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[HISTORY: Adopted by the Village Board of Trustees of the Village of Lima 1-14-1986 by L.L. No. 1-1986. Amendments noted where applicable.]

# Local Law Filing

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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City of Lima
- Town
- Village

Local Law No. 3 of the year 20 09

A local law supplementing and amending Chapter 185 of the Lima Village Code concerning the local  
(Insert Title)  
zoning code and regulations and new official zoning map.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Be it enacted by the Board of Trustees of the  
(Name of Legislative Body)

- County
- City of Lima as follows:
- Town
- Village

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**SECTION 1. PURPOSE AND INTENT.**

**§ 185-1. Title, Authority and Intent**

- A. This chapter and the Official Zoning Map made a part hereof shall be known and may be cited and referred to as the "Zoning Law of the Village of Lima."
- B. Authority. This Zoning Law is adopted pursuant to Article VII of the Village Law of the State of New York.

**SECTION 2. SUBSTANTIVE PROVISIONS OF LOCAL LAW.**

**§ 185-2. Districts created.**

For the purpose of this chapter, the Village of Lima is hereby divided into the following six classes of districts:

S. Residential Use Districts	S Districts
R. Residential Use Districts	R Districts
Downtown Business Use Districts	DB Districts
General Business Use Districts	GB Districts
Industrial Use Districts	M Districts
Land Conservation Districts	L-C Districts
Multiple Residential Use Districts	M-R Districts

In addition, Environmental Protection and Historic Preservation Overlay Districts have been created which supplement the requirements of the base districts.

**§ 185-3. Zoning Map.**

The boundaries of these districts are hereby established on a map entitled "Zoning Map of the Village of Lima," which map, together with all explanatory matter thereon, is hereby adopted by reference and is hereby declared to be part of this chapter<sup>1</sup>

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<sup>1</sup> Editor's Note: The Zoning Map is on file in the Village Clerk's office.

**§ 185-4. District boundaries.**

Where a district boundary line, as appearing on the Zoning Map, divides a lot or land in single ownership as existing at the time of this enactment, the use authorized on and the district requirements applying to the less restricted portion of the property shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding 35 feet. Otherwise, unless shown to the contrary on the Zoning Map, the boundary lines of districts are the center lines of streets and alleys or such lines extended; the center lines of creeks and water ways; and the corporate limits line as it existed at the time of the enactment of this chapter.

**§ 185-5. Purposes.**

This chapter is designed to be consistent with the adopted Lima Comprehensive Plan. To this end, this chapter is designed to:

- A. Enhance the appearance of the Village and to guide and regulate the orderly growth, development and redevelopment of the Village in accordance with a well-considered plan so that the Village may realize its potential as a place to live and work, with the most beneficial and convenient relationships among the business, institutional and residential areas within the Village and with due consideration to the character of each district and its suitability for particular uses.
- B. Protect and manage the historic character of the Village.
- C. Provide for the preservation of environmentally sensitive areas including wetlands, floodplains, and steep slopes.
- D. Encourage the use of sustainable building practices, including provisions for energy and water efficiency.
- E. Promote the viability of existing businesses.
- F. Encourage new businesses that are compatible with existing surrounding uses; provide employment for residents; and offer needed goods and services.
- G. Encourage the redevelopment and reuse of vacant commercial buildings.
- H. Facilitate the development of a variety of housing choices to meet the needs of all population segments.
- I. Facilitate the provision of transportation, water supply, sewage disposal, park and other public facilities as needed by the community.

**§ 185-6. Scope.**

No building, structure or land shall hereafter be used and no building, structure or

part thereof shall be erected, moved, altered or demolished unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

## **ARTICLE II: Terminology**

### **§ 185-7. Word usage.**

The present tense shall include the future; the singular number shall include the plural and the plural the singular. The word “shall” is always mandatory.

### **§ 185-8. Definitions.**

Certain words and terms used in this chapter are defined for the purposes thereof, as follows:

**ACCESSORY USE OR STRUCTURE** - A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

**ACRE** — Forty-three thousand five hundred sixty square feet.

**AGRICULTURE** — The production of crops or plants or vines and trees.

**ANIMAL HUSBANDRY** — The keeping, grazing, feeding and care of animals other than household pets, limited to cats; dogs; songbirds and tropical birds traditionally kept as pets; fish; small reptiles such as turtles, snakes and lizards, except as regulated by NYS law; and small rodents such as gerbils and hamsters.

**APARTMENT** — One unit within an apartment house or building.

**APARTMENT HOUSE OR BUILDING** — A building arranged, intended or designed to be occupied by three or more families living independently of each other, but having common hallways and entrances. These are distinguished from condominiums in that there are no common elements and from townhouses in that no land is owned by the individual tenant.

**AREA, BUILDING** — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

AREA, LAND — When referring to the required area per dwelling unit, the net land area or the area exclusive of streets and other public open space.

AUTOMOBILE SALES AREA — A premises, including open areas other than a street or way and showrooms enclosed within a building used for the display or sale of new or used automobiles, trucks, cargo trailers and boats.

AUTOMOBILE WRECKING AND/OR AUTOMOBILE GRAVEYARDS — The dismantling, wrecking or burning of used automobiles or the storage, sale or dumping of dismantled, partially dismantled or wrecked vehicles or their parts.

BAR or TAVERN — An establishment licensed under the laws of New York State for the sale of alcoholic beverages and their consumption within the premises.

BASEMENT — A portion of a building or story thereof partly underground but having at least 1/2 of its height above the average outside ground level.

BILLBOARD — See “signs.”

BUILDING LINE, FRONT — The line of that face of a principal building nearest the street line. In the case of a corner lot, any building line nearest to a street line shall be considered a front building line.

BUILDING OR STRUCTURE, NONCONFORMING — An established building or structure lawfully existing prior to and at the time of the adoption of this chapter which, because of its inherent nature of construction, does not conform to and with the provisions of this chapter or any amendment to this chapter for the district in which it is located.<sup>3</sup>

BUILDING, PRINCIPAL — A building, including covered porches, in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed the principal building on the lot on which the same is situated.

CARNIVAL — An amusement show, usually traveling from place to place, having sideshows, Ferris wheels, merry-go-rounds, etc.

CAR WASH -- An area of land and/or a structure with machine- or hand-operated facilities used principally for cleaning, washing, polishing or waxing of motor vehicles.

CELLAR — A portion of a building having more than 1/2 of its height below the average outside ground level.

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<sup>3</sup> Editor's Note Amended at time of adoption of Code (see Ch. 1, General Provisions, ArtJ).

CEMETERY — Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated with and within the boundary of such cemetery.

CHURCH OR OTHER PLACE OF WORSHIP — Any building wherein persons regularly assemble for religious worship which is used only for such purpose and those accessory activities as are customarily associated therewith; includes temple, synagogue, mosque or other similar place of worship.

CIRCUS — An exhibition of wild animals, acrobatic feats, together with sideshows and vending concessions.

CLINIC, DENTAL — A structure designed for the practice of dentistry in which nonresident patients are treated.

CLINIC, MEDICAL — A structure designed for the practice of medicine in which nonresident patients are treated.

CLUBHOUSE — A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe or other public place.

CODE ENFORCEMENT OFFICER — A person or persons designated by the Village of Lima to perform those duties of enforcing the provisions of this chapter.

CONDOMINIUMS — Living units as defined by Article 9-B of the Real Property Law, entitled the “Condominium Act,” as the same may be amended from time to time. All definitions in said Condominium Act are incorporated herein by reference.

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

DRIVE-IN USE — Includes drive-in outdoor theaters, refreshment stands, restaurants, banks and the like where patrons enter the premises and are served or entertained in automobiles. Deposit and pickup services shall not be considered drive-in businesses as defined herein.

DRIVEWAY — Land situated on a lot used or intended to be used to provide access to it by vehicular traffic.

DUMP — Land used for the disposal by abandonment, dumping, 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 - Any building or portion thereof designed or used exclusively as the residence or sleeping place of one (1) or more persons.

A. Dwelling, single family - A detached building, designated for or occupied exclusively by one (1) family and containing not more than one (1) dwelling unit.

B. Dwelling, two family - A detached or semi-detached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

C. Dwelling, multiple - A building or portion thereof used or designed as a residence for three (3) or more apartment or dwelling units.

DWELLING UNIT -- One (1) or more rooms, including cooking facilities, and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

EDUCATIONAL INSTITUTION — A college, university or institute giving general academic instruction and/or vocational training. Included within this term are areas or structures used for administration, housing of students and faculty, dining halls and social or athletic activities when located on the institution's land that is not detached from land where classroom facilities are maintained. This term shall include elementary school, secondary school and vocational school.

FACTORY— A building or group of buildings, usually with equipment, where goods are manufactured or assembled.

FAIR — An occasional or periodic competitive exhibition of farm products and livestock, usually accompanied by amusement features and for which an admission fee is charged.

FAMILY — A person living alone or two or more persons regularly and customarily living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a hotel, club, boardinghouse or lodging house, a fraternity or sorority house or a nursing home.

FARM — Any parcel containing 10 acres or more of land which is used for gain in the raising of agricultural crops, trees and/or nursery stock, livestock, poultry or dairy products.

FLOOR AREA (OF A BUILDING) — The sum of the gross horizontal area of the several floors, including the basement of a building and its accessory buildings on the same lot, and including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA RATIO — Numerical value obtained by dividing the gross floor area, exclusive of cellars or basements used only for storage and utilities within a building or buildings on a lot by the area of the lot.

FLOOR AREA, USABLE — Any floor area within the outside walls of a dwelling building exclusive of areas in cellars, furnace rooms, unfinished attics, garages, open carports, breezeways, open porches and accessory buildings. All dimensions shall be measured between interior faces of walls.

FRATERNITY HOUSES, SORORITY HOUSES AND RESIDENCE HALLS — A facility used for housing, with or without dining facilities, of students attending an educational institution as defined herein and which is approved as a residence for its students by the aforementioned educational institution.

GARAGE, MOTOR VEHICLE REPAIR — Any premises used for the repair of motor vehicles, including those operations not permitted at motor vehicle service stations.

GARAGE, PARKING AND STORAGE — A garage used exclusively for the parking and storage of motor vehicles and where such vehicles are not serviced or repaired.

GARAGE, PRIVATE — A garage not conducted as a business or used for the storage space for more than one commercial vehicle which shall be owned by a person residing on the premises. The rental of storage space for more than two passenger cars or any commercial vehicles shall not be permitted in a private garage.

GARAGE SALE — See “yard sale.”

GRADE, ESTABLISHED — The elevation of the center line of the streets as officially established by the village, county or state highway authorities.

GRADE, FINISHED — The complete surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GROUND AREA — The maximum horizontal area of a building at ground level, excluding storage space, open porches, terraces, steps, roof overhangs and attached or built-in garage areas.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Home occupations may be construed to include: dressmaking, millinery, home cooking, musical instruction limited to a single pupil at a time, art studios and activities of a similar nature. Home occupations shall not be construed to include barbershops and beauty parlors, public stables, kennels, animal hospitals, restaurants and tea rooms, musical instruction to

groups, dancing instruction to groups, nursing homes, nursery schools, motor vehicle repair or parking and storage garages, plumbing or electrical shops or other trades or businesses of a similar nature, nor shall any customary home occupation be construed to include that which requires the presence in the home of machinery or equipment normally associated with commercial or industrial activities.

HOSPITAL — An establishment for temporary occupation by the sick or injured for the purpose of medical diagnosis and treatment, including sanitarium, and shall be limited to the treatment or other care of humans.

HOSPITAL, ANIMAL or VETERINARY CLINIC — An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment and shall exclude the treatment or other care of humans.

HOTEL — A building or group of buildings in which there are 12 or more rental sleeping rooms and which may also include dining rooms, kitchens, serving rooms, ballrooms and other facilities and services intended primarily for the accommodation of its patrons.

INDUSTRIAL AGRICULTURAL ENTERPRISES — The intensive housing or feeding of animals, carried on as an industry, on an area of less than 10 acres where less than 8% by weight of the feed stuffs consumed by and of the litter used for the animals is grown on the premises.

JUNKYARD — An area, lot or unenclosed shed where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including auto wrecking yards, used lumber yards and places or yards for use of salvaged homewrecking and structural steel materials and equipment and places or yards where two or more unlicensed, disabled, dismantled or partly dismantled vehicles are situated unlicensed; but not including pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, for the processing of used, discarded or salvaged materials as part of manufacturing operations or for the sale, purchase or storage of used motor vehicles or salvaged machinery to be reused for the purposes for which originally manufactured.

KENNEL — Any premises on which three or more dogs over four months of age are kept.

LAUNDRY AND DRY CLEANERS, COINOPERATED — A business premises equipped with individual clothes washing and drying and/or cleaning machines for the principal use of retail customers.

LIVING SPACE — The gross area of the floors of a dwelling, not including the area of porches, garages, cellars, basements, breezeways, furnace rooms and areas used as permitted offices and for home occupations.

LOT — A piece or parcel of land considered as a unit, unoccupied or occupied by a building or group of buildings that are united by common interest or use and the customary accessories and open spaces belonging to the same.

MAJOR EXCAVATION, GRADING OR FILLING — Any operation (other than in connection with foundations for a structure or highway construction) involving:

A. A volume of earth movement exceeding the average of one cubic foot per square foot of lot area or 1,000 cubic yards, whichever is the lesser; or

B. A change in ground elevation from a previously existing grade exceeding 10 feet.

MOBILE HOME — A portable structure for which the State of New York Department of Motor Vehicles will issue a license to move on any public way, having a usable floor area of not more than 1,100 or not less than 600 square feet, with or without its own motive power, equipped for or used for living purposes, provided with complete sanitary facilities and mounted on wheels or designed to be mounted and transported or transported on a flat bed trailer. No attachment to real property or other change made in a structure originally designed or constructed as a mobile home shall be deemed to transform such a structure into a dwelling unit as defined herein.

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.

MOTEL — A motel is a building or group of buildings, whether detached or in connected units used as individual sleeping units designed primarily for transient automobile travelers. A motel, motor court or auto court shall contain not less than eight rental units and be provided with off-street parking facilities as required by this chapter. Restaurants, tea rooms or similar facilities, together with taverns, swimming pools and meeting rooms located on the same lot and operated in conjunction with the motel, shall be considered as accessory uses. The term "motel" includes auto court, tourist court, motor lodge and similar uses.

MOTOR VEHICLE SERVICE STATION — Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, or body and fender work.

OPEN SPACE — An unoccupied space open to the sky required by the terms of this chapter.

**PARKING SPACE** — For the purpose of computing the number of parking spaces available in a given area, the ratio of 300 square feet per parking space shall be used.

**PLACES OF PUBLIC ASSEMBLY** -- any area, building or structure where people assemble for a common purpose, such as social, cultural, recreational and/or religious purposes, whether owned and/or maintained by a for-profit or not-for-profit entity, and includes, but is not limited to, public assembly buildings such as auditoriums, theaters, halls, private clubs and fraternal lodges, assembly halls, exhibition halls, convention centers, and places of worship, or other areas, buildings or structures that are used for religious purposes or assembly by persons.

**PORCH, OPEN** — A porch open on three sides, except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash. A structure having a driveway running to it, under it or through it shall not be considered to be an open porch.

**PREMISES** — A piece or parcel of land, including all buildings and structures thereon.

**QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING** — A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale, as an industrial operation and exclusive of the process of grading preparatory to the construction of a building for which a building permit has been issued or highway construction.

**RESIDENT** — An individual who principally lives in a dwelling in the Village of Lima.

**SCHOOL, ELEMENTARY** — Any school having regular sessions with regularly employed instructors who teach those subjects that are fundamental and essential in general education under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a private corporation meeting the requirements of the state.

**SCHOOL, SECONDARY**— The same as “elementary school,” except that secondary education is provided.

**SCHOOL, VOCATIONAL** — Any school having regular sessions with regularly employed instructors who, as a principal activity, provide training in a trade or vocation and teach those subjects that are fundamental and essential in elementary or secondary education, under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a private corporation meeting the requirements of the state.

**SETBACK** – An unoccupied space open to the sky on the same lot with a building or structure. Where used to describe a required open space in the front,

rear or side of a building, the term “setback” shall be interchangeable with the term “yard.”

**SETBACK, FRONT** - An open space extending across the entire width of the lot or parcel between the building line or main front wall of the principal structure closest to the right-of-way line and the street line (as herein defined) or the center line of the adjacent highway or right-of-way, depending upon the determination of the boundary lines of the lot of record (as herein defined). There shall be no extension of any part of a building within said front yard other than steps, open porches, decks, eaves, cornices or like architectural features open to the sky.

**SETBACK, REAR** – An open space extending across the entire width of the lot between the rear lot line and a line parallel to the rear line of the lot at a distance from the rear line of the lot specified for the zoning district in which the lot is situated and unoccupied except for accessory buildings and open porches which in the aggregate shall occupy not more than 35% of the area.

**SETBACK, SIDE** – An open unobstructed space on the same lot with a principal building between the principal building and the side line of the lot and extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than eaves with an overhang of not more than two feet, rainwater leaders, window sills and other such fixtures and open steps for a distance not exceeding four feet

**SIGN** — Any structure or part thereof, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation, but not including the flag, pennant or insignia of any nation, state, city or other political unit or any political, educational, charitable, philanthropic, civic, professional, religious or like organization on the property thereof.

**SIGN, BUSINESS** — A sign which directs attention to a business, profession or industry located on the premises where the sign is displayed to the type of products sold, manufactured or assembled and/or to service or entertainment offered on said premises.

**SIGN, FARM PRODUCTS** — A sign advertising the sale of farm products raised on the premises.

**SIGN, IDENTIFICATION** — A sign used to identify the individual or organization occupying the premises or the name of the building or structure in connection with which the sign is displayed.

**SIGN, REAL ESTATE** — A sign advertising property on which it is located, or a building thereon, for sale, rent or lease.

**SIGN, SPECIAL EVENT** — A temporary sign giving notice of a special event or activity if not more than a quarterly occurrence.

STABLE, PRIVATE — An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

STORAGE, OPEN — Land used for the keeping of goods, wares or supplies on land outside of any building or structure.

STORY — That part of a building, included between any floor, other than a cellar floor, and the floor or roof next above.

STREET — Any public way dedicated to public travel greater than 20 feet in width.

