or without streets or highways, within the Village of Elbridge.
- (3) **Streets and highways in subdivision.** To review, approve, approve with modifications or disapprove changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the County Clerk's office.
- (4) **Streets and highways.** To review, approve or disapprove the layout of, closing off or abandonment of such streets, highways or public areas under and subject to the provisions of the Village and Highway Laws.
- (5) **Modification of chapter.** Simultaneously with the approval of a plat or plats pursuant to Village Law and Chapter 121, Subdivision of Land, of the Code of the Village of Elbridge, to recommend modifications of applicable provisions of this chapter to the Board of Trustees. [Amended 12-6-1999 by L.L. No. 1-1999]
- (6) **Other powers.** The Planning Board shall also exercise all other powers conferred upon it by the provisions of the Village Law and to pass upon all matters which may be referred to it from time to time by resolution of the Village Board. It shall conduct hearings and perform its duties in accordance with such procedure as provided in Article 7 of the Village Law and acts amendatory thereof.
- (7) **Subdivision rules and regulations.** To review and make recommendations to the Board of Trustees regarding subdivision rules and regulations and amendments thereto. [Amended 12-6-1999 by L.L. No. 1-1999]
- (8) **Site plan and special permit approval.** To grant or deny site plan and special permit approval.

ARTICLE IX

Site Plan Review and Special Permits

§ 137-60. Purpose.

The purpose of this article is to provide a procedure whereby the Planning Board shall approve, approve with modifications or disapprove site plan and special permit applications, after public hearing, in order to review the provisions for parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings and the impact of the proposed use on adjacent land uses.

§ 137-61. Applicability.

This site plan review or special permit procedure shall apply to all proposed land uses and to the proposed design and construction of all structures in the Village of Elbridge, except uses or construction proposed within a single-family home subdivision approved by the Planning Board under the authority of § 7-728 of the Village Law.

§ 137-62. Waivers by Codes Enforcement Officer. [Added 11-5-1990 by L.L. No. 3-1990; amended 6-1-1992 by L.L. No. 3-1992]

Where a site plan or a special permit has been previously approved by the Planning Board for a specific use and it is thereafter proposed that said use be changed or exchanged for the same or similar use and where the applicant furnishes proof, in writing, that such new use will not present or create any adverse or new impacts under the provisions of § 137-64, Review standards and criteria and aesthetics, the Codes Enforcement Officer is hereby empowered to waive the provisions of §§ 137-69, 137-70 and 137-71 (public hearing requirements) and issue a zoning permit for such changed use without further review or approval by the Planning Board.

§ 137-63. Procedure.

- A. Application. The application for a site plan review and approval and special permit approval, together with copies of the site plan and related drawings, shall be submitted by the owner to the Codes Enforcement Officer for transmittal to the Planning Board and the Planning Board Engineer at least 14 days prior to the Planning Board hearing scheduled to consider the site plan in question. The application shall be reviewed in accordance with the following procedures and standards. The application for site plan review and approval and all supporting documentation shall be submitted in triplicate. [Amended 11-5-1990 by L.L. No. 3-1990; 6-1-1992 by L.L. No. 3-1992]
- B. Supporting documentation required. The owner shall submit a site plan and supporting data which has been prepared by and bear the signature and seal of an architect, landscape architect, engineer, land surveyor or planner and shall include the following information accompanied by a written text describing the intent of the project in question:
 - (1) A survey of the property, showing existing features of the property, including contours, buildings, structures, major trees, streets, utility easements, rights-of-way, land use and sign locations.
 - (2) A site plan showing proposed building locations, traffic circulation, parking and loading spaces and pedestrian walks.
 - (3) Landscaping plans, including site grading and landscape design and plant materials, including a summary of transportation movement and circulation patterns of major highways to the site in question.
 - (4) Preliminary architectural drawings for structures delineated to be constructed, including floor plans, exterior elevations, sections, dimensions, architectural features and designs, exterior construction materials and colors.
 - (5) A description of proposed screening, including size, design, materials and buffers or perimeter strips.