STREET GRADE — The officially established grade of the street or road upon which the lot fronts. If there is no officially established grade, the existing grade of the street or road at the midpoint of the frontage of the lot shall be taken as the street grade.

STREET LINE — The right-of-way line of a street as indicated by dedication, appropriation or by line of actual occupation.

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

SWIMMING POOL — Any body of water (excluding natural bodies of water fed by rivers, springs, streams or brooks) or receptacle for water having a depth at any point greater than two feet used or intended to be used for swimming or bathing and constructed, installed or maintained in or on the ground outside any building.

TAVERN — See “bar or tavern.”

THEATER — A building or part of a building devoted to presenting entertainment on a paid admission basis.

TOWERS — Includes any tower, edifice, pole or other structure, whether attached to a building or freestanding, whether by guide wires or self-supporting, designed to be used and/or for support of devices to be used for the transmission and/or reception of radio frequency signals and, but not limited, to broadcasting, shortwave, citizen’s band, FM or television signals or to support devices such as energy convertors, wind speed and/or direction indicators.

TOWNHOUSE BUILDING — A structure arranged for not less than three nor more than eight townhouse units, each separated by party walls.

TOWNHOUSE GROUP — Two or more townhouse buildings located on a parcel or parcels of land in one ownership at the time of application for site plan approval and having any yard, court, street or other improvements in common.

**TOWNHOUSES** — Single-family dwellings which are attached units constructed to one building or a group of buildings which are located on a separate lot with zero side setbacks and having common elements for the use of all residents.

**TOWNHOUSE UNIT** — An individual dwelling in a townhouse building with provisions for living, sanitary and sleeping facilities arranged for the use of one family.

**TRAILER, UTILITY** — A vehicle designed exclusively for the transportation of one boat, snowmobile, motorcycle, ATV or other similar equipment with of less than ten-foot beam and a twenty-four-foot length.

**TRAILER, CAMP OR TRAVEL** — A vehicle or portable structure not over 256 square feet in floor area equipped but not regularly used for sleeping.

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

**YARD SALE** — An occasional sale held open to the public by one not in the business of selling or trading goods or products from on the premises, for the purpose of selling or trading such goods or products, whether new or used, manufactured, homemade or grown on or off the premises, other than a formal auction held by a professional auctioneer. The term “yard sale” is intended to include any such sale of goods or products sold in or from a yard, garage, porch, house, barn or stand.

### ARTICLE III: S. Residential Use Districts

#### § 185-9. Purpose.

The S Districts are established to provide for the development of residential neighborhoods occupied primarily by single-family dwellings.

#### § 185-10. Permitted uses and buildings and other structures; prohibited uses.

- A. In S Districts, no building or other structure or land shall be used and no building or other structure shall be built, altered or erected for any purpose other than of:
  - (1) A one-family dwelling, including the following accessory uses and buildings:
    - (a) Outdoor storage of not more than one each of the following: boats, boat trailers, camp trailers, utility trailers owned for personal use by a resident.
    - (b) Private garages or open parking for operative passenger vehicles with current license plates owned by persons visiting or residing on the premises.
    - (c) Playhouses, toolhouses or garden houses.
    - (d) Private swimming pools not operated for gain.
    - (e) Agriculture as defined herein.
    - (f) Garage, porch, yard or equivalent sale on not more than three consecutive days and not more than three times per twelve-month period.
  - (2) Other uses and other buildings and structures as provided by Article XIII (Signs) and §185-72 Temporary uses and structures.
  - (3) The following uses permitted with a special use permit subject to the procedures and criteria in § 185-55.
    - (a) Bus passenger shelters.
    - (b) Educational institutions.
    - (c) Electric substations and gas district governor stations.

(d) Libraries

(e) Church or other place of worship

B. Prohibited uses. Any use not specifically permitted shall be prohibited.

**§ 185-11. Area, setback and height restrictions: dwellings.**

- A. Area per dwelling unit and lot dimensions. The minimum land area or lot size per dwelling shall be 15,000 square feet and the minimum width of the lot at the front building line shall be 100 feet. However, this shall not apply to prevent the construction of a one-family dwelling on a lot existing prior to the date of enactment and not adjoined at the side by other unoccupied land in the same ownership having an area of less than 15,000 square feet, provided that the front, rear and side setback requirements specified below are met.
- B. Front setbacks. No building or part of a building other than steps, open porches, eaves and cornices and similar fixtures shall extend nearer the street line than the average distance of the setback of the nearest main building within 100 feet on each side of said building and fronting the same side of the street. When only one building exists on the same side of the street with the building to be erected and within 100 feet thereof, the building setback from the street line shall be not less than the average between the setback of the existing building and 50 feet. When no building exists on the same side the street with the building to be erected within 100 feet thereof, the setback at the front shall be 50 feet from the street line or 75 feet from the center line of the street, whichever requires the greater setback from the street line. However, the above shall not apply to require placing a building more than 10 feet back of the front main wall of an existing adjacent building within 100 feet thereof.
- C. Rear setbacks. There shall be a rear yard with a depth of not less than 25 feet. When a building or property extends through a block from street to street, the front setback requirements shall be observed on both streets.
- D. Side setbacks. There shall be two side setbacks with a total width of not less than 30 feet, and the width of the narrower of the two side setbacks shall not be less than 10 feet.
- E. Corner lots. In the case of a corner lot, both setbacks abutting streets shall be determined as provided in § 185-11B. The minimum width of the lot at the building line parallel to the street considered to be the front street shall be 130 feet.

F. Height. No structure shall exceed the height of two stories.

**§ 185-12. Parking, private garages and other accessory buildings.**

- A. Parking for automobiles shall be provided as required by § 185-74.
- B. No detached private garage or other accessory building shall be placed closer to a side or rear property line than 10 feet, and for each foot the height of such building exceeds 15 feet, the offset from the rear and side property line shall be increased by one foot. No detached garage or other accessory building shall be placed closer to the street line than 10 feet to the rear of the rear main wall of the principal building, and on a corner lot, closer to the street line of the side street than 50 feet, or  $\frac{1}{2}$  the width of the lot, whichever is the lesser. In relation to an attached garage or carport built as a structural part of a dwelling, with or without breezeway connection, the same front and side setbacks shall be required as for a dwelling, and such setbacks shall be measured from the outer walls or roof line of such attached garage or carport. An attached garage or carport may extend into a rear yard.
- C. No garage or other accessory building shall be used as dwelling.

**§ 185-13. Driveways.**

No driveway center line shall intersect a street line less than 40 feet from the intersection of any two streets.

**§ 185-14. Area restrictions for lots not served by public water and sewer.**

In the case of lots in S Districts not served by public water and/or sewer, the minimum lot area per dwelling unit shall be 20,000 square feet and the minimum width at the front building line shall be 100 feet.

**§ 185-15. Area, yard and height restrictions; nondwelling uses**

The minimum land area or lot size per nondwelling use shall be 25,000 square feet, and the minimum width of the lot at the front building line shall be 150 feet. For a nonresidential building other than a garage or other building accessory to a dwelling, there shall be two side setbacks with a total width of not less than 60 feet, and for each foot the height of such building exceeds 35 feet, the total width of the two side setbacks shall be increased by four feet. The width of the narrower of the two side setbacks shall not be less than 1/3 of the total width of the two side setbacks.

**§ 185-16. Slopes of yards.**

The slopes of yards shall conform to the requirements of § 185-85D.

**ARTICLE IV: R. Residential Use Districts**

**§ 185-17. Purpose.**

The R Districts are established to provide for the development of residential neighborhoods occupied by all types of residential structures together with certain additional uses which are supporting to and compatible with residential neighborhood.

**§ 185-18. Permitted uses and buildings and other structures; prohibited uses.**

- A. In R Districts, no building or other structure or land shall be used and no building or other structure shall be built for any purpose other than:
- (1) A one-family dwelling, subject to the provisions of §185-85: Supplementary regulations relating to dwellings, including the following accessory uses and buildings:
    - (a) Outdoor storage of not more than one each of the following: boats, boat trailers, camp trailers, utility trailers owned for personal use by a resident.
    - (b) Private garages or open parking for operative passenger vehicles with current license plates owned by persons visiting or residing on the premises.
    - (c) Playhouses, toolhouses or garden houses.
    - (d) Private swimming pools not operated for gain.

- (e) Agriculture as defined herein.
  - (f) Garage, porch, yard or equivalent sale on not more than three consecutive days and not more than three times per twelve-month period.
  - (2) Two-family dwellings, subject to the provisions of §185-85: Supplementary regulations relating to dwellings.
  - (3) Home occupations as defined herein, subject to the provisions of §185-92. The area used for home occupation shall not exceed 15% of a dwelling unit.
  - (4) Other uses as provided by Article XIII (Signs) and §185-72 (Temporary Uses).
- B. The following uses permitted with a special use permit subject to the procedures and criteria in § 185-55.
- (1) Any use permitted with a special use permit in the S District
  - (2) Nursing homes.
  - (3) Private athletic fields, private swimming pools or other private recreational facilities not operated for profit
  - (4) A private or commercial automobile parking lot on land directly abutting a Business or Industrial Use District at the side or rear, provided that no part of such lot extends more than 400 feet beyond the boundary line of such Business or Industrial Use District; or extends into the front yard or extends closer to the side line of a residential lot than 50 feet; and provided that wherever abutting upon other than industrial or commercial property, the parking lot is to be densely planted to trees and shrubbery for a depth of not less than 25 feet.
- C. Prohibited uses. Any use not specifically permitted shall be prohibited.

**§ 185-19. Setback, area and height restrictions: dwellings.**

- A. Area per dwelling unit and lot dimensions.
- (1) For a single-family dwelling, the minimum land area shall be 12,000 square feet and the minimum width of the lot at the

front building line shall be not less than 90 feet. However, this shall not apply to prevent the construction of a single-family dwelling on a lot existing on the date of this enactment and not adjoined at the side by another unoccupied lot or other unoccupied land in the same ownership, having an area of less than 12,000 square feet, provided that the front, rear and side setback requirements specified below are met.

- (2) For a two-family dwelling, the minimum land area shall be 16,000 square feet and the minimum width of the lot at the front building line shall be not less than 110 feet.
- B. Front setbacks. No building or part of a building other than steps, open porches, eaves and cornices and similar fixtures shall extend nearer the street line than the average distance of the setback of the nearest main building within 100 feet on each side of said building and fronting the same side of the street. When only one building exists on the same side of the street with the building to be erected and within 100 feet thereof, the building setback from the street line shall be not less than the average between the setback of the existing building and 50 feet. When no building exists on the same side of the street with the building to be erected and within 100 feet thereof the setback at the front shall be 25 feet from the street line, or 50 feet from the center line of the street, whichever requires the greater setback from the street line. However, the above shall not apply to require placing a building more than 10 feet back of the front main wall of an existing adjacent building within 100 feet thereof.
  - C. Rear setbacks. There shall be a rear yard with a depth of not less than 25 feet. When a building or property extends through a block from street to street, the front yard requirements shall be observed on both streets.
  - D. Side setbacks. There shall be two side setbacks with a total width of not less than 30 feet, and the minimum width of one side yard shall not be less than 10 feet.
  - E. Corner lots. In the case of a corner lot, both setbacks abutting streets shall be determined as provided in Subsection B. The minimum width of the lot at the building line parallel to the street considered to be the front street shall be 100 feet.
  - F. Height. For each foot that the height of a building or other structure exceeds 35 feet, the total width of the two side setbacks shall be increased by two feet.

**§ 185-20. Parking, private garages and other accessory buildings.**

- A. The requirements shall be as set forth in § 185-74: Required off-street parking and automobile storage space.
- B. No detached private garage or other accessory building shall be placed closer to a side or rear property line than 10 feet, and for each foot the height of such building exceeds 15 feet, the offset from the rear and side property line shall be increased by one foot. No detached garage or other accessory building shall be placed closer to the street line than 10 feet to the rear of the rear main wall of the principal building, and on a corner lot, closer to the street line of the side street than 50 feet, or  $\frac{1}{2}$  the width of the lot, whichever is the lesser. In relation to an attached garage or carport built as a structural part of a dwelling, with or without breezeway connection, the same front and side setbacks shall be required as for a dwelling, and such setbacks shall be measured from the outer walls or roof line of such attached garage or carport. An attached garage or carport may extend into a rear yard.
- C. No garage or other accessory building shall be used as dwelling.

**§ 185-21. Driveways.**

The requirements shall be as set forth in § 185-13.

**§ 185-22. Area restrictions for lots not served by public water and sewer.**

In the case of lots in R Districts not served by public water and sewer, the minimum lot area per dwelling unit shall be 20,000 square feet and the minimum width at the front building line shall be 100 feet.

**§ 185-23. Area, setback and height restrictions: non-residential uses**

The minimum land area or lot size for a nonresidential use shall be 15,000 square feet and the minimum width of the lot at the front building line shall be 80 feet. For a nonresidential building, other than a garage or other building accessory to a dwelling, there shall be two side setbacks with a total width of not less than 60 feet, and for each foot the height of such building exceeds 35 feet, the total width of the two side setbacks shall be increased by four feet. The width of the narrower of the two side setbacks shall not be less than  $\frac{1}{3}$  of the total width of the two side setbacks.

**§ 185-24. Slopes of yards.**

The slopes of yards shall conform to § 185-85D.

**ARTICLE V: DB - Downtown Business District**

**§ 185-25. Purpose.**

The DB Downtown Business District is established to accommodate general retail service, finance, insurance and real estate and related structures and uses in the Village's historic central business district.

**§ 185-26. Permitted uses and buildings and other structures; prohibited uses.**

A. In the DB District, no building or other structure or land shall be used and no building or other structure shall be built for any purpose other than the following:

- (1) Apartment or other dwelling, provided that such dwelling is not located on that portion of the ground floor of any building that faces the fronting street. Rear portions of the ground floor of buildings may be used for residential purposes provided that the space used for such purposes is not within 50 feet of the front of the building.
  - (2) Home occupations as defined herein, subject to the provisions of §185-92. The area used for home occupation shall not exceed 15% of a dwelling unit.
  - (3) Car wash.
  - (4) Bowling alleys, dance halls or similar recreational establishments entirely enclosed within a building.
  - (5) Financial establishments, including banks, credit agencies other than banks, security and commodity brokers, dealers and services.
  - (6) Hotels conforming to the provisions of § 185-86.
  - (7) Insurance carriers, agents, brokers and services.
  - (8) Coin-operated laundries and dry cleaners.
  - (9) Offices.
  - (10) Places of assembly.
  - (11) Parking and storage garages.
  - (12) Real estate establishments.
- 

- (13) Retail trade, including building materials and hardware; general merchandise food stores; apparel and accessory stores; furniture; home furnishing and equipment; eating and drinking places, including bars and restaurants; and miscellaneous retail stores, including the making of articles to be sold at retail on the premises, provided that any such manufacturing or processing shall be incidental to a retail business and not more than five persons shall be employed in such manufacturing or processing.
  - (14) Salesrooms or shops of a builder, contractor or artisan, provided that no equipment is stored out- of-doors.
  - (15) Service establishments, including personal services, miscellaneous business services, miscellaneous repair services, motion-picture theaters, amusement and recreation services, medical and other health services, legal services and miscellaneous services.
  - (16) Theaters, other than drive-ins.
  - (17) Accessory uses and buildings customarily incidental to the above permitted uses.
  - (18) Other uses as provided by Article XIII (Signs) and 185-72 (Temporary Uses).
- B. The following uses permitted with a special use permit subject to the procedures and criteria in § 185-55:
- Drive-in business, not including drive-in outdoor theaters.
- C. Prohibited uses. Any use not specifically permitted shall be prohibited.

**§ 185-27. Setback, area, building size and height restrictions.**

- A. No minimum lot area is required.
- B. No minimum lot width is required.
- C. No maximum lot coverage requirements shall apply.
- D. The maximum floor area ratio shall be 0.6.
- E. There shall be no front setback requirement beyond what may be required to comply with the Codes of New York.

- F. There shall be a rear setback of not less than 15 feet.
- G. No minimum side setback are required, beyond what may be required to comply with the Codes of New York.
- H. No building or structure shall exceed 35 feet in height.
- I. Lots abutting residential districts. All buildings constructed on lots which abut residential districts, either at the side or rear, shall be so located as to conform in respect to the abutting yard with the side or rear requirements, as the case may be, for the residential district against which the lot abuts.
- D. Corner lots. All nonresidential buildings and other structures built on corner lots shall conform to the requirements of 185-77.
- E. No building used or intended for use for retail purposes shall exceed 13,000 in gross floor area

**§ 185-28. Off-street parking.**

Off-street parking shall be provided as required by § 185-74, except that the Planning Board may reduce or waive these requirements upon a determination, during site plan review, that sufficient parking is available in municipal lots or on the street to serve the proposed use.

**§ 185-29. Plot plan modification for newly established uses.**

The Zoning Board of Appeals, after a public hearing, may approve, modify and approve or disapprove a plot plan as required by § 185-95A(2) of this chapter so as to provide that the depths and widths of front, side and rear setbacks be modified so as to permit the harmonious development of two or more adjacent parcels of land as a shopping unit.

**§ 185-30. Plot plan modification of existing permitted uses.**

The Zoning Board of Appeals, without public hearing, may review a plot plan as required by § 185-95A(2) of this chapter of the use of land or the extension of buildings or structures situated in the DB Districts which, at the time of the enactment of this chapter, were occupied by a use permitted in the DB Districts and modify the provisions of § 185-46 and 185-47 so as to permit the use of land and structures in harmony with the character of existing uses on adjacent premises within the intent and purpose of this chapter.

**§ 185-31. Design Principles and Building Standards**

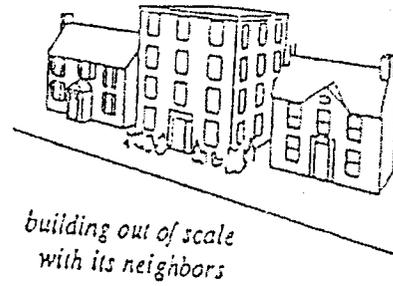
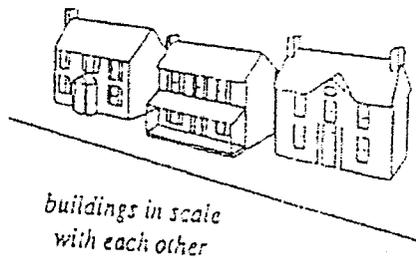
**A. Design Principles.** New construction, redevelopment and building renovations in the Downtown Business District shall be consistent with the following general design principles. These principles shall provide guidance to the Planning Board in its site plan review process.

1. Buildings, structures, sites, signs and public spaces should be designed to:
  - a. Retain, reflect and enhance the dominant aesthetic or visual qualities of the neighborhood.
  - b. Encourage and promote a sense of design continuity that appropriately relates the historic past of the neighborhood to ongoing revitalization and redevelopment efforts.
  - c. Appropriately relate proposed development to existing designs, styles, building forms and land uses.
  - d. Encourage and promote the sensitive and contextual design of buildings, signs, sites and public spaces through the use of design elements, details, styles and architectural features as well as other amenities, materials or treatments that may be appropriate to further the design standards. Blank end walls should incorporate building components or design features. Blank rear walls should be screened with landscaping.
  - e. Encourage a pedestrian-oriented and human-scaled streetscape.
  - f. Promote safe pedestrian movement, access and circulation. Public walking areas, including streets, sidewalks and public rights-of-way should be highly visible and clearly defined. Pedestrian areas and vehicle parking areas shall be lit by lighting of an appropriate scale, design, color, and intensity.
  - g. Encourage and promote the use of predominant existing building materials within the neighborhood and the predominant existing building materials, architectural features and windows on specific structures as a guide in determining appropriate replacement and new construction materials. To the maximum extent possible, all replacement windows in elevations visible from any public right-of-way should match the original windows in size, materials, and configuration.
  - h. Protect, respect, and expand the design of green space, landscaping and open space within the village and encourage public and private development that enhances this character with landscape design details such as trees, lawns, and plantings

- i. Improve the ambiance and visual qualities of the village's commercial areas by increasing density, encouraging consistent setbacks, and promoting consistent streetscape design.
- j. Promote preservation of historic buildings to enhance and promote the history, culture and architecture of the village.

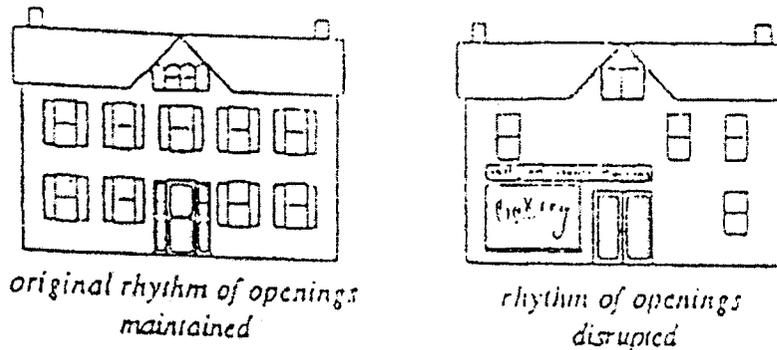
**B. Building Design Standards.** The CEO and the Village Planning Board shall be guided by the following design standards in approving or disapproving applications for either new construction or external structural or façade alterations to buildings located in the Downtown Business District. In applying the principles, the CEO and the Planning Board shall consider whether the proposed alteration or construction is compatible with the structures on the property and or the surrounding properties with regard to the following:

1. Height -The height of a building shall be compatible with the surrounding buildings.
  - a) Generally, maximum building height shall not be greater than the taller of the next two (2) abutting structures on each side of the building site, provided such structures are in conformance with bulk regulations of the Zoning District.
  - b) Generally, minimum building height of a street facade shall not be less than the lower of the next two (2) abutting structures on each side of the building site, provided such structures are in conformance with bulk regulations of the Zoning District.
  - c) In case of inconsistencies, new construction should be compatible with the buildings on either side.
2. Scale: The relationship of a building and its elements to human size, form, and perception.
  - a) A new building shall be compatible with the surrounding buildings. The scale and proportion of building facades, design and materials used in new construction should complement that used in existing buildings and characterizing the neighborhood in which the building is located.



3. Proportion: The relationship among the dimensions of various building & façade elements and relationship of the height to the width of the building.
  - a) Front Facades: The relationship of the width of a building to the height of the front elevation shall be compatible with surrounding buildings.
  - b) New facades should include base, middle and top levels and coordinate the relative height of these facade elements ("datum lines") with those of adjacent and nearby buildings.
  - c) Openings: The relationship of the width of windows and doors to their height shall be compatible with the surrounding buildings. All architectural openings, including windows, doorways, arches and porch framing, should be constructed with their height equal to or greater than their width and framed by appropriately scaled lintel or arch at the top and sill at the bottom. Additionally flat trim surrounding window openings shall be a minimum nominal 4" in width. When new construction is an addition, trim shall be compatible with that of the existing building.
  
4. Rhythm: The pattern resulting from repeated elements such as window and door openings, columns, arches, and other facade elements.
  - a) The rhythmic relationship between a building's facade elements shall be compatible with the surrounding buildings. In cases where new construction occupies more than one house lot, the rhythm of the separate building units existing on the street shall be carried across the facade. Some of the ways this may be achieved include the grouping of openings in clusters, the employment of openings in wall planes, or the use of structural bays.
  - b) Rhythm of openings refers to the number and spacing of windows and doors in a facade. Typical Colonial, Georgian, Federal and Greek Revival style buildings have a symmetrical facade with equally spaced openings

per floor. Additions to an existing building should maintain the original rhythm of openings. If a renovation to an existing building is planned the rhythm should not be changed by the removal or addition of openings.

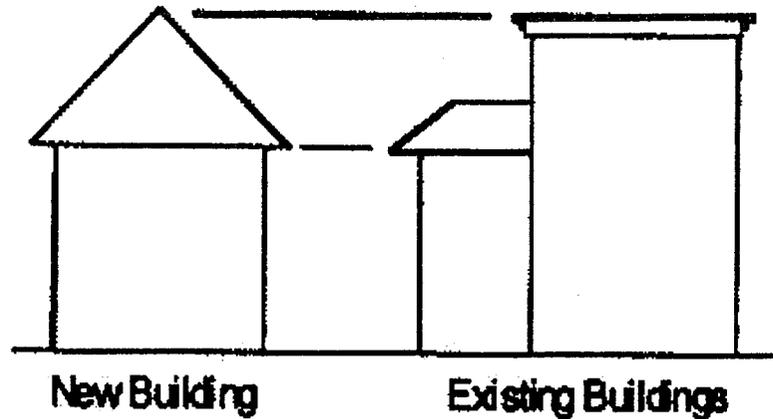


- c) Original windows should be retained whenever possible. When new windows are proposed to replace existing window units, compatible replacements are recommended. New windows that duplicate existing windows in location, size, shape and number of panes are preferred, especially when only a few windows in a facade are being replaced. This applies to both additions and restorations.
- d) The rhythm and proportions of architectural openings should complement that of adjacent buildings, and concentrate windows and openings at the street level. Facade design should incorporate a primary material and an easily recognizable pattern (with sub-patterns or subtle variations for larger scale buildings). Breaks or fluctuations in pattern or materials may be used to draw attention to entrances or special facade elements.

#### 5. Orientation

- a) Buildings shall have a clear relationship with the street and should reinforce the street framework by locating primary facades parallel to the street.

- b) Corner buildings shall have facades parallel to the street of equal prominence, and actively engage the corner.



## 6. Façade Composition

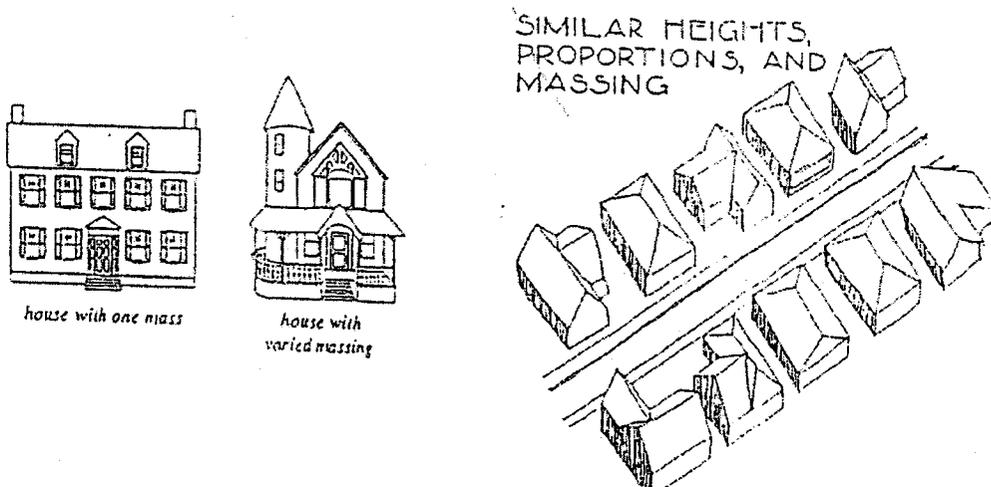
- a) When possible, buildings shall maintain alignments of the horizontal elements of adjacent buildings.
- b) All sides of a building shall be architecturally designed to be consistent in regards to style, materials, colors and details.
- c) Corner buildings shall be considered significant structures, given that they have at least two front facades visible from the street. As deemed appropriate by the Planning Board, such buildings may be designed with additional architectural embellishments, such as corner towers, chamfers, or other features to emphasize their location and serve as a visual focal point for the Village.
- d) A façade shall not exceed 36 feet in width without a change in façade plane. Changes in façade planes shall be no less than 1.5 feet in depth and eight feet in length.
- e) Transparency. A minimum of 60% of all first floor facades with street frontage shall consist of pedestrian entrances, display windows or windows affording views into retail, offices, gallery or lobby space. The building wall subject to transparency requirements shall include the portion between three feet and 10 feet above the sidewalk. Blank walls should be avoided and lively facades encouraged.
- f) Windows
- (1) Windows shall be vertically proportioned wherever possible. Upper story windows shall be vertically aligned with windows and doors on the ground level, including storefront or display windows.

- (2) Windows shall be transparent. At the discretion of the Planning Board, stained glass or other accenting transparent material may be approved.
- (3) First floor windows shall permit views into the buildings.
- (4) Storefronts and entrances shall be oriented toward the street and should be well lit to provide a clear presentation to pedestrians.

g) Entrances

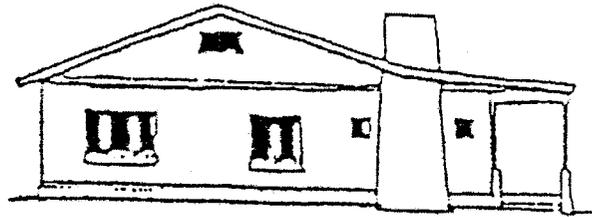
- (1) Storefronts and entrances shall be oriented toward the street and should be well lit to provide a clear presentation to pedestrians.
- (2) There shall be one primary entrance for each business located on the front façade.
- (3) Entrances shall be clearly defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades, and other appropriate features.

7. General Massing: Massing deals with the volume created by sections of a building. For example, a simple Colonial style house may be a single mass, but a Victorian style house with turrets, wings, cross gables has varied mass. The relationship of a building to open space between it and adjoining buildings shall be compatible with the character of the surrounding area.

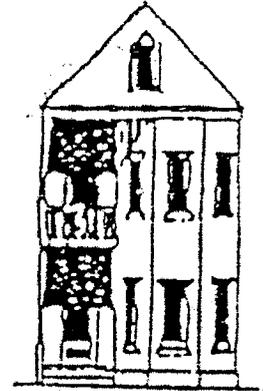


8. Directional Expression:

The directional expression of a building shall be compatible with the dominant horizontal or vertical expression of the surrounding buildings.



HORIZONTAL



VERTICAL

#### 9. Roofs.

- a) Rooflines shall be simple and consistent with the building style.
- b) Gable roofs shall have a minimum pitch of 6/12. Steeper pitches are encouraged and shall be consistent with architectural style.
- c) Overlapping end gables must be separated a minimum of six feet unless covering a porch or stoop.
- d) Flat roofs shall have an articulated cornice which projects horizontally from the top of the building wall on all walls visible from the public realm.
- e) Architectural embellishments consistent with the style, such as dormers, masonry chimneys, cupolas, clock towers, and other similar elements are encouraged.

#### 10. Awnings

- (a) Awnings shall be permitted at building entrances and windows.
- (b) Awnings shall be made of flexible woven, natural or synthetic materials
- (c) Awnings shall be illuminated only by exterior building lighting.
- (d) Awnings shall not impede the free flow of pedestrian traffic on the sidewalk nor extend a distance greater than six feet from the building wall, nor shall they be lower than 10 feet in height from the base elevation of the sidewalk.

## 11. Lighting

- (a) Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors, and details of the building.
- (b) Mounting brackets and associated fixture hardware should be inconspicuous.

## 12. Utilities.

Air-conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties. Screening shall be architecturally compatible with the style, materials, colors, and details of the building.

## 13. Building Materials:

- a) Materials used in new construction shall be compatible with those used in the surrounding area.
- b) Natural materials such as brick, stone, wood and stucco are preferred, as they maintain the traditional village character.
- c) In the case of existing historic buildings, architectural features should be restored with colors and finishes appropriate to the historic character of the building.

## 14. Additions:

- (a) Additions to existing buildings should be located such a manner so as to preserve the front facade of the existing building. Additions should not eliminate original stories particularly where exposed to public view. Additions should be designed to be compatible with the original structure.
- (b) Additions do not have to be replicas of the existing building. Additions of a different style than the existing that are compatible in scale, materials, or roof shapes could be appropriate. Utilizing the advice of an architect may ensure a compatible design.

## ARTICLE VI: GB - General Business District

### § 185-32. Purpose.

The GB General Business District is established to accommodate general retail service, finance, insurance and real estate and related structures and uses areas designated for commercial use outside of the Village's historic central business district.

### § 185-33. Permitted uses and buildings and other structures; prohibited uses.

- A. In GB Districts, no building or other structure or land shall be used and no building or other structure shall be built for any purpose other than the following:
  - (1) All uses permitted in the DB District.
  - (2) Funeral Homes
- C. Prohibited uses. Any use not specifically permitted shall be prohibited.

### § 185-34. Setback, area and height restrictions.

- A. General requirements
  - (1) A minimum lot area shall be 6,000 sq. ft.
  - (2) The minimum lot width at the front building line shall be no less than 50 feet.
  - (3) The maximum lot coverage shall be 30% of the land area as defined herein.
  - (4) The maximum floor area ratio shall be 0.6.
  - (5) There shall be a front setback of not less than 30 feet.
  - (6) There shall be a rear setback of not less than 15 feet.
  - (7) Wherever vehicular access is provided from the front to the rear yard, there shall be a side setback of not less than 25 feet. Otherwise, side setbacks shall be a minimum of 15 feet.
  - (8) No building or structure shall exceed 35 feet in height.

- B. Lots abutting residential districts. All buildings constructed on lots which abut residential districts, either at the side or rear, shall be so located as to conform in respect to the abutting yard with the side or rear requirements, as the case may be, for the residential district against which the lot abuts.
- C. Corner lots. All nonresidential buildings and other structures built on corner lots shall conform to the requirements of 185-77.

**§ 185-35. Off-street parking.**

Off-street parking shall be provided as required by § 185-74.

**§ 185-36. Plot plan modification for newly established uses.**

The Zoning Board of Appeals, after a public hearing, may approve, modify and approve or disapprove a plot plan as required by § 185-95A(2) of this chapter so as to provide that the depths and widths of front, side and rear setbacks be modified so as to permit the harmonious development of two or more adjacent parcels of land as a shopping unit.

**§ 185-37. Plot plan modification of existing permitted uses.**

The Zoning Board of Appeals, without public hearing, may review a plot plan as required by § 185-95A(2) of this chapter of the use of land or the extension of buildings or structures situated in the GB Districts which, at the time of the enactment of this chapter, were occupied by a use permitted in the GB Districts and modify the provisions of § 185-34 and 185-35 so as to permit the use of land and structures in harmony with the character of existing uses on adjacent premises within the intent and purpose of this chapter.

## ARTICLE VII: Industrial Use Districts

### § 185-38. Purpose; permitted uses; prohibited uses.

- A. M Districts are primarily for heavy commercial and light industrial uses whose activities do not usually constitute a fire hazard or emit smoke, glare, noise, odor or dust or in other ways constitute a nuisance or be detrimental to neighboring properties. Uses and buildings and other structures permitted therein include:
  - (1) All those permitted in any of the other classes of districts, except dwellings, churches and schools;
  - (2) Any use not in conflict with any other ordinance of the village.
- B. Any use not specifically permitted shall be prohibited.

### § 185-39. Setback, area and bulk restrictions.

- A. Area per use and lot dimensions. The minimum land area or lot size per permitted use is two and one-half acres, and the minimum width of the lot at the front building line shall be 300 feet.
- B. Front setback. There shall be a front setback of not less than 150 feet in depth.
- C. Rear setback. There shall be a rear setback of not less than 50 feet in depth.
- D. Side setbacks. There shall be two side setbacks each having a width of not less than 25 feet, except as provided in Subsection E below.
- E. Establishments abutting residential districts. All buildings and structures constructed on property which abuts residential districts shall be located so as to provide a minimum side setback of 50 feet on the side adjacent to the residential district. Rear setbacks shall not be less than required in the abutting residential district.
- F. Lot coverage, open space and building bulk regulations. The maximum lot coverage shall be 50% of the land area of the lot as defined herein.

**§ 185-40. Height restriction.**

No building or structure shall exceed 35 feet in height.

**§ 185-41. Off-street parking.**

Off-street parking shall be provided as required by § 185-74.

**ARTICLE VIII: Land Conservation Districts**

**§ 185-42. Purpose; permitted uses; prohibited uses.**

The purpose of the L-C District is to delineate those areas where substantial development of the land in the way of buildings or structures is not desirable because of special or unusual conditions of topography, drainage, floodplain or other natural conditions, whereby considerable damage to buildings or structures and possible loss of life may occur due to the processes of nature. To promote these purposes in Land Conservation Districts, no building or other structure shall be built.

**ARTICLE IX: Environmental Protection Overlay Districts**

**§ 185-43. Overview**

- A. Purpose and intent. The purpose of the Environmental Protection Overlay Districts (EPODs) is to provide special controls to guide land development located in sensitive environmental areas within the Village. These districts and their associated regulations are designed to preserve and protect unique environmental features within the Village as much as possible, including but not limited to wetlands, steep slopes, floodplains, watercourses.