- (6) The location of snow storage areas and provisions for runoff.
 - (7) A description of all adjacent uses and an impact statement of proposed uses on all adjacent uses and on the Village.
 - (8) Preliminary engineering plans, including street improvements, public utility systems and hydrant locations.
 - (9) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development, upon request of the Planning Board.
 - (10) The construction sequence and time schedules for completion of each phase for buildings, parking spaces and landscaped areas.
 - (11) A description of the proposed uses, including hours of operation, number of employees, expected volume of business and type and volume of traffic expected to be generated.
- C. Access to public street. No approval hereunder or building permit shall be granted or issued until the applicant demonstrates compliance with Village Law § 7-736. Private streets shall be permitted only with multiple-family dwelling projects or within the interior of commercial or industrial subdivisions. Neither this provision nor any other provision of this chapter shall preclude the further division of commercial or industrial tracts which have been granted approval hereunder or under prior applicable laws of the Village of Elbridge.
- D. Waiver and modification. The Planning Board, upon written application, shall have the power to waive the supporting documentation set forth in Subsection B of this section, provided that the Planning Board determines that the documentation is not necessary in that particular instance. [Added 11-5-1990 by L.L. No. 3-1990]

§ 137-64. Review standards and criteria and aesthetics.

The Planning Board shall review the site plan and the special permit application data to determine compliance with the following aesthetic and other objectives designed to preserve and enhance the character and quality of life in the Village of Elbridge:

- A. Conformance with the provisions of this chapter and the Comprehensive Plan of the Village of Elbridge. [Amended 12-6-1999 by L.L. No. 1-1999]
- B. Harmonious relationship between proposed uses and existing adjacent uses; the determination of harmony shall include aesthetic and architectural design compatibility and visual impact of the proposed use compared with existing neighborhood uses.
- C. Maximum safety of vehicular circulation between the site and the street network.
- D. Effectiveness of mitigation measures to minimize any adverse impact on adjacent uses.
- E. Maximum adequacy of interior site circulation, parking and loading facilities, with particular attention to vehicular and pedestrian safety.
- F. Adequacy of landscaping, screening, buffering, plantings and setbacks in regard to achieving maximum compatibility and protection of all adjacent uses and particularly of

residential subdivisions and adequacy of maintenance provisions.

- G. Provisions for public water, sewer and drainage facilities for all commercial, industrial and concentrated residential uses.
- H. Capacity of existing water mains, sewer lines, pumping stations, treatment facilities and stormwater drainage facilities and downstream disposition and easements therefor.
- I. Increase or improvement of existing public improvement district facilities to accommodate increased demands.
- J. Design capacity of public highways, it being the objective to maintain a design level of service C, as calculated pursuant to standard traffic engineering methods.
- K. Avoidance of any uses which will create offensive levels of noise, dust, fumes or flashing lights.
- L. Avoidance of any uses, structures or features patently offensive or causing substantial harm to the visual character of the area, the objective being to prevent harm which might occur to property values or future land development. [Amended 11-5-1990 by L.L. No. 3-1990]
- M. Avoidance of any use, structure or features which would be out of harmony or incongruent with existing visual features or the character of the area.
- N. Alternatives and conditions necessary to minimize any adverse impact.
- O. If the application before the Planning Board is for a proposed amateur radio transmission tower and if the height of a proposed tower shall exceed 20 feet, then the applicant shall, as part of the proof to be adduced at the special permit hearing, establish that the proposed tower height is actually necessary in order to receive a clear signal and that the specific location of the tower is necessary on account thereof. [Added 11-5-1990 by L.L. No. 3-1990]

§ 137-65. Compliance with imposed conditions required; issuance of permits.