The regulations for each EPOD District are intended to be imposed in addition to those of the underlying zoning district. The purpose of these regulations is to provide the Village with an additional level of review and regulation for land development within sensitive or unique environmental areas.

- B. Establishment of Districts.

In order to implement the purpose and intent set forth above in this article, the following EPODs are hereby established:

EPOD 1 Wetland Protection Overlay District

EPOD 2 Stream Corridor Protection Overlay District

- C. Official maps. The locations and boundaries of all EPODs are delineated on an official set of maps on file in the Village Clerk's office. These maps are known as the "Official Village of Lima EPOD Maps" and include the New York State Department of Environmental Conservation Freshwater Wetland Maps for the Village of Lima and federally designated wetland maps. The Official Village of Lima EPOD Maps shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the various overlay districts. The Village has the authority to amend or add to these Official EPOD Maps as necessary. Field investigations and/or other environmental analyses shall be required in order to determine whether a particular piece of property is included within one or more of the overlay districts.
- D. Interpretation of district boundaries.
- (1) The CEO shall be responsible for interpreting EPOD boundaries based upon an interpretation of the Official Village of Lima EPOD Maps, as well as the use of various criteria set forth in this article for determining such district boundaries. The CEO may request the assistance of the Village Engineer or other appropriate board in making a determination.
  - (2) The requirements of the overlay district shall be met in addition to any requirements specified for development in the respective primary zoning district.
- E. EPOD development permit application procedures.
- (1) EPOD development permit. An EPOD development permit is required subject to the provisions of this section and prior to the commencement of any regulated activity or the issuance of any permit for regulated development.
  - (2) The following activities are exempt from the permit procedures of this section, subject to a determination by the CEO or appropriate board that such activities involve necessary normal maintenance and upkeep of property, and/or are clearly incidental to the primary use on the property, and/or involve public health, safety or emergency situations:
    - (a) Lawn care and maintenance.
    - (b) Gardening activities.
    - (c) Tree and shrub care and maintenance.
    - (d) Removal of dead or deteriorating vegetation or trees.
    - (e) Removal of structures
    - (f) Repair and maintenance of structures
    - (g) Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
    - (h) Reconstruction of structures damaged by a natural disaster
    - (i) Customary agricultural activities in a County Agricultural District.
    - (j) Public health activities, orders and regulations of the New York State Department of Health, Livingston County Health Department or other public health agency.

(k) Emergency activity which is immediately necessary for the protection and preservation of life, property or natural resource values.

(3) Application for permit. Applications for EPOD development permits shall be made in writing to the CEO, on forms available in the Village Clerk's office. The application shall be made by the property owner or his/her agent and shall be accompanied by any materials or information deemed appropriate by the authorized official. The application shall be accompanied by a site plan map and other information as required for site plan approval found in Article IX of this chapter. Each application for an EPOD development permit shall be accompanied by the appropriate fee as determined by the Village Board. This fee shall be in addition to any other fees required.

(4) Permit review.

(a) For projects requiring site plan approval, the CEO shall refer the matter to the Planning Board in accordance with the Site Plan Review provisions. The Planning Board shall consider the criteria for an EPOD permit as part of its Site Plan Review and may issue the EPOD permit as part of site plan approval.

(c) The Planning Board (for projects that require Site Plan Review) or CEO (for all other projects) shall have the authority to grant or deny an EPOD development permit, subject to the standards, criteria and other regulations contained in this chapter.

(d) Any development permit issued by the CEO or the Planning Board in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached as are deemed necessary to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the purpose and intent and the specific provisions of this article. Every permit issued pursuant to this article shall contain the following conditions:

[1] The CEO or the Village Engineer and/or other designated Village official shall have the right to inspect the project from time to time.

[2] The permit shall expire within six months of the date issued, if construction is not started, or within one year if there has not been a substantial amount of work completed after the start of construction.

[3] The permit holder shall notify the CEO of the date on which project construction is to begin, at least five days in advance of such date of construction.

G. Requirement for letter of credit or certified check.

(1) Following approval of an application for an EPOD development permit, and prior to the issuance of any building or other Village permit, the applicant shall furnish the Village with an irrevocable letter of credit or certified check in an amount to be established by the Village Board after review by the Village Engineer. Said instrument shall be sufficient to cover the costs of compliance, contingencies and

inspection of the various specifications and conditions of the development permit. The purpose of the letter of credit or certified check shall be to ensure that all items, activities or structures specified in the plans approved by the authorized boards or agencies and by the Village are constructed or carried out in accordance with such plans and specifications and other appropriate requirements of the Village.

- (2) The irrevocable letter of credit or certified check shall continue in full force and effect until such time as the CEO has certified that, based upon a site inspection, all specifications, requirements and permit conditions have been completed and/or complied with. At such time, the letter of credit or certified check shall be released to the applicant. Where the CEO finds noncompliance with permit conditions, said official may deduct or withhold an amount from the letter of credit or certified check sufficient to cover the cost of compliance with any requirements, specifications or permit conditions.
- H. Suspension or revocation of permits. The CEO may suspend a permit (temporarily) until such time as the Board having jurisdiction reviews the suspension. The Board having jurisdiction may suspend or revoke a development permit issued in accordance with the provisions of this article. Suspension or revocation shall be based upon evidence that the applicant has not complied with any or all terms or conditions of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth. The CEO shall, in writing, notify the applicant of this finding and the reasons for revoking or suspending a permit issued pursuant to this article and shall forward a copy of said findings to the applicant.
- I. Conservation restrictions.
- (1) Where a proposed development or subdivision contains an area delineated on the Official Village of Lima EPOD Maps, the Board considering the application has the right to restrict or prohibit the following activities within the EPOD portion of the site:
    - (a) Construction, including but not limited to structures, roads, bridges, drainage facilities, barns and sheds for animals and livestock and fences subject to New York State's Agricultural District Law.
    - (b) Clear-cutting of trees or removal of vegetation or other ground cover.
    - (c) Change in the natural flow of a stream or disturbance of a streambed.
    - (d) Placement of septic or other sewage disposal systems.
    - (e) The use of motorized vehicles, including but not limited to all-terrain vehicles, motorcycles, snowmobiles and motorbikes.
  - (2) Where proposed development results in a conservation restriction being imposed by the authorized board, said restriction shall be noted on the final approved map and filed with the office of the County Clerk and/or the Building Department.
- J. Appeals. All appeals of decisions made under this chapter shall be made to the Zoning Board of Appeals.

**§ 185-44. EPOD 2: Stream Corridor Protection Overlay District**

**A. Purpose and intent.**

The purpose of the Stream Corridor Protection Overlay District is to preserve and protect streams and their associated ecosystems within the Village. It is also the intent of these regulations to prevent soil erosion, sedimentation and slope failure due to removal of vegetation, dredging, filling, damming or channelization; prevent degradation or loss of the natural character of the area; and prevent activities which degrade water quality.

**B. Delineation of district boundaries.**

The boundaries of the Stream Corridor Protection Overlay District shall be delineated on the Official Village of Lima EPOD Maps. These boundaries shall include Spring Brook and land within 100 feet from the top of each bank.

**C. Regulated activities. No person shall conduct any of the following regulated activities unless such person has first applied for and obtained an EPOD development permit pursuant to the requirements of this section. Customary agricultural operations and watercourse maintenance activities are not required to obtain an EPOD development permit.**

- (1) Construction of new buildings or structures or additions to or modifications of existing buildings or structures.
- (2) Construction or placement of any on-site septic or sewage disposal system.
- (3) Filling, cutting or excavation, either on land or within a watercourse or floodplain.
- (4) Removal of natural vegetation.
- (5) Discharge of stormwater and/or construction of a private commercial or municipal stormwater runoff system.
- (6) Construction of driveways, roads, trails or bridges.
- (7) Any activity which would alter the natural flow pattern of the watercourse.

**D. Development standards and permit conditions.**

In granting, denying or conditioning any application for an EPOD development permit for activities within a stream corridor, the CEO or the Planning Board shall consider the effect that the proposed regulated activity shall have on the public health, safety and welfare and the protection of the major watercourses within the Village.

- (1) General regulations. Any applicant for a permit to undertake a regulated activity within a Stream Corridor Protection Overlay District shall be required to adequately demonstrate that the proposed activity will in no way at present or at any time in the future adversely affect the following:
  - (a) Water quality.

- (b) Watercourse flood-carrying capacities.
  - (c) Rate of sedimentation.
  - (d) Rate/velocity of groundwater runoff.
  - (e) Natural characteristics of the watercourse or floodplain.
- (2) Specific standards. No permit to undertake a regulated activity within the district shall be issued by the CEO or the Planning Board unless it determines that the proposed project complies with the following standards:
- (a) The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands, stormwater runoff, septic and sewage systems and any other activity on the site.
  - (b) A natural vegetative buffer of 100 feet from each bank shall be retained adjacent to the watercourses to absorb floodwaters, to trap sediments, to protect adjacent fish and wildlife habitats and to protect scenic qualities.
  - (c) Site preparation, including stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated before construction can begin. During the interim, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.
  - (d) The project shall provide adequate measures to protect surface waters and groundwaters from direct or indirect pollution and from overuse.
  - (e) Fill shall not encroach on natural watercourses, constructed channels or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.
  - (f) Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation. Such roads, trails and walking paths shall be constructed and sited in such a manner as to maximize the visual opportunities of a water body while maintaining the scenic qualities of the water body.
  - (g) No new dock, boat launching site or fishing access and parking area shall be constructed unless it is shown that it will not impede the natural flow of the streams to which this section applies. Said facilities shall be located and constructed so as to minimize their intrusion into the streams and avoid adverse environmental impact and unreasonable impacts upon public use of the waters.
  - (h) New structures, except crossings which are regulated by the New York State Department of Environmental Conservation and/or the United States

Army Corps of Engineers, shall not be constructed within 100 feet of the bank of the stream.

- (i) New structures shall be designed and constructed in accordance with accepted Best Management Practices for erosion control and stormwater management as identified by the NYS Department of Environmental Conservation and/or the Livingston County Soil & Water Conservation District.

#### **ARTICLE X: Multiple Residential Use Districts**

##### **§ 185-45. Permitted uses, buildings and structures; prohibited uses.**

A. In M-R Districts, no building or other structure or land shall be used and no building or other structure shall be built for any purpose other than:

- (1) A one-family dwelling, including the following accessory uses and buildings:
  - (a) Outdoor storage of not more than one each of the following: boats, boat trailers, camp trailers, utility trailers owned for personal use by a resident.
  - (b) Private garages or open parking for operative passenger vehicles with current license plates owned by persons visiting or residing on the premises.
  - (c) Playhouses, toolhouses or garden houses.
  - (d) Private swimming pools not operated for gain.
  - (e) Agriculture as defined herein.
  - (f) Garage, porch, yard or equivalent sale on not more than three consecutive days and not more than three times per twelve-month period.
- (2) Two-family dwellings.
- (3) Home occupations as defined herein, subject to the provisions of §185-92. The area used for home occupation shall not exceed 15% of a dwelling unit.
- (4) Multifamily dwellings as defined herein
- (5) Other uses as provided by Article XIII (Signs) and 185-72 (Temporary uses).

B. Prohibited uses. Any use not specifically permitted shall be prohibited.

**§ 185-46. Setback, area and height restrictions.**

A. Density.

(1) Density shall not exceed a density factor of 27.0 per acre of lot, including street area. Density factor refers to the probable number of individuals expected to be living in the development, given the particular type of unit(s) as calculated pursuant to this subsection. The density shall be calculated by using the following factors and formula:

<b>Type of Unit</b>	<b>Density Factor</b>
Apartment efficiency	1.5
Apartment 1 bedroom	2.0
Apartment 2 bedrooms	3.0
Townhouse 2 bedrooms	3.0
Townhouse 3 bedrooms	4.0

(2) The total density factor for a project shall be computed by multiplying the factors above by the number of each type of dwelling unit proposed and totaling the sum of all the products. This total shall be divided by the gross acreage and the results shall be the density factor per acre.

B. Required setbacks.

(1) The minimum setback requirements apply only to the entire tract, and no buildings shall be located within such setback areas. The minimum distance between buildings in an apartment development shall be 25 feet, except that no wall containing an entrance to an apartment shall be closer to another apartment building than 50 feet. No apartment building shall be closer to a preexisting single-family or two-family dwelling than 50 feet. For each foot that the height of a building exceeds 35 feet, these dimensions will be increased by a foot. Every apartment building shall have a minimum setback of 20 feet from all interior roads, driveways and parking areas. A wall of an apartment structure or parallel walls of adjacent apartment structures shall not continue in the same plane for a length of more than 75 feet without an offset of at least four feet.

- (2) Each apartment development shall provide a playground area or areas at a standard of 500 square feet for each 10 dwelling units. Outdoor play equipment shall be installed in each playground in sufficient amount and variety to service the occupants of the development.
  - (3) Minimum setback restrictions for single- or two-family units developed in an M-R District are defined in § 185-11 and 185-19.
- C. Additional ancillary storage. Additional ancillary storage areas of at least 150 cubic feet must be provided per each dwelling unit. This area can, at the option of the builder, be located either within each dwelling unit or in a convenient centrally located area in the basement or ground floor or elsewhere, where personal belongings and effects may be stored under lock and separated from the belongings and effects of other occupants.
  - D. Maintenance of grounds. The entire area of an apartment development not improved for driveways, parking area or covered by buildings or walkways shall be attractively landscaped and seeded and properly maintained at all times.
  - E. Refuse requirements. Every apartment development shall be provided with garbage and refuse collection and storage areas screened from view and away from the fronts of apartment buildings.

**§ 185-47. Parking, private garages and other accessory buildings.**

The requirements shall be as set forth in § 185-12 and 185-74.

**§ 185-48. Driveways.**

Driveways for ingress and egress for apartment developments shall:

- A. Connect with other than minor streets wherever possible;
- B. Not be located within 200 feet of an existing street intersection; and
- C. Have a pavement width of at least 22 feet, except where they are within a parking area, in which case they shall not be less than 25 feet in width.

**§ 185-49. Slopes of yards.**

The slopes of yards shall conform to § 185-85D.

**ARTICLE XI: Historic Preservation Overlay District**

**§ 185-50. Purpose and Intent**

- A. Purpose. As Lima has many significant historic, architectural and cultural resources, which constitute its heritage, this section is intended to:
1. Promote the protection and enhancement of the historic buildings, sites, and districts, which represent distinctive elements of Lima's historic, architectural, and cultural heritage as well as archaeological sites;
  2. Foster civic pride in the accomplishments of the past;
  3. Protect and enhance Lima's attractiveness to visitors and the support and stimulus to the economy thereby provided;
  4. Ensure the harmonious, orderly, and efficient growth and development of the Village.
- B. The Historic Preservation Overlay District is intended to provide an additional advisory review for projects located in or near historically significant districts or sites.
- C. The Historic Preservation Overlay District procedures are intended to be imposed in addition to those of the underlying zoning district.

**§ 185-51. Boundaries**

- A. The boundaries of the Historic Preservation Overlay District are depicted on the Village Zoning Map and shall include the Downtown Business District, all parcels adjacent to East and West Main Streets, and land located within 100 feet of the property line of any building or site listed in the National Register of Historic Places.

**§ 185-52. Establishment of Lima Historic Preservation Commission**

There is hereby created a joint commission to be known as the Town and Village of Lima Historic Preservation Commission.

- (A) The Commission shall consist of 5 members and two alternates, to be appointed jointly by the Town Board and the Village Board. All members shall have a known interest in historic preservation and architectural development within the Town and Village of Lima.

To the extent available in the community, members shall be appointed as follows:

- at least one shall be an architect experienced in working with historic buildings;
- at least one shall be a historian;
- at least one shall be a resident of a historic district;
- at least one shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field; and

(B) Commission members shall serve for a term of five years, with the exception of the initial term of one of the 5 members which shall be one year, one which shall be two years, one which shall be three years, and one which shall be four years. Alternate members shall serve for a term of three years, from the time of appointment.

(C) The Chairman and Vice Chairman of the Commission shall be elected by and from among the members of the Commission.

(D) The powers of the Commission shall include:

- (i) Reviewing and providing advisory comments on applications for development permits submitted to the Code Enforcement Officer, Planning Board or Zoning Board of Appeals for projects located within the Historic Preservation Overlay District, except that maintenance and repair work that replaces existing materials with same (like and kind materials) does not require referral to the HPC.
- (ii) Employment of staff and professional consultants as necessary to carry out the duties of the Commission, as funds for such work may be budgeted by the Town Board and/or the Village Board of Trustees;
- (iii) Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the Village and Town;
- (iv) The making of recommendations to the Town and Village government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;
- (v) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs;
- (vi) Making recommendations to Town and Village government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Town and Village of Lima;
- (vii) Recommending acquisition of a landmark structure by the Town and Village government where its preservation is essential to the purposes of this section and where private preservation is not feasible; and

(E) The Commission shall meet at least six times per calendar year, but meetings may

be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Supervisor.

(F) A quorum for the transaction of business shall consist of three of the Commission's members.

**§ 185-53. Procedures for Referral to Historic Preservation Commission**

- A. Any application for a building permit, variance, special permit, or site plan review within the Historic Preservation Overlay District shall be referred to the Historic Preservation Commission for an advisory opinion if the proposed development or redevelopment consists of new construction, structural alterations or façade alterations. Maintenance and repair work that replaces existing materials with same (like and kind materials) shall not require referral (i.e., roof replacement).
- B. Within 30 days of receiving the materials, the Historic Preservation Commission shall review the proposal and submit its report to the CEO, the Zoning Board of Appeals, or the Planning Board. Additional time may be permitted upon mutual agreement of the applicant, the CEO, the ZBA or the Planning Board, and the Historic Preservation Commission.
- C. All advisory recommendations of the Commission shall be in writing. A copy shall be filed with the Village Clerk's Office for public inspection.

**§ 185-54. Criteria for Advisory Recommendations**

- A. In advising the CEO, Planning Board, or the Zoning Board of Appeals regarding the potential impact of a project on a historic resource, the Historic Preservation Commission shall not consider changes to interior spaces.
- B. The Commission's recommendations shall be based on the following general principles:
  - 1. properties which contribute to the character of a historic district shall be retained, with their historic features altered as little as possible;
  - 2. any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district; and
  - 3. new construction shall be compatible with the district in which it is located.
- C. In applying the principle of compatibility, the Commission shall consider the following factors:
  - 1. the general design, character and appropriateness to the property of the proposed alteration or new construction;
  - 2. the scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
  - 3. texture, materials, and color and their relation to similar features of other properties in the neighborhood;
  - 4. visual compatibility with surrounding properties, including proportion of the

- property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback;
5. the importance of historic, architectural or other features to the significance of the property.

## **ARTICLE XII: Variances and Special Use Permits**

### **§ 185-55. Special use permit procedures and criteria.**

#### **A. Procedures**

- (1) As provided by § 7- 725-b of the Village Law, the Board of Appeals shall be authorized to issue special use permits for those uses listed as permitted with a special use permit in the regulations for S, R, DB, GB and M zoning districts.
- (2) To assist the Board of Appeals in its determination, an application for a permit under this section shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant, and such plans and other descriptive matter shall become a part of the record.
- (3) The Board of Appeals shall refer any request for a special use permit to the Planning Board for a report. Only after receipt of such requested report from the Planning Board or not less than 30 days after such referral, in the event of the Planning Board's failure to act, and after public notice and hearing under conditions set forth below, the Board of Appeals may authorize the issuance of a special use permit.

The entire report of the Planning Board shall be read at the meeting at which the request for the special permit is considered by the Board of Appeals and included in the minutes. In any case where the Board of Appeals acts contrary to the recommendations of the Planning Board, the minutes shall include a resolution adopted by the Board of Appeals fully setting forth its reasons for such contrary action.

- (4) The Board of Appeals shall conduct a public hearing within 62 days from the day an application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Village at least five days prior to the date thereof. The Board of Appeals shall decide upon the application within 62 days after the hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board. The decision of the Board of Appeals on the application after the holding of the public hearing shall be filed in the office of the Village clerk within five business days after such decision is rendered, and a copy

thereof mailed to the applicant.

- (5) At least ten days before such hearing, the Board of Appeals shall mail notices thereof to the applicant and to the county planning board, as required by §239m of the NYS General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of §239m of the NYS General Municipal Law.

- (6) The Board of Appeals shall comply with the provisions of the NY State Environmental Quality Review Act (SEQRA).

B. Conditions.

- (1) General Conditions. Special use permits may be authorized by the Board of Appeals only upon satisfaction in each instance of such conditions as to the general character, height and use of structure or structures; as to the provision of surrounding open space and the treatment of grounds; as to the general fitness of the structure or use to its capacity and use as, in the opinion of the Board, may be necessary to safeguard public health, comfort, convenience and as may be required for the preservation of the general character of the neighborhood in which such building and/or structure is to be placed or such use is to be conducted.
- (2) Use-specific Conditions. In addition to the general conditions listed above, the Board of Appeals shall apply the criteria for the approval of specific special permit uses as specified in this Code.

**§ 185-56. Setback exceptions for large-scale housing developments.**

- A. Upon presentation to the Planning Board of a site plan showing the location of buildings, streets, setbacks and other open spaces for the unified residential development of an area bounded on all sides by streets or park or other permanent open space, the Planning Board may waive the heretofore established side and rear setback requirements; and the heretofore established front setback requirements; and the heretofore established height requirements except for streets and roads shown on the Zoning Map as main thoroughfares.
- B. After approval of the Planning Board, the Board of Appeals may authorize the Code Enforcement Officer to issue permits in accordance therewith, provided that the net land area per dwelling

unit contained in the development is not less than that prescribed for the district in which the development is located.

**§ 185-57. Mobile homes.**

The following shall apply, in addition to all other regulations of the village with respect to mobile homes:

- A. No mobile home shall be parked and occupied in any district outside an approved mobile home park.
- B. Any mobile home which is so situated as not to conform to the terms of this chapter shall not be replaced on its site by any other mobile home.

**§ 185-58. Motor vehicle repair, parking and storage garages; motor vehicle service stations.**

- A. No motor vehicle repair garage, parking and storage garage or motor vehicle service station or private garage for more than five cars shall have a vehicular entrance closer than 200 feet to an entrance to a church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street, if the entrances are on opposite sides of the street; and along the street frontage, if both entrances are on the same side of the street or within the same square block.
- B. All motor vehicle service stations shall be so arranged as to require all servicing on the premises and outside the public way; and no gasoline pump shall be placed closer to any side property line than 50 feet or closer to any street line than 10 feet.
- C. No inoperative motor vehicles shall be kept on the premises of a motor vehicle service station for longer than 30 days
- D. All waste material shall be stored within a structure or enclosed within fencing so as not to be visible from off the property.
- E. On any street which provides access to gasoline pumps, all repair facilities shall be at least 15 feet farther from the street line than the side of the gasoline pumps farthest from the street line.

**Article XIII: Signs and billboards.**

**§ 185-59. Purpose; intent; definitions.**

- A. Purpose. The purpose of this local law is to provide comprehensive time, place and manner restrictions on signs, including but not limited to controls on size, height quantity, location, spacing, shape, lighting, motion, design and appearance, toward the end of promoting community aesthetics, traffic safety, economic development and the protection of property values.
- B. Intent. It is intended, by the provisions of this local law, to accomplish the following:
- (1) Protect and enhance the appearance and historic character of the Village.
  - (2) Encourage appropriate and compatible commercial speech signs and graphics.
  - (3) Lessen objectionable competition in commercial speech sign size and placement.
  - (4) Reduce the hazards of sign obstructions and distractions to motorists.
  - (5) Create a more attractive business environment.
  - (6) Protect the value of buildings and properties.

- C. Definitions. As used in this local law, the following terms shall have the meanings indicated:

**ACKNOWLEDGMENT OF LAWFUL ERECTION**— A statement from the Code Enforcement Officer pursuant to § 185-60.D(2) that a sign, not requiring a sign permit, was lawfully erected and conforms to applicable provisions of this local law.

**AMORTIZATION PERIOD** — The period of time that a sign made nonconforming by the provisions hereof may lawfully remain to prevent an unconstitutional taking of property.

**ARCHITECTURAL FEATURE** — A prominent or characteristic part of a building. The following are examples of "architectural features": windows, columns, awnings, marquees and fascias.

**ATTENTION-GETTING DEVICE** — Any flag, streamer, spinner, light, balloon or similar device or ornamentation used for purposes of attracting attention for promotion or commercial speech.

**AWNING** — An impermanent structure, other than a roof, attached to, supported by and projecting from a building and providing protection from the elements.

**AWNING SIGN** — Any visual message incorporated into an awning or a marquee.

**BANNER** – A sign made of fabric, paper, plastic or other flexible material that is designed to be hung from posts or attached to a structure.

**BACKLIGHTING** — An indirect source of light which is located from behind the sign surface or shielded from the viewer's eyes by a translucent or opaque material.

**BUILDING DIRECTORY SIGN** — A sign listing the name and location of all tenants in a structure.

**BUILDING FRONTAGE** — The width of a building facing a street or public parking lot; in the case of a corner lot, it may be either frontage at the option of the applicant. Where a mall exists, "building frontage" shall mean that portion of the building perimeter facing a street or designated parking area; in the case of two such perimeters, it may be either frontage at the option of the applicant.

**BUILDING IDENTIFICATION SIGN** — A sign which identifies the name of the building and does not identify any individual business activity.

**CHANGEABLE-COPY SIGN** — An announcement sign, bulletin board or sign which makes provision for changing letters and other copy.

**CODE ENFORCEMENT OFFICER** — A member of the Village staff appointed by resolution of the Village Board to administer and enforce this local law.

**COMMERCIAL SPEECH SIGN** — Any sign erected that identifies or pertains to:

- (1) A commercial enterprise; or
- (2) A product, commodity or service offered by a commercial enterprise.

**COPY** — Any graphic, letter, numeral, symbol, insignia, text, sample, model, device or combination thereof, which relates to advertising, identification, notification or communication.

**DEVELOPMENT REVIEW** — Any application to develop or to use land in the Village of Lima that is subject to review and approval by any municipal official or board. The term includes zoning, site plan, and subdivision reviews and approvals as regulated elsewhere in the Village Code.

**EXTERIOR ENTRANCE** — A direct entrance from a public way to a habitable or tenantable space.

**FLAG** — Any state, municipal, county or national flag.

**FREESTANDING SIGN** — A single or multi-faced sign affixed to a supporting structure or embedded in and extending from the ground or detached from the building. Any support structure shall be included in sign area to the extent that it is larger than that necessary to support the sign.

**GROUND SIGN** — See "freestanding sign."

**HANGING SIGN** — Any sign suspended from a ceiling or overhang.

**ILLUMINATED SIGN** — Any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent light.

**LIGHTING, INDIRECT** — A light source separated from the surface and illuminating the sign surface by means of spotlights or similar fixtures.

**LIGHTING, PAN-CHANNELED** — An indirect, concealed light source which is recessed into any element of a sign, which element is attached directly to the face of the sign. Each element to be lighted must have an opaque surface such that the light does not shine through the element.

LOGO — Any picture, shape or drawing, with or without letters or words, used to identify a product, service, business or organization.

MARQUEE — A permanent structure, other than a roof, attached to, supported by and projecting from a building and providing protection from the elements.

MIXED-USE STRUCTURE — A structure on a parcel of land containing either two or more commercial/business/industrial uses operating independently of one another or one or more nonresidential uses operating independently of a residential use.

MUNICIPAL SIGN — See "sign, municipal."

NONCOMMERCIAL SPEECH SIGN — Any sign, other than a commercial speech sign as defined herein.

NOTICE OF VIOLATION — A notice issued by the Code Enforcement Officer advising the owner or occupant of a premises upon which a sign is located of a violation of any provision of this local law. A "notice of violation" shall specify the condition violating the law, the section violated, the remedial steps required to abate the violation and the time in which said steps shall be taken.

PORTABLE SIGN — A sign that is not permanently affixed to a building, a structure or the ground, but not including identification lettering on vehicles and advertising on buses.

PROJECT IDENTIFICATION SIGN — A sign which identifies the name of the shopping center, plaza, office complex, industrial park or facility as a whole and does not identify any individual business activity.

PROJECTING SIGN — Any sign attached to a building and extending in whole or in part more than six inches beyond the building exterior.

PUBLIC WAY — Any passageway, highway, street or waterway used by members of the public. This shall include any parking lot to which members of the public are invited, as customers or otherwise.

REFLECTIVE SURFACE — Any material or device which has the effect of intensifying reflected light, such as Scotchlite (trademark), Dayglo (trademark), glass beads and luminous paint.

SIGN — Any name, identification, description, display, illustration or device which is affixed to or represented, directly or indirectly, upon a building, structure or land visible from a public way. (See other headings in this subsection.)

SIGN AREA — The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided (straight lines) geometric shape which most closely outlines said sign. In the case of a three dimensional sign, the area shall be computed by enclosing the sign in the smallest possible rectangular solid and summing the areas of the six sides of the rectangular solid.

SIGN AREA. MAIN (for WINDOW SIGNS)— The "boxed" or rectilinear area that most closely encompasses the sign message.

SIGN COMPLIANCE CERTIFICATE — A certificate issued by the Code

Enforcement Officer attesting that a sign described therein has been erected in compliance with this local law and any permit issued therefore. Commercial speech signs require a "sign compliance certificate"; noncommercial speech signs do not.

**SIGN, MUNICIPAL** — Any sign erected or maintained pursuant to and in discharge of any governmental function or required by any law, ordinance or governmental regulation; any sign erected or maintained by the Village of Lima in furtherance of the public health, welfare or safety.

**SIGN PERMIT** — A permit issued by the Code Enforcement Officer providing documentation of the specific sign(s) that have been approved pursuant to these regulations. (For signs not requiring a sign permit, see § 185-61.B)

**SIGN SITE PLAN** — A plan of any parcel depicting its features and the relationship of its structures to commercial speech signs by showing the number, size, description, color and location of all signs.

**STOP-WORK ORDER** — A notice authorized by the Code Enforcement Officer directing the person named therein to immediately cease preparation for construction or erection of a sign. A "stop-work order" may require that a sign erected or partially erected in violation of this local law be removed.

**STREET** — The entire width of every dedicated public way owned or controlled by the Village of Lima, Livingston County or New York State and improved to municipal specifications, including the traveled portion thereof known as the "roadway" and the portion used for sidewalks.

**TENANT** — A tenant, occupant or establishment.

**TENANT IDENTIFICATION SIGN** — A sign designed or intended to identify a tenant, occupant or establishment and/or the kind of service or products provided thereby.

**WALL SIGN** — Any sign painted on, or attached, parallel to the wall facing of a building and projecting not more than six inches.

**WINDOW** — One or more window panes contained within a single window frame.

**WINDOW AREA, GROSS** — The product of the height and width of a window, expressed in square inches or square feet.

**WINDOW BORDER** — A strip no wider than six inches running parallel to the outer edge of a window.

**WINDOW FRAME** — The casing in which a window, whether consisting of a single or multiple window panes, is installed.

**WINDOW, OUTER EDGE OF** — The innermost perimeter of a window frame.

**WINDOW PANE** — A physical or apparent sheet of glass or other transparent material in a window; sections of a window separated by mullions are considered separate panes.

**WINDOW SIGN** — A sign affixed on or located with respect to a window fronting a

public way that is visible from the public way.

**WINDOW SIGN, TEMPORARY** — A window sign not permanently affixed that does not identify the tenant.

**WINDOW SPACE** — The total area of any single window pane or series of window panes with a width of 12 inches or less separated by mullions.

**ZONING DISTRICT** — The classification of lands as established in Chapter 185 of the Code of the Village of Lima.

**§ 185-60. Compliance.**

- A. **Categories:** all signs. After the enactment of this local law, all signs within the Village of Lima shall be categorized as follows:
  - (1) Noncommercial speech signs.
  - (2) Commercial speech signs.
- B. **Classification:** previously erected signs. After the enactment of this local law, all signs previously erected within the Village of Lima shall be classified as follows:
  - (1) A sign for which no permit had been issued prior to the adoption of this local law.
  - (2) A sign made nonconforming by this local law for which a permit or site plan approval had been obtained under the provisions of the Village of Lima's previous sign regulations.
  - (3) A sign that conforms to the standards contained in this local law for which a sign permit and sign compliance certificate were subsequently issued by the Code Enforcement Officer pursuant to the provisions of this local law.
  - (4) A sign that conforms to the standards contained in this local law, but for which neither a sign permit nor a sign compliance certificate was issued.
- C. **Conformance:** all signs. No commercial speech sign shall be permitted or noncommercial speech sign allowed in the Village of Lima, except in conformity with the provisions of this local law.
- D. **Nonconforming signs.**
  - (1) **General rule.** Any sign made nonconforming by this local law for which no sign permit or sign site plan approval shall be permitted to remain unless the following conditions are met:
    - (a) The sign is poorly or improperly maintained.
    - (b) The business or matter advertised by the sign closes or ceases operation for a period of 60 days.
  - (2) **Alteration of nonconforming signs.** Nonconforming signs shall not be altered, rebuilt, enlarged, extended or relocated, unless such action changes a nonconforming sign to a conforming sign as provided herein. The failure to

keep any such nonconforming sign in good repair within 30 days after due notification by the Code Enforcement Officer shall constitute abandonment of the sign.

- (3) Any sign that advertises a business that has been closed for more than six months shall be removed at the expense of the property owner within 30 days of a demand from the Code Enforcement Officer.
- (4) The CEO may require the removal, at the owner's expense, of any sign that is poorly or improperly maintained.

**§ 185-61. Sign permits required; issuance.**

- A. Permit required. A sign permit shall be required prior to erecting a sign within the Village of Lima, except as provided in subsection B of this section.
- B. Exceptions: permit not required. The following signs shall not require a permit;
  - (1) Noncommercial speech signs, as defined and regulated in this local law.
  - (2) All signs listed in § 185-66.B, Signs not requiring a permit.
  - (3) All signs listed in § 185-66.C, Certain temporary signs that do not require a permit.
  - (4) Window signs listed in § 185-67.
  - (5) Municipal signs.
  - (6) Repainting of a conforming commercial speech sign, provided that the copy or logo does not change.
  - (7) Replacement of commercial speech copy on a conforming commercial speech sign with noncommercial speech copy.
- C. Sign permits; issuance by Code Enforcement Officer.
  - (1) The Code Enforcement Officer shall have the authority to issue sign permits for any commercial speech sign permitted in any zoning district as specified in § 185-63.
  - (2) The Village of Lima Planning Board shall have the authority to approve all sign permit applications in conjunction with Site Plan Review for signs associated with projects that require site plan approval.
  - (3) The Code Enforcement Officer shall refer all applications for sign permits within the Downtown Business District to the Historic Preservation Commission for an advisory opinion. Such opinion shall be provided within 30 days of the referral, and are intended to promote signage that is aesthetically pleasing and in keeping with the downtown business district's historic architecture.

**§ 185-62. Sign standards.**

A. Design standards. All signs erected and maintained in the Village of Lima shall be in accordance with the following sign design standards:

- (1) Commercial speech signs and their supporting structures should be in harmony in style and scale with the architectural features of the buildings on which they are placed or to which they relate. Signs shall not obscure significant architectural features of the building to which they are attached.
- (2) No sign in a residential district may be illuminated.
- (3) If new exterior sign lighting is provided, it shall be arranged to reflect away from the surrounding property and away from the public way and shall be limited to downlighting.
- (4) The intensity of the light source shall not exceed that necessary to illuminate and make legible a sign from the public ways.
- (5) Groups of related signs should express uniformity and create a sense of harmonious appearance.
- (6) Internally lit signs shall be permitted only in windows or if set back a minimum of fifty (50) feet from the street line.