- A. Should changes or additional facilities be deemed necessary by the Planning Board to mitigate significant adverse impacts, its final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with said changes or additions.
- B. Permits shall be issued in accordance with an approved site plan, which shall be transmitted and signed by the Planning Board Chairman to the Codes Enforcement Officer. [Amended 6-1-1992 by L.L. No. 3-1992]

§ 137-66. Conditions attached to home occupation special permit uses. [Added 11-5-1990 by L.L. No. 3-1990]

The Planning Board is hereby empowered to attach conditions, including time limitations, to the grant of any home occupation special permit to help ensure the maintenance of the intended character of the zoning district and to terminate such special permit upon the happening of certain events, including discontinuance of the special permit home occupation at the permitted site for a period of 60 days or more, at the death of the permit holder or the sale of the permitted site by the permit holder. Said events so conditioned shall terminate the home occupation special permit and all rights thereunder.

§ 137-67. Approval of changes required before issuance of building or zoning permit. [Amended 11-5-1990 by L.L. No. 3-1990; 6-1-1992 by L.L. No. 3-1992]

An owner wishing to make changes in an approved site plan or special permit shall submit a revised site plan to the Codes Enforcement Officer for review and approval before making an application for a building permit or zoning permit.

§ 137-68. Failure to conform to application representations or terms and conditions of site plan or special permit.

Failure of the applicant to conform to the representations made by the applicant in the application and hearing process or failure to conform to the terms and conditions of the site plan or special permit shall be deemed a violation of this chapter.

§ 137-69. Approval of site plan and special permit required before issuance of zoning permit.

No zoning permit shall be issued by the Village of Elbridge for any use or construction coming within the provisions of § 137-61, Applicability, above until the Planning Board shall have granted final site plan approval and a special permit therefor.

§ 137-70. Public hearing required. [Amended 11-5-1990 by L.L. No. 3-1990; 12-6-1999 by L.L. No. 1-1999]

The Planning Board shall hold a public hearing in all cases as provided for in Village Law § 7-725.¹⁴ The Planning Board shall make written findings of fact on all of the criteria above set forth and shall render its decision accordingly. The Planning Board is empowered to impose conditions to the granting of site plan approval or special permit approval. The Planning Board may require such assurances and guaranties as deemed appropriate by the Planning Board in order to ensure compliance with the terms of the decision and of the conditions attached. Representations and assurances made by the applicant in the application for approval shall be deemed of the essence in the decision process, and any failure to conform with those representations will constitute a violation. The Planning Board shall also comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

§ 137-71. Findings and decision.

Every decision of the Planning Board shall be by resolution, which shall contain a full record of the findings made as to each of the above criteria. Each such resolution shall be filed forthwith in the office of the Village Clerk.

ARTICLE X

Codes Enforcement Officer; Zoning Permits; Certificates of Occupancy

§ 137-72. Codes Enforcement Officer. [Amended 6-1-1992 by L.L. No. 3-1992]

A. The Codes Enforcement Officer shall enforce the provisions of this chapter and is

14. Editor's Note: Village Law § 7-725 was repealed by L. 1992, c. 694, § 3. See now Village Law §§ 7-725-a and 7-725-b.

authorized to institute any appropriate proceedings, civil or criminal, to secure compliance with this chapter.

- B. The Codes Enforcement Officer shall periodically inspect all construction and work in process to ensure that all construction is in accordance with this chapter.
- C. The Codes Enforcement Officer shall make periodic inspections as he deems necessary, but not less frequently than annually, of all buildings and uses to determine whether any violations exist or have been created and to prosecute any violations thereof.
- D. The Codes Enforcement Officer shall investigate all violations of this chapter, whether by written or oral complaint made to the Village or arising from his own personal knowledge. He shall investigate and shall take immediate action as necessary to enforce the provisions of this chapter. He shall maintain a written record of every complaint made and of his disposition of every complaint and report thereon to the Board of Trustees at the next regular meeting.
- E. In the event that any building or structure is erected, constructed, reconstructed, altered, converted, located, relocated or maintained or any building, structure, land or premises is used in violation of this chapter or any regulation made pursuant thereto or any authority conferred thereby, in addition to other lawful remedies, any appropriate legal action or proceedings may be instituted to prevent the occupancy of such building, land or premises or to prevent any illegal act, conduct, business or use in or about such premises. The Codes Enforcement Officer shall serve written notice, either by personal service or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation permitting or committing the same, and, if such violation does not cease within such time as the Codes Enforcement Officer shall specify, he may institute such action as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.
- F. The Codes Enforcement Officer shall make and maintain a record of all legal nonconforming uses and structures in the Village of Elbridge and shall document such records with photographic evidence, when appropriate.