B. Miscellaneous.

- (1) Maintenance. All signs and structures which support a sign shall be adequately maintained. Maintenance of a conforming sign or a legally nonconforming sign shall not be considered an erection or alteration so long as a structural change is not made.
- (2) Attention-getting devices. No sign shall consist of banners, balloons, pennants, ribbons, streamers, spinners or similar fluttering devices. No sign shall consist of animated or moving parts, except that such devices may be permitted for up to two (2) weeks per calendar quarter to promote special events such as grand openings, limited-duration sales or events sponsored by a government or not-for-profit organization.
- (3) On-site signs. Only signs related to a business or profession conducted or to a commodity or service sold or offered upon the premises where such sign is located shall be permitted; no sign advertising a business use or service other than that provided on the premises on which said sign is located shall be permitted. "Premises," in the case of a lot or site having more than one building or structure, shall mean the building or structure in which the business use or service is conducted and not the entire parcel or lot.
- (4) Uniform Building Code. All signs shall comply with the applicable regulations of the State of New York Uniform Fire Prevention and Building Code.
- (5) Utility line clearance. No permit for any sign shall be issued and no sign shall be constructed or maintained, which interferes with any communication or energized electrical power lines.
- (6) Public safety clearance. No sign shall be attached in any form, shape or manner

to a fire escape or to any door or window so as to block vision of or confuse access to any fire escape or fire escape route.

**§ 185-63. Sign regulations.**

**A. Noncommercial speech signs**

1. Noncommercial speech signs in residential districts. Noncommercial speech signs may be allowed on any residential lot without a sign permit, provided that such signs do not interfere with vehicle sight distances from, along or to a public way.
2. Noncommercial speech signs in commercial and industrial districts.  
In lieu of commercial copy, any conforming commercial speech sign may have placed upon it noncommercial speech copy. The placement of noncommercial speech copy upon a conforming commercial speech sign shall not require a sign permit.
3. Noncommercial speech signs: nonresidential, noncommercial and nonindustrial uses in all use districts. Noncommercial speech signs for nonresidential, noncommercial and nonindustrial uses may be allowed in any district without a permit.

**B.**

**Commercial speech signs: Permit procedures**

1. All applications for a sign permit shall be made in writing, upon forms provided by the Code Enforcement Officer, and shall contain the following information:
  - (a) The name, address and telephone number of the applicant and, where applicable, the owner of the land upon which the sign is to be erected.
  - (b) The location of building, structure or land to which or upon which the sign is to be erected.
  - (c) A detailed drawing or blueprint to a scale not exceeding one inch equals one foot showing the construction details of the sign, the lettering and/or pictorial matter and color of each and the position of lighting or other extraneous devices; a location plan drawn to scale not exceeding one inch equals 20 feet showing the position of the sign on any buildings or structures, including building elevation, and any private or public street or highway.
  - (d) The zoning district in which the sign is to be placed and reference cited to the sign requirements as contained in this local law.
  - (e) An instrument survey map indicating the position and setbacks of any freestanding sign and the location and setbacks of all buildings on the property.
  - (f) Identification of all other signs existing on said land and whether those other signs are conforming or legally nonconforming.

- (g) Written consent of the owner of the building, structure or land to which or on which the sign is to be erected, in the event the applicant is not the owner thereof.
  - (h) The applicant's signature attesting to the accuracy of the application.
2. The Code Enforcement Officer's review of all sign permits shall be based on the completed application form, any accompanying photos and drawings and a site inspection.
3. Duties of the Code Enforcement Officer.
- a) The Code Enforcement Officer shall review the design, size and location of the proposed sign to determine whether the proposed sign is in violation of any of the regulations or restrictions set forth herein.
  - [b] The Code Enforcement Officer shall grant or deny the application within 30 days of receipt of a complete application, file the decision in the office of the Village Clerk and mail a copy of the decision to the applicant. A denial shall be accompanied with a brief statement of the reason for the denial. (For appeals, see § 185-71.)
  - c) Once an application has been approved, the Code Enforcement Officer shall issue a sign permit. Said permit shall be valid for a period of 120 days from date of issuance. The permit may be extended one time, for a period of 60 additional days, upon approval by the Code Enforcement Officer and upon payment of an additional fee, prior to the expiration of the initial 120-day period. If a certificate of sign compliance is not issued within the 120-day period or, if applicable, the renewal period for the sign permit, said sign permit shall expire.
  - d) Within seven business days of the placement of the approved sign, the applicant shall provide a photograph of the sign to the Code Enforcement Officer. Upon presentation of the evidence of erection of the sign in compliance with this local law and a sign permit, the Code Enforcement Officer shall issue a certificate of sign compliance.
  - e) Should the Code Enforcement Officer, upon inspection, find the sign not in compliance with the sign permit, the applicant shall be so notified by certified mail within 10 business days of the inspection. The applicant shall have up to 30 business days from the date of the receipt of the certified notification letter to correct the cited deficiencies and to notify the Code Enforcement Officer of said change(s). In no event shall said additional 30-day period extend the validation period for the sign permit. (For removal of signs, see § 185-70.)
  - f) The Code Enforcement Officer shall maintain a file on all commercial speech sign permits issued. The file shall contain photos of all existing commercial speech signs and identify whether a sign was erected with or without a permit, before or after the effective date of these sign regulations. The file shall also identify the date(s) that all

nonconforming signs shall be relocated or removed or dates when sign compliance certificates were issued. The Code Enforcement Officer shall notify the owner of the property on which the sign is located, or the applicant on file, of the date said sign is to be relocated or removed.

C. Commercial sign requirements

1. Residential uses. Commercial speech signs are not permitted in any residential district, except as follows:

(a) A commercial speech sign may be permitted to identify a home occupation or other use for which a special use permit has been issued pursuant to Chapter 185, Zoning, of the Code of the Village of Lima, provided that:

- [1] The sign does not exceed two square feet in area, unless a larger sign is allowed by the special permit requirements for the approved use.
- [2] The special use permit authorizes the erection of a sign.

2. Commercial and industrial uses.

(a) The following standards apply to all signs associated with projects located in any commercial or industrial district when only one principal building, use or activity is proposed or exists upon a single parcel of real property:

- [1] Building identification sign. One building identification sign which identifies the name of the building and does not identify any individual business activity, may be erected as either:
  - [a] One single- or double-faced ground sign of up to 20 square feet in area per side and not more than 10 feet in height; or
  - [b] One building-mounted sign of up to 20 square feet in area and not more than four feet in height.

[2] Tenant identification signs. There shall be no more than two tenant identification signs, to be chosen from among the following sign types: awning sign, hanging sign, projecting sign, wall sign, or window sign. The total allowable square footage shall be either 36 square feet, or 1/2 the sum of one square foot of area for each linear foot of building frontage plus 0.25 square foot for each foot the nearest portion of the tenant's space is set back from the public way. This overall area limitation may be allocated between or among allowable signs in any compliant manner.

[3] A building-mounted tenant identification sign shall face a public way. In the case of a use having frontage on more than one public way, the frontage selected to determine the size of the sign must be the frontage on which the tenant identification sign is located or oriented.

[4] In lieu of a building-mounted tenant identification sign as described in § 185-63C.(2)(a)[2], a tenant may use one single- or double-sided

ground sign on the premises. Said ground sign shall have a maximum area of 16 square feet per side and a maximum height of seven feet above grade level. No part of the sign, including the support pole, shall be located nearer than five feet to a public way. Every ground sign shall be subject to site plan approval by the Planning Board.

(b) The following standards shall apply to all commercial speech signs located in any commercial or industrial district where more than one principal building, use or activity is proposed or exists upon a single parcel of real property, such as in the case of a shopping center, plaza, office complex or other multiple commercial use facility, industrial complex or park:

[1] Project identification sign. One project identification sign which identifies the name of the shopping center, plaza, office complex, industrial park or facility as a whole and does not identify any individual business activity may be erected as either:

[a] A single- or double-sided ground sign of up to 16 square feet in area per side and not more than 12 feet in height; or

[b] A building-mounted sign of up to 20 square feet in area and not more than four feet in height.

[2] Tenant identification signs. There shall be no more than two tenant identification signs per tenant, to be chosen from among the following sign types: awning sign, hanging sign, projecting sign, wall sign, or window sign. The total allowable square footage for tenant identification signs shall be either 36 square feet, or 1/2 the sum of one square foot of area for each linear foot of building frontage plus 0.25 square foot for each foot the nearest portion of the tenant's space is set back from the public way. This overall area limitation may be allocated between or among allowable signs in any compliant manner. If a tenant has more than one exterior entrance to a public way, the tenant may have one additional tenant identification sign mounted at the additional entrance, the type to be selected from the foregoing list. The size of the additional entrance sign shall not exceed eight square feet. Ground signs identifying individual businesses shall be prohibited.

[3] Building directory for multiple-use structure. A multiple-use structure having one main entrance may have one building mounted building directory sign not exceeding 20 square feet in area located on the same elevation as the main entrance.

[4] To the extent practicable, the signs allowed in Subsection B(2)(b)[2] and [4] above shall be placed on the side of the building facing the common parking area and shall be in proximity to the main entrances to the building. In the event a multiple-use structure does not have a common parking area, all building-mounted sign(s) shall be on the

side of the building facing the public way and located next to the main entrance.

- [5] Entrance directory signs for tenants not having a direct exterior entrance. In addition, one entrance directory sign may be erected next to each building entrance serving more than one tenant, other than the main entrance. The sign shall list all tenants served by the entrance. The area of the entrance directory sign shall not exceed one square foot for each tenant.
- [6] In addition to all signs permitted above, the Planning Board is authorized to grant a special permit for up to three additional directory signs for tenants located on the third or higher floor not having an exterior entrance. The Planning Board shall take into consideration the relationship of building entrances to the public way and/or a common parking area, number of building entrances and the adequacy of allowable signs to communicate tenant name and location information to the public. The Planning Board shall direct the location of such additional directory signs to maximize effective communication of tenant name and location information to the public.
- [7] A sign site plan shall be approved by the Village Planning Board.

(c) Business advertising devices.

- [1] Any non-illuminated business advertising device not permanently affixed having a value of less than \$500 may be displayed as provided herein.
- [2] An additional business name, trade name, trademark or product or service name or service mark shall not be incorporated into a business advertising device. To the extent practicable, a business advertising device shall be erected or displayed in close proximity to the main entrance of the building on which it is located.
- [3] Only one such device per business may be displayed at any one time except during special events sponsored by the Village of Lima when there may be up to three such devices per business.
- [4] A device displayed pursuant to this provision must comply with all other provisions of this local law, except § 185-62.B(2).
- [5] A permit for the business advertising device must be obtained from the Code Enforcement Officer. A fee of \$15 shall be charged for each permit issued. The permit shall be valid for a period of 30 days. No more than three permits may be issued to any single establishment or address during a twelve-month period.

**§ 185-64. Regulations relating to specific sign types.**

**A. Awning signs.**

(1) Awning signs shall be subject to the same size restrictions as building signs.

B. Hanging signs:

(1) Shall have a minimum of seven feet of clearance from the closest floor or grade level;

(2) Shall not exceed nine square feet in area per side;

(3) If mounted perpendicular to the building, shall not exceed 48 inches in any dimension.

C. Projecting signs:

(1) Shall project toward a public way;

(2) Shall not exceed nine square feet in area per side, excluding the support structure;

(3) Shall not project more than 48 inches;

(4) Shall have at least 10 feet of clearance from the closest floor or grade level.

E. Window signs.

(1) Definitions relating to window signs. As used in this local law, the following terms shall have the meanings indicated:

(2) Window border area provisions:

(a) A border area lies between an outer edge of a window and a line drawn parallel to that edge no more than six inches distant from that edge.

(b) A window border may be along one or more sides of a window.

(c) The countable border area is that portion of the border area lying between an outer window edge and a line flush with the innermost edge of a graphic in the window border area that is parallel to the outer window edge extending the full length of the window.

(d) If a graphic is placed only in a corner (where the borders of two adjoining sides overlap), the countable border shall be calculated using the shorter side of the window.

(e) If adjoining border areas are utilized, the area of the corner where the two borders overlap shall not be counted twice in computing the area of the countable border area.

(3) Basic rules.

(a) The area of a window sign is calculated by adding the area of the main sign area to the countable border area.

(b) The area of a window sign shall not exceed 50% of the area of the window in which it is placed or nine square feet, whichever is less. If a window sign covers more than a single pane, the area of all panes in a window frame shall be aggregated in determining compliance with the area limitations.

(c) Total allowable window signage for a tenant is 18 square feet.

F. Ground signs (freestanding signs). See specific Code sections.

**§ 185-65. Removal of signs.**

A. Signs not pertinent to use.

(1) The owner of any sign that no longer serves a purpose for which a permit was issued, or for which the business or matter advertised by the sign closes or ceases operation, or is otherwise in violation of the provisions hereof, shall be notified in writing by the Code Enforcement Officer, to either remove the sign within 30 days of such notice or otherwise correct the specified unsatisfactory condition in the manner stated by the Code Enforcement Officer.

(2) If the Code Enforcement Officer's notice is not appealed (see § 185-70 of this local law) within 30 days of the date of the written notice, the notice automatically becomes an order and shall be enforced in accordance with § 185-68 of this local law.

B. Signs causing immediate peril. The Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily upon written notice to that effect. Failure to comply within five days of such notice will serve as an authorization to the Code Enforcement Officer to remove or cause removal of such sign, with all costs and expenses to be charged to the owner of the land upon which the sign was erected.

**§ 185-66. Prohibited signs and signs not requiring a permit.**

A. Specific signs prohibited. The following types of signs are prohibited in all districts unless specifically otherwise allowed in this section:

(2) Moving signs. Signs which move or simulate motion are prohibited. This shall include flashing, blinking, animated, rotating signs or signs whose illumination or projected surface changes with time, but shall not include time and temperature signs.

(3) Neon signs. Neon-lit signs shall only be allowed in commercial district windows.

(4) Pertinent advertising. No commercial speech sign shall be displayed unless such sign advertises a bona fide business conducted in or on the premises.

(5) Price signs. Signs, other than window signs, specifying price, cost or value are not allowed, unless advertising the price of gas at a gasoline station, as required by law.

(6) Product names, trade names or logos. Product names, trade names or logos are permitted as a part of a sign only when the product name, trade name or logo is integral to the name of the business or tenant. No more than 10% of the area of such sign may be used to display the brand names of any products or commodities actually sold on the premises.

- (7) Reflective surfaces. Reflective surfaces are prohibited.
- (8) Right-of-way. Unless otherwise specified herein, no signs shall be permitted in any public right-of-way without permission of the Board of Trustees as well as from any other governmental agency having jurisdiction over such public right-of-way.
- (9) Roof signs. No signs, banners, flags or other like advertising devices shall be permitted on the roof of any building or structure or be mounted so as to project above the eave line.
- (10) Temporary signs. Temporary signs, other than those specified in subsections B(3), B(4) and C and § 185-67.
- (11) Traffic hazard. No permanent or temporary sign shall be erected or placed at or near the intersection of any streets in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the position, shape, color or illumination of the sign, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop," "look," "drive-in," "danger," "go slow," "caution," "warning," "right," "left" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse vehicle operators.

B. Signs not requiring a permit. The following types of signs are permitted in all districts and shall not require a permit but shall otherwise be subject to the provisions of this local law:

- (1) Noncommercial speech signs.
- (2) Credit card signs. Credit card advertisements or trade association emblems, which are displayed together and the area of which does not exceed one square foot, may be displayed. Such signs shall be displayed flat on window or door surfaces. The purpose of these signs is to offer a service and not to advertise the business.
- (3) Sale, lease or open-for-inspection signs.
  - (a) Signs advertising the sale, lease or rental of the premises upon which the sign is located, which sign shall not exceed six square feet in area. One such sign shall be permitted per premises. Where such signs are associated with a townhouse or condominium unit, the sign placement shall be set back at least five feet from the public way directly in front of the unit.
  - (b) One sign, not exceeding six square feet, bearing a legend such as "Open" or "Open for Inspection," on a premises being advertised for sale.
    - Two signs, not exceeding six square feet each, bearing a legend such as "Open" or "Open for Inspection," at locations other than the premises being advertised for sale. Such signs may be located within the right-of-way (between the curb and sidewalk) of the two closest intersecting streets, provided that they are placed so as not to interfere with sight
  - c)

distances. Each sign shall not be more than three feet in height.

- (4) Promotional sale event signs. Said sign shall not exceed six square feet per side nor exceed three feet in height.
- (5) Vehicular signs. Commercial speech signs are allowed on licensed/registered motor vehicles used in conjunction with a business, provided that the primary purpose of such vehicle is the transportation of people or material for such business.
- (6) Traffic control signs. Signs such as "No Parking," "Reserved Parking," "Parking Reserved for Handicapped Parking" and the like may be erected for commercial uses without a permit. The size of each such sign shall be limited to 1.5 square feet.

C. Certain temporary signs that do not require a permit.

- (1) The following commercial speech temporary signs are allowed in all use districts without a sign permit, but must be executed as a ground sign or be affixed to a building and meet the following standards:
  - (a) Temporary signs on temporary buildings for uses incidental to construction work, provided that such signs are removed when the buildings are removed or upon completion or abandonment of the construction work. Such signs shall not exceed 20 square feet in area.
  - (b) One ground or wall temporary site development sign, to identify a development of real property, subject to the following conditions:
    - [1] The maximum sign area shall be 20 square feet.
    - [2] A ground sign shall be allowed only for and during the development of a vacant site.
    - [3] A wall sign shall be allowed only for and during the redevelopment of an existing structure.
    - [4] A ground sign shall be no higher than six feet above average grade, and a wall-mounted sign shall be no higher than 10 feet above average grade.
    - [5] A temporary site development sign shall be oriented towards the public way in front of the site.
    - [6] The information permitted is limited to project name, primary real estate agent, financial investors, general contractor, subcontractors, builder and architect and may include the words "Now Accepting Reservations" and a telephone number.
- (2) No sign erected pursuant to this subsection shall remain after the issuance of the last certificate of occupancy for the project, termination of work on the project or 12 months from the date of sign erection, whichever occurs first.

**§ 185-67. Temporary window signs.**

The following standards shall apply to all temporary window signs located in any commercial or industrial district:

- A. Window signs may not cover more than 50% of total window area nor more than 50% of each window space.
- B. In the case of a door, a window sign may not cover more than 10% of the window space in which it is located.
- C. If a permanently painted window sign exists, the area of the permanently painted window sign shall be taken into consideration when calculating the window space coverage percentages in subsections A and B.
- D. Notwithstanding A,B and C above, if a building is located more than 50 feet from the public right-of-way, window signs shall be permitted provided that substantial transparency of windows is maintained.

**§ 185-68. Warning; disclaimer of liability.**

The provisions of this local law shall not be construed as relieving or limiting in any way the responsibility or liability of any person, firm or corporation erecting or owning any sign from personal injury or property damage resulting from the placing of the sign, or resulting from the negligence or willful acts of such person, firm or corporation, his or its agents, employees or workmen, in the construction, maintenance, repair or removal of any sign erected in accordance with a permit issued under the provisions of this local law. Nor shall it be construed as imposing upon the Village of Lima or its officers, employees or any board thereof any responsibility or liability by reason of the approval of any signs, materials or devices under the provisions of this local law.

**§ 185-69. Enforcement; penalties for offenses; fees.**

- A. Enforcement and penalties.
  - It shall be the duty of the Code Enforcement Officer or his delegate to administer and enforce the provisions of this local law.
- B. Fees. All fees associated with this local law shall be established and maintained by the Village Board and made a part of the Village's fee schedule.

**§ 185-70. Sign maintenance.**

All signs in the Village of Lima shall be properly maintained at all times. The Code Enforcement Officer shall have the authority to order the painting, repair or removal of a sign and accompanying landscaping which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment. Notification shall be by personal delivery or by certified mail. If the maintenance notice is not complied with within 15 days, it shall become an order to abate the sign or perform the maintenance or repair specified therein.

**§ 185-71. Review; appeal.**

- A. All appeals from a ruling or determination of an administrative officer made hereunder shall be taken to the Zoning Board of Appeals. All decisions made in accordance with the provisions of this local law shall be filed in the office of the Village Clerk.
- B. Every request for a variance from the provisions hereof on the ground that the strict application of this local law shall work an injustice by reason of practical difficulty shall be taken before the Zoning Board of Appeals.
- C. Abandonment of variance. If a sign for which a variance has been granted hereunder is not erected within one year from the date of the variance, or if a sign for which a variance has been granted hereunder is removed for a continuous period of one year, the variance for said sign shall be deemed abandoned and of no effect.

**Article XIV: Regulations applying to all districts**

**§ 185-72. Temporary uses and structures.**

Temporary permits may be issued by the Code Enforcement Officer for a period not exceeding one year for nonconforming uses incidental to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials and a real estate office located on the tract being offered for sale, provided that such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed yearly upon application to the Code Enforcement Officer for an additional period of one year.

**§ 185-73. Nonconforming uses, buildings and structures.**

- A. Continuation of nonconforming use. Except as specifically provided in this section, any use of land or a building or structure or part thereof existing at the time of enactment of the 1963 Village of Lima Zoning Ordinance or existing as of the date this present chapter becomes effective if, and only if, such nonconforming use was created subsequent to February 18, 1963, and prior to the date this chapter becomes effective and such nonconforming use was created in full accordance with the requirements of the 1963 Zoning Ordinance, may be continued, subject to the provisions of Subsections D, E and F of this section, although such building or structure or use does not conform to the provisions of the district in which it is situated.
- B. Discontinuance of use. When a nonconforming use has been

discontinued for a period of not less than one year, it shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this chapter.

- C. Automobile wrecking and junkyards. Notwithstanding any other provision of this chapter, any nonconforming automobile wrecking yard or other junkyard in existence at the time of the adoption of this chapter or any amendment thereto shall be discontinued within three years from the date of such adoption or amendment.
- D. Change of nonconforming use. No nonconforming use shall be changed to other than a conforming use for the district in which it is situated.
- E. Maintenance of a nonconforming use. A nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public. Alterations and extensions of the nonconforming use, undertaken for the express purpose of conforming to and complying with the provisions of this section, are permitted, provided that such alteration or extension shall not tend to increase the inherent nuisance, nor shall such alteration or extension violate any provisions of this chapter regarding setbacks, lot area or lot coverage for the district in which it is situated or to increase any existing violation of such provision.
- F. Any building or structure containing a nonconforming use or any structure consisting of a nonconforming use which is damaged by fire, flood, wind or other act of God or man to the extent of 50% or more of its fair sales value immediately prior to damage shall not be reoccupied, reused and/or reconstructed, except in conformity with the provisions of this chapter. In the event that the Code Enforcement Officer's estimate of the extent of damage or fair sales value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the extent of damage or fair sales value shall be determined by a board of three arbitrators, one who shall be named by the Planning Board, one by the applicant for the building permit and one by the first two arbitrators named. In the event that the first two arbitrators cannot agree upon a third member within five days, the third arbitrator shall be named by the Village Board. A decision in which at least two of the arbitrators concur shall be deemed the official decision of this Board.
- G. Any building or structure containing a nonconforming use, or any structure constituting a nonconforming use which is damaged by fire, flood, wind or other act of God or man to an extent of less than 50% of its fair sales value immediately prior to damage shall not be repaired or reconstructed, except in conformity with this chapter,

unless such reconstruction is completed within 12 months of the damage. In the event of a dispute, the extent of damage or the fair sales value will be determined in the manner as set forth in Subsection F.

- H. Any legally existing apartment building or multiple dwelling as such are defined in this chapter located within any district other than an M-R District, thus constituting a nonconforming use, shall hereafter comply with the provisions of § 185-46D and E, regulating maintenance of grounds and refuse requirements, and § 185-74C, regulating parking requirements.
- I. No building or structure designed for or intended to be utilized for a nonconforming use shall be constructed, reconstructed or altered unless construction, reconstruction or alteration is already underway at the time of the enactment or subsequent amendment of this chapter and is being diligently prosecuted so that such building or structure will be completed within 18 months from the time of the enactment or subsequent amendment of this chapter. Irrespective of whether such construction conforms to the terms of this chapter, any structure so permitted shall be allowed to be completed in accordance with plans filed at the time of the application for the permit. After filing of plans with the Code Enforcement Officer, alteration or additions to such plans, except as may be in conformity with the terms of this chapter, shall not be permitted. Construction of buildings or structures under construction at the time of the enactment of this chapter for which permits are not obtained as provided above shall be stopped 30 days after the enactment of this chapter and thereafter be permitted to continue only in accordance with the terms of this chapter after the securing of a zoning permit as hereinafter provided.
- J. The limitations of Subsection I of this section shall not apply to a legal dwelling in existence as of the effective date of this chapter and so used as of that date which is nonconforming only in respect to setback space or area per dwelling and nonconforming to the district in which located, except that no building shall be altered, added to or reconstructed to extend farther into an already- deficient amount of land area per dwelling.

**§ 185-74. Required off-street parking and automobile storage space.**

A. General provisions.

- (1) Permanent off-street automobile storage, parking or standing space shall be provided as set forth below at the time of the erection of any building or structure, at the time any building or

structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area or before conversion from one zoning use or occupancy to another. Such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. No required front setback or portion thereof in any residential district shall be utilized to provide parking space required in this chapter.

- (2) If the vehicle storage space or standing space required by this chapter cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Appeals may permit such space to be provided on other off-street property, provided that such space lies within 400 feet of the main entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- (3) Vehicle parking or storage maintained in connection with an existing and continuing principal building or land use on the effective date of this chapter shall be continued and may not be counted as serving a new building, structure, addition or land use; nor shall any required parking space be substituted for an off-street loading and unloading space, nor any required loading and unloading space be substituted for parking space.
- (4) In all instances in which the principal building or land use on the effective date of this chapter shall include a mixed use in accordance with this chapter (e.g., a commercial and dwelling use), the applicable parking requirements shall be that pertaining to the use mandating the greater number or ratio of parking spaces for such use.
- (5) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that 12 of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sunday may be assigned to a use which will be closed at night or on Sunday.
- (6) No off-street automobile parking or storage space shall be used or designed, arranged or constructed to be used in a manner that will obstruct or interfere with the free use of any street, alley or adjoining property. Off-street parking shall not be created or located within 10 feet of a property line.

- (7) The parking spaces provided along with their necessary driveways and passageways shall be paved in a manner adequate to eliminate dust and mud problems. Plans for such parking spaces are to be included with the plans for the construction of buildings and other structures and are to be presented to the Code Enforcement Officer at the time application for building permits are to be filed. Such parking areas are to be kept free of obstructions and unsightly objects. Intersections of parking areas with sidewalks or street pavements must be made in an approved manner. Provision must be made for the adequate drainage of parking areas.
- (8) No commercial motor vehicle of more than a one-ton capacity shall be parked or stored overnight in any residential district.
- (9) Except as permitted in § 185-10A(1) and (2), automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any district other than in completely enclosed buildings.

B. Number of parking spaces required for specific uses:

- (1) Amusement facilities: one parking space for every five customers computed on the basis of maximum servicing capacity at any one time, plus one additional space for every two persons regularly employed on the premises.
- (2) Apartment houses and multifamily dwellings: 2 off-street parking spaces for each dwelling unit. Except as otherwise provided in this section, any structure(s) or building(s) in which more than one dwelling unit is contained shall be subject to the requirements of this subsection.
- (3) Auditoriums: one parking space for every five seats occupied at maximum capacity.
- (4) Boardinghouses: one parking space for each sleeping room occupied by roomers or boarders, plus one parking space for each dwelling unit on the premises, plus one additional space for every two persons regularly employed on the premises.
- (5) Bowling alleys: As in Subsection B (1).
- (6) Churches. As in Subsection B (3).
- (7) Civic centers: parking or storage for all vehicles used directly in the operation of such establishment, plus four parking spaces for the first 1,000 square feet of total floor area and one

additional space for every additional 150 square feet of floor area.

- (8) Clubhouses and permanent meeting places of veterans, business, civic, fraternal, labor and other similar organizations: one parking space for every 50 square feet of aggregate floor area in the auditorium, assembly hall and dining room of such building, plus one additional space for every two persons regularly employed on the premises.
- (9) Colleges (educational institutions): one parking space for every five seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the campus. If the institution has no assembly hall, auditorium or gymnasium, one parking space shall be provided for each person regularly employed at such institution, plus five additional spaces for each classroom.
- (10) Dental clinics: three parking spaces for each doctor or dentist, plus one additional space for every regular employee.
- (11) Dormitories: one parking space for every two beds computed on the basis of the maximum bed capacity of the structure. This requirement is in addition to the parking space requirements as set forth in Subsection B(9)
- (12) Eating establishments: one parking space for every 100 square feet of total floor area.
- (13) Electrical shops: parking or storage space for all vehicles used directly in the conduct of the business, plus one parking space for each two persons regularly employed on the premises.
- (14) Fraternity houses: as in Subsection B (11).
- (15) Freight terminals: parking or storage space for all vehicles used directly in the business, plus one parking space for each two persons regularly employed on the premises.
- (16) Funeral homes: parking or storage space for all vehicles used directly in the conduct of the business, plus one parking space for every two persons regularly employed on the premises and one space for every six seats in the auditorium or chapel of such establishment. If the establishment does not have a chapel or auditorium, the additional parking to be required for funeral visitors shall be determined by the Board of Appeals based on the number of funerals that can be handled at one time, the size

of the facilities and other relevant factors.

- (17) Hospitals: one parking space for every two beds intended for patients, excluding bassinets.
- (18) Hotels: one parking space for each sleeping room offered for tourist accommodations, plus one for each dwelling unit on the premises.
- (19) Indoor retail businesses: parking or storage space for all vehicles used directly in the conduct of such business, plus four parking spaces for the first 1,000 square feet of total floor area and one additional space for every additional 150 square feet of floor area.
- (20) Industrial plants and facilities: parking or storage space for all vehicles used directly in the conduct of such industrial use, plus one parking space for every three employees on the premises at the maximum employment on a single shift.
- (21) Junior high schools (secondary): one parking space for every five seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium or gymnasium, one parking space shall be provided for each person regularly employed at such school, plus two additional spaces for each classroom.
- (22) Libraries: as in Subsection B (7).
- (23) Medical clinics: as in Subsection B (10).
- (24) Mobile homes: one parking space for each mobile home.
- (25) Mobile home parks: as in Subsection B (24).
- (26) Motels: as in Subsection B (18).
- (27) Museums: as in Subsection B (7).
- (28) Nursing homes: one parking space for every two beds computed on the basis of the maximum bed capacity of the structure. This requirement is in addition to the parking space requirements for hospitals set forth in Subsection B (17).
- (29) Offices: one parking space for every 200 square feet of office space.

- (30) Outdoor retail business: parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for every two persons employed on the premises in maximum seasonal employment and such additional space as may be required by the Board of Appeals based on the nature of the business and other related relevant factors.
- (31) Plumbing shops: as in Subsection B (13).
- (32) Post offices: as in Subsection B (7).
- (33) Private schools: one parking space for each person regularly employed at such school, plus one additional space for each classroom.
- (34) Public assembly: as in Subsection B (3).
- (35) Public schools (elementary): as in Subsection B (33).
- (36) Public garages (motor vehicle repair): indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business, plus three parking spaces for each person regularly employed on the premises.
- (37) Recreational centers and facilities: as in Subsection B (2).
- (38) Repair shops: as in Subsection B (13).
- (39) Residences:
  - (a) One-family, two-family and semidetached dwellings: one parking space for each dwelling unit.
  - (b) With home occupations: four parking spaces.
- (40) Restaurants: as in Subsection B (12).
- (41) Roofing shops: as in Subsection B (13).
- (42) Rooming houses: as in Subsection B (4).
- (43) Self-service laundries and dry-cleaning self-service plants: one parking space for every two washing machines and/or two dry-cleaning machines.
- (44) Senior high schools (secondary): As in Subsection B (21).
- (45) Service establishment: as in Subsection B (13).

- (46) Service stations — motor vehicle: parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for each gas pump; three spaces for each grease rack; and one space for every two persons employed on the premises at maximum employment on a single shift.
- (47) Skating rinks: as in Subsection B (1).
- (48) Sorority houses: as in Subsection B (11).
- (49) Stadium: as in Subsection B (3).
- (50) Swimming pools: as in Subsection B (1).
- (51) Taverns: as in Subsection B (12).
- (52) Theaters: as in Subsection B (3).
- (53) Tourist courts: as in Subsection B (26).
- (54) Tourist homes: as in Subsection B (18).
- (55) Trailer parks (house): as in Subsection B (25).
- (56) Transportation terminals: one parking space for every 100 square feet of waiting room space, plus one additional space for every two persons regularly employed on the premises.
- (57) Trucking terminals: as in Subsection B (15).
- (58) Undertaking establishments: as in Subsection B (16).
- (59) Universities: as in Subsection B (9).
- (60) Warehouses: as in Subsection B (15).
- (61) Wholesale businesses: parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for each two persons employed on the premises based on maximum seasonal employment.

**§ 185-75. Required off-street loading and unloading spaces for commercial vehicles.**

On the same premises, with every building or structure or part thereof hereafter erected and occupied for the purpose of business, trade or industry, there shall be provided and maintained adequate space for the parking of commercial vehicles while

loading and unloading off the street or public alley. Such space shall have access to a public alley or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property. Off-street loading and unloading space shall be provided as set forth below at the time of erection of any building or structure and/or at the time any building or structure is enlarged or increased in capacity.

- A. Freight terminals: one off-street loading and unloading space at least 12 feet wide and 14 feet high for every 5,000 square feet of total floor area. The length of such space shall be five feet longer than the legal maximum length for commercial vehicles.
- B. Hotels: one off-street loading and unloading space at least 12 feet by 35 feet by 14 feet high.
- C. Hospitals: as in Subsection B.
- D. Indoor markets: one off-street loading and unloading space at least 12 feet wide and 14 feet high for every 7,500 square feet or less of total floor area. The length of such space shall be five feet longer than the legal maximum length for commercial vehicles.
- E. Industrial plants: one off-street loading and unloading space at least 12 feet wide and 14 feet high for every 10,000 square feet of total floor area or as required by the Board of Appeals. The length of such space shall be five feet longer than the legal maximum length for commercial vehicles.
- F. Retail business: as in Subsection B.
- G. Service establishments: as in Subsection B.
- H. Trucking terminals: as in Subsection A.
- I. Warehouses: as in Subsection D.
- J. Wholesale storage facilities: as in Subsection D.

**§ 185-76. Frontage on public street or road.**

- A. No principal structure shall be erected on a lot which does not abut on at least one street for a distance of not less than 40 feet.
- B. No principal structure may be built or erected directly behind another dwelling having access on the same street and within 200 feet thereof.

“Directly behind another dwelling” means with more than 1/2 the width of the structure so placed.

- C. No building in the rear of a main building on the same lot may be used for residential purposes.

**§ 185-77. Reductions in lot area prohibited.**

- A. No lot, although it may consist of one or more adjacent lots of record, shall be reduced in area to the extent that setbacks, lot area per family, lot width, building area or other requirements of this chapter, are not maintained. This subsection shall not apply when a portion of a lot is required for a public purpose, or in the case of a clustered subdivision approved by the Planning Board.
- B. No space applied or necessary under this chapter to satisfy the setback or other open space requirements in relation to any building or area, whether now or subsequently built or occupied, shall be counted as part of a required open space in relation to any other building.

**§ 185-78. Obstruction of vision and fencing.**

- A. In all districts, on a corner lot within the triangular area formed by the center lines of streets from their intersection, as shown on the schedule below, there shall be no obstruction to vision between the height of 3 1/2 feet and the height of 10 feet above the average grade of each street on the center line thereof. The requirements of this section shall not be deemed to prohibit the construction of any necessary retaining wall.

**Sight Distance for Various Street Widths**

<b>Street Right-of-Way</b>	<b>Distance from Intersection</b>
50 feet or more	90 feet
40 to 49 feet	80 feet
30 to 39 feet	70 feet

- B. Except as provided in Subsection A above, the requirements of this chapter shall not be deemed to prohibit any otherwise lawful fence or wall.

**§ 185-79. Quarries, sand and gravel pits; topsoil removal and major excavating grading or filling.**

- A. Rock and stone crushing and mixing stone or gravel with asphaltic oils or other binders shall be prohibited in all districts. However, the above shall not prevent issuance by the Board of Appeals of a temporary permit, under § 185-72, for a mixing plant in connection with a particular construction project for the period of its construction.
- B. Major excavating, grading or filling, as defined herein, shall not be permitted in any district except with the approval of the Planning Board.

**§ 185-80. Site Plan Review**

**A. Authorization and application**

- 1. The Planning Board is hereby authorized, pursuant to § 7-725-a of the Village Law, to review and approve, approve with modifications or disapprove preliminary site plans and final site plans.
- 2. Prior to issuing a building permit for the construction of a building, or for the alteration of a building if the area of any floor would be increased 25% thereby, and prior to the issuance of a zoning permit or certificate of occupancy for a change of use or occupancy of land or a building such that the off-street parking facilities required for that parcel would be changed, the Zoning Officer shall refer the site plans of the lot to the Planning Board for its review and approval. Site preparation or the commencement of construction prior to the termination of proceedings under this article is prohibited. The construction or alteration of a one- or two-family dwelling is hereby exempted from this article; and, except for a one- or two-family dwelling, no zoning permit, building permit or certification of occupancy shall be issued except in compliance with the standards and procedures set forth in this article.