§ 137-73. Zoning permits.

- A. Separate zoning permits required. No person, firm or corporation shall commence any excavation, grading, earth filling or earth removal or commence any erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the use or occupancy of any building or structure or cause the same to be done without first obtaining a separate zoning permit from the Codes Enforcement Officer of the Village of Elbridge for each such lot, building or structure, except that no zoning permit shall be required for the performance of ordinary repairs which are not structural in nature. This requirement for a zoning permit is separate and distinct and in addition to any requirements for a building permit. [Amended 6-1-1992 by L.L. No. 3-1992]
- B. Excavation or construction. In addition to the foregoing, no excavation shall be commenced, no construction shall be commenced and no zoning permit shall be issued for any portion of a subdivision until the plat therefor has been submitted to the Planning

Board of the Village of Elbridge for review pursuant to Chapter 121, Subdivision of Land, of the Code of the Village of Elbridge unless such proposed construction is to be made on a lot within a subdivision already approved by said Planning Board.

- C. No zoning permit shall be issued until a survey map prepared by a licensed land surveyor or a plan prepared by a licensed architect has been filed with the Codes Enforcement Officer showing the boundary lines of the property, the course and dimensions of each boundary line, the size and exact location and setback dimensions of all existing and proposed structures, all in sufficient detail as to enable the Codes Enforcement Officer to determine whether the proposed use or structure complies with the provisions of this chapter. In the case of minor activities, only the Codes Enforcement Officer may accept other proof, provided that it is sufficient to enable the Codes Enforcement Officer to confirm compliance with this chapter. [Amended 6-1-1992 by L.L. No. 3-1992]
- D. Zoning permits and all rights thereunder shall expire one year from the date of issuance of such permit, unless substantial work has been performed on the site in reliance upon such permit, in which case such permit shall expire at the end of the second year. If all work has not been completed at the end of the second year, then a renewal of such permit shall be required from the Codes Enforcement Officer. [Amended 11-5-1990 by L.L. No. 3-1990; 6-1-1992 by L.L. No. 3-1992]

§ 137-74. Certificates of occupancy. [Amended 6-1-1992 by L.L. No. 3-1992]

Before any building or construction shall be used or occupied, the Codes Enforcement Officer shall make a final inspection for the exclusive benefit of the Village of Elbridge to determine satisfaction of all provisions of this chapter, and, if compliance is had, he shall issue a certificate of occupancy.

ARTICLE XI

Violations and Penalties

[Amended 11-5-1990 by L.L. No. 3-1990]

§ 137-75. Penalties for offenses.

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon the courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate, additional violation.

§ 137-76. Injunctive relief.

In case any building or structure is erected, constructed, reconstructed, altered, converted or

maintained or any building, structure or land is used or any land is divided into lots, blocks or sites in violation of this chapter, the proper local authorities of the Village of Elbridge, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE XII
Amendments; Severability; Repealer

§ 137-77. Amendments.

The regulations and restrictions of this chapter, as well as the Zoning Map, which also constitutes a part of this chapter, and the boundaries of districts shown thereon may from time to time be amended, modified, changed or repealed after notice and public hearing as provided by law.

§ 137-78. Severability. [Added 11-5-1990 by L.L. No. 3-1990]

If any section of Local Law No. 3-1987 or of the amendments thereto contained herein or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person or circumstances, and, to this end, the provisions of each section of this chapter are hereby declared to be separable.

§ 137-79. Repealer. [Added 11-5-1990 by L.L. No. 3-1990]

All zoning regulations, rules, ordinances and local laws enacted prior to July 5, 1987, the effective date of "Local Law No. 3-1987, a local law of the Village of Elbridge, to enact a zoning law governing the use of lands within the Village of Elbridge" are hereby repealed.