**B. Application for preliminary approval.**

- 1) Any preliminary application for site plan approval shall be made, in writing, to the Zoning Officer and shall be accompanied by the following information:
  - a) One area map shall be provided showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within 500 feet of the applicant's property.
  - b) If grades exceed 3% or if portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, one topographic map, showing contour intervals of not more than five feet of elevation, shall be provided.
  - c) A preliminary site plan which shall include the following information:

- i. The title of the drawing, including the name and address of the applicant.
  - ii. The North point, scale and date.
  - iii. The boundaries of the property plotted to scale.
  - iv. Existing watercourses, wetlands, wooded areas, trees with a diameter more than 6" six feet above the ground, historic and archeological features.
  - v. A site plan showing the location, proposed use and height of all buildings; the location of all parking and truck loading areas, with access and egress drives thereto; the location of pedestrian walkways; the location of outdoor storage, if any; the location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; a description of the method of sewage disposal and the location of such facilities; the location and size of all signs; the location and proposed development of buffer areas; and the location and design of lighting facilities. In addition, the site plan must state the gross floor area and net floor area for each building and delineate and state the area of each use therein, including flex space, if any.
- 2) The Planning Board may, in its discretion, waive such of the foregoing as may not be necessary in the interest of the public health, safety or general welfare, or for proper review of the application.
  - 3) The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQR) and implementing regulations thereunder. An application for preliminary site plan approval shall not be considered complete, and the review period shall not begin to start, until either a negative declaration has been made or a draft environmental impact statement has been filed.
  - 4) Where a preliminary site plan contains one or more features which do not comply with the provisions of the Zoning Law, applications may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of zoning regulations.

**C. Factors for consideration.**

- 1) The Planning Board's review of a preliminary site plan shall include but is not limited to the following considerations:
  - a) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
  - b) The adequacy and arrangement of pedestrian traffic access and circulation, including the separation of pedestrian from vehicular traffic,

walkway structures, control of intersections with vehicular traffic and pedestrian convenience.

- c) The location, arrangement, appearance and sufficiency of off-street parking and loading areas.
  - d) The location, arrangement, size and design of buildings, lighting and signs.
  - e) The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise-detering buffer between these and adjoining lands.
  - f) In the case of an apartment house, townhouse or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation.
  - g) The adequacy of stormwater, water supply and sanitary waste disposal facilities.
  - h) The adequacy of structures, roadways and landscaping in areas with a moderate to high susceptibility to flooding and ponding and/or erosion.
  - i) The protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
- 2) In its review, the Planning Board may consult with the Village Engineer and other village, town and county officials, as well as with representatives of federal and state agencies, including the USDA Natural Resources Conservation Service and the New York State Department of Conservation. The Planning Board may require that the exterior design of all structures be made by or under the direction of a registered architect, whose seal shall be affixed to the plans.
- 3) When reviewing a site plan because of a change in the use or occupancy of land, a building or any portion thereof, the Planning Board shall consider the impact of the proposed change upon other uses within the same building or parcel. To the extent practical, the Planning Board may require such modification thereto as will promote the most efficient use of land consonant with compliance with the provisions of this local law.

#### **D. Modifications.**

The Planning Board may require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

#### **E. Action on preliminary application.**

- 1) Upon receipt of an application for preliminary site plan approval the Planning Board shall refer such application to the Livingston County Planning Board in accordance with General Municipal Law § 239-m.

- 2) The Planning Board shall comply with the provisions of SEQR and implementing regulations thereunder. An application for preliminary site plan approval shall not be considered complete, and the review period shall not begin to start, until either a negative declaration has been made or a draft environmental impact statement has been filed.
- 3) Within 62 days of receipt of a complete application for preliminary site plan approval, the Planning Board shall act on it. If no decision is made within 62 days of receipt of a complete application for preliminary site plan approval, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is conditionally approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report.
- 4) The Planning Board may recommend in its statement desirable revisions to be incorporated in the final site plan, conformance with which shall be a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons therefor. The Planning Board may recommend further study of the site plan and resubmission of the preliminary site plan to the Planning Board after it has been revised or redesigned.
- 5) No modifying of existing stream channels, filling of lands with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with a moderate to high susceptibility to erosion or excavating for or constructing of site improvements shall begin until the developer has received final site plan approval. Failure to comply shall be construed as a violation of the Zoning Law and, where necessary, final site plan approval may require the modification or removal of unapproved site plan improvements.
- 6) The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a preliminary site plan. Such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the village.

**F. Application for final detailed site plan approval.**

- 1) After receiving conditional approval from the Planning Board on a preliminary site plan and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final detailed site plan and submit it to the Planning Board for approval; except that if more than six months has elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
- 2) The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It should incorporate any

revision or other features that may have been recommended by the Planning Board at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

**G. Action on final detailed site plan application.**

- 1) Within 62 days of the receipt of the application for final site plan approval for a site plan in substantial conformity with the previously approved preliminary site plan, the Planning Board shall render a decision to the Zoning Officer. If no decision is made within the sixty-two-day period, the final site plan shall be considered approved.
- 2) If the final site plan is not in substantial conformity with the previously approved preliminary site plan, the Planning Board may determine to treat the application as an application for preliminary site plan approval and act thereon pursuant to paragraph D of this section.
- 3) Upon approving an application for final site plan approval, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the Zoning Officer, who shall then issue or cause to be issued a building permit to the applicant if the project conforms to all other applicable requirements.
- 4) Upon disapproving an application, the Planning Board shall so inform the Zoning Officer and he shall deny or cause to be denied a building permit to the applicant. The Planning Board shall also notify the applicant, in writing, of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

**§ 185-81. Storage of flammable liquids.**

The storage of alcohol, gasoline, crude oil, liquefied petroleum gas or any other highly flammable liquid in aboveground tanks in an amount greater than 550 gallons shall be prohibited in all districts unless such tanks up to and including 10,000 gallons' capacity are placed not less than 50 feet from all property lines and unless all such tanks of more than 10,000 gallons' capacity are placed not less than 100 feet from all property lines. Any such storage having a capacity greater than 550 gallons shall be properly dyked with earthen dykes having a capacity not less than 1 1/2 times the capacity of the tank or tanks surrounded.

**§ 185-82. Cesspools and septic tanks.**

For applicable regulations regarding cesspools and septic tanks, refer to the County Sanitary Codes.

**§ 185-83. Supplementary regulations relating to private swimming pool as an accessory use.**

For applicable supplementary regulations relating to private swimming pool as an accessory use, refer to Chapter 159, Swimming Pools.

**§ 185-84. Fair, carnival and circus.**

In a residential district or on the premises of a building occupied by a church, civic organization or similar nonprofit group in any district, a permit may be issued under the terms of § 185-55 for a fair, carnival or circus for a period not to exceed four days in any calendar year.

**§ 185-85. Supplementary regulations relating to dwellings.**

- A. Size of dwellings. The minimum ground area of the main structure shall be:
  - (1) For a one-story and one-and-one-half-story building: 1,100 square feet.
  - (2) For a two-story building: 800 square feet.
- B. Cellar occupancy prohibited. It shall be unlawful to occupy all or any part of a cellar for sleeping purposes.
- C. Basement occupancy. Any basement area used for sleeping purposes shall have not less than two means of egress, at least one of which shall be a door giving access to an open area whose service is at least eight inches below the level of the basement floor. Each basement room used for living purposes shall have a combined window area, opening to the outside, equal to not less than 1/10 of the floor area of such room.
- D. Slope of yards. No building containing dwelling units shall henceforth be constructed, nor shall any existing building be altered so as to contain dwelling units unless the surface grade of the front yard at the front wall of such building is more than 18 inches above the street grade. The surface of the front yard shall slope toward the street grade. Where there is unusual difficulty in meeting this provision, the Zoning Board of Appeals without public hearing may accept a substitute gradient,

provided that no minus gradient is established within 25 feet of the front wall or within six feet of either side wall of the building.

**§ 185-86. Hotels.**

Hotels, where allowable under this chapter, shall conform to the following requirements:

- A. Area. The minimum land area per establishment shall be five acres. For each rental room in excess of 12, this land area shall be increased by not less than 2,500 square feet.
- B. Frontage. The minimum frontage per shall be 400 feet.
- C. Front setbacks. There shall be a minimum front setback of 150 feet into which there shall be no encroachment of automobile parking and of structures other than a fence, wall or sign not larger than 20 square feet and no other encroachment of commercial usage.
- D. D. Side and rear setbacks. No structure shall be placed closer to a side or rear property line than 25 feet. For each story the height of structures exceeds two, the offset from the side and rear property lines shall be increased by 10 feet.

**§ 185-87. Access of a commercial or industrial use.**

No driveway or other means of access for vehicles other than a public street shall be maintained or used in any residential district for the servicing of any use located in a DB, GB District or an M District.

**§ 185-88. (Reserved).**

**§ 185-89. Towers.**

The following provisions are applicable to all districts:

- A. No tower shall exceed the height of 35 feet as measured from the ground surface.
- B. Maximum allowed per lot is one per lot.
- C. The tower shall be located on the same site as it services.

- D. Any such tower shall be confined to the rear yard of any lot and shall be at ground level.
- E. No tower can be constructed, erected or maintained except as an accessory structure to an existing one family dwelling on the same lot.
- F. No tower shall be allowed on a corner lot.
- G. Lots must be of sufficient size to allow for a side line setback and setback from existing structures equal to the height of the tower measured from the base at ground level plus five feet, with a minimum side setback or rear yard setback being eight feet from any guy wire.
- H. All towers shall be suitably protected by anti-climb fencing, and a landscape planting screen shall be provided and maintained around the structure and accessory attachments.
- I. No tower installation shall be permitted except by building permit from the Village Building Inspector after being reviewed by the Planning Board.
- J. The Planning Board of the Village of Lima is empowered to designate the exact location of the tower to be installed or maintained and to require any screening or other procedure in order to reduce or eliminate aesthetic damage to the community which may result from said installation or maintenance.
- K. Application for the permit must include construction drawings showing proposed method of installation, structural engineering analysis and site plans depicting structures and plantings on the property and all adjacent properties.
- L. The applicant shall present documentation of possession of any license required by federal, state or local agencies.
- M. Should this section or any phrase, clause or subsection thereof conflict with any FCC ruling regulating or governing the placement and erection of such towers, the FCC ruling or regulation shall supersede this section only insofar as such phrase, clause or subsection of this section is in direct conflict with such FCC ruling or regulation.

**§ 185-90. Wind towers.**

No wind towers or energy creating devices attached to a tower are allowed in the Village of Lima.

**§ 185-91. Outdoor furnaces**

No outdoor solid-fuel heating device or outdoor woodburning furnace shall be permitted within the Village of Lima.

**§ 185-92. Home Occupations**

Home occupations shall conform to the following provisions:

- A. There shall be no display of goods visible from the street.
- B. There shall be no exterior advertising other than one unlighted sign not over two square feet in area. Such sign may be flat against or attached to the dwelling or a free-standing sign.
- C. There shall be no exterior storage of materials or other indications of such home occupation or any other deviation from the residential character of the premises.
- D. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare producers.
- E. There shall be no equipment, device or object used that will cause interference with normal reception of radio or television broadcast signals or in any other way create an electronic nuisance on any other premises.
- F. Such home occupation shall be conducted only in the principal building by a person or persons residing therein.
- G. Such home occupations shall not cover more than 15% of the usable floor area.

**ARTICLE XV: Administration and Enforcement**

**§ 185-93. Interpretation.**

In interpreting and applying the provisions of this chapter, the Code Enforcement Officer, Village Planning Board or the Village Zoning Board of Appeals shall be held to the minimum requirements for the promotion of the public safety, convenience, prosperity and general welfare for the Village of Lima.

**§ 185-94. Enforcement.**

- A. Enforcing officer. The provisions of this chapter shall be administered and enforced by the Code Enforcement Officer appointed by the Village Board, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter.
  
- B. Duties. It shall be the duty of the Code Enforcement Officer to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for use of the village and other officials. The Code Enforcement Officer shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all other ordinances of the Village of Lima, Chapter 155, Subdivision of Land, SEQR procedures, the New York State Energy Code and New York State lighting standards.

**§ 185-95. Building permits and certificates of occupancy.**

- A. Building permits.
  - (1) Requirement. It shall be unlawful to commence the excavation for or the construction of any building or structure, including accessory buildings, or to commence the moving, alteration or demolition of any building or structure, including accessory buildings, until the Code Enforcement Officer has issued a permit for such work.
  
  - (2) Issuance. In applying to the Code Enforcement Officer for a building permit, the applicant shall submit specifications and a dimensioned plot plan to scale, indicating the shape, size, height and location in exact relation to all property lines and to street or road lines of all buildings or structures to be erected, altered, moved or demolished and of any building or structure already on the lot. This plan shall be accompanied by a written statement from a qualified engineer or other satisfactory evidence to the effect that the line of the bounding street or road has been accurately located and staked on the ground. The applicant shall also state the existing or intended occupancy and use of all such buildings and land and supply other information as may be required by the Code Enforcement Officer to ensure that the provisions of this chapter are being observed. If the proposed excavation or construction or alteration or moving or demolition as set forth in the application is in conformity with the provisions of this chapter, and other ordinances of the village then in force, the

Code Enforcement Officer shall issue a permit for such excavation, construction, alteration or moving.

- (3) Refusal. If a building permit is refused, the Code Enforcement Officer shall state such refusal, in writing, with the cause and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.
- (4) Fees. Fees to be charged for the issuance of a building permit shall be established by the Village Board of Trustees.
- (5) Effect. The issuance of a permit shall in no case be construed as waiving any provision of this chapter.
- (6) Term.
  - (a) A building permit shall become void six months from the date of issuance unless substantial progress has been made since the date of issuance of the permit; provided, however, that the building permit may be renewed for an additional six months upon application therefor without the payment of an additional fee.
  - (b) Upon written request submitted to the Code Enforcement Officer, a building permit may be extended for only one successive one-year period, provided that:
    - [1] The permit has not been revoked or suspended at the time the application for renewal is submitted; and
    - [2] A new application fee is paid in an amount equal to the original building permit fee paid by the original permit applicant; and
    - [3] The Code Enforcement Officer inspects the property and can certify that substantial progress has been made toward completion of the project or work contemplated by the building permit since the date of the initial application and any subsequent renewal; and
    - [4] The applicant shall supply all necessary or required materials requested of the applicant by the Code

Enforcement Officer to justify proof of ongoing progress toward completion of the project or work contemplated by the building permit.

**B Certificate of occupancy.**

- (1) **Requirement.** No land or building or other structure or part thereof hereafter erected or altered in its use or structure shall be used or occupied until the Code Enforcement Officer shall have issued a certificate of occupancy stating that such land, building, structure or part thereof and the proposed occupancy or use thereof are found to be in conformity with the provisions of this chapter.
- (2) **Issuance.** Within five days after notification that a building or structure or premises, or part thereof, is ready for occupancy or use, it shall be the duty of the Code Enforcement Officer to make a final inspection thereof and issue a certificate of occupancy if the land, building, structure or part thereof is found to conform with the provisions of this chapter.
- (3) **Refusal.** If the Code Enforcement Officer after such final inspection refuses to issue a certificate of occupancy, he shall state such refusal, in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant to the address indicated on the application.

**§ 185-96. Board of Appeals; creation, powers and duties.**

**A. Creation, composition and appointment.**

- (1) **Creation.** A Board of Appeals is hereby established in accordance with § 7-712 of the Village Law.
- (2) **Composition.** The Board of Appeals shall consist of five members.<sup>16</sup>
- (3) **Appointment.** The Board of Trustees of the village shall appoint the members of the Board of Appeals, each to be appointed for five years. No person who is a member of the Village Board of Trustees or a Police Justice or a member of the Village Planning Board shall be eligible for membership on such Board of Appeals.<sup>17</sup>

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<sup>16</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>17</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art I).

- (4) Removal. The Board of Trustees shall have the power to remove any member of the Board for cause and after public hearing.
- (5) Vacancies. Vacancies shall be filled for the unexpired term of the member whose place has become vacant.

B. General procedures.

- (1) Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. All meetings of such Board shall be open to the public, to the extent provided by law.
- (2) Oaths. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.
- (3) Minutes. The 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 examination and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record.

C. Powers. The Board of Appeals shall have the following powers:

- (1) Administrative review. To hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer or other administrative officer in the carrying out or enforcement of any provision of this chapter. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance.
- (2) Special use permits. To hear and decide applications for special use permits as specified in § 185-54 of this chapter and to authorize the issuance of special permits as specifically provided therein. The concurring vote of the majority of the Board of Appeals present shall be necessary to grant a special exception.

(3) <sup>18</sup>Variances. To hear applications for variance from the terms of this chapter, as will not be contrary to public interest where, owing to unique conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship while adhering to the spirit of this chapter and doing substantial justice. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning.

(a) Use variances.

[1] The Board of Appeals, on appeal from the decision or determination of the administrative 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 a 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 Board of Appeals that for each and every permitted use 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; that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; that the requested use variance, if granted, will not alter the essential character of the neighborhood; and that the alleged hardship has not been self-created.

[3] The Board of Appeals, in the 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 Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.

- (b) Area variances.
  - [1] The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.
  - [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 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; whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; whether the requested area variance is substantial; whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  - [3] The 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.
- (c) The concurring vote of the majority of the Board of Appeals present shall be necessary to grant a variance.
- (d) Notwithstanding the above, the Board of Appeals shall submit all requests for variances to the Planning Board for review and shall not take action until receipt of a report from the Planning Board or until after the passage of 30 days of such referral in the event that the Planning Board makes no report on the matter. The Board of Appeals shall cause the entire report of the Planning Board, if received, to be read at the meeting at which the request for variance is considered by the Board of Appeals, include such report in

the minutes and, in any case where the Board of Appeals acts contrary to the recommendations of the Planning Board, include in the minutes a resolution adopted by the Board of Appeals fully setting forth its reasons for such contrary action.

- (4) Reference to Livingston County Planning Board. In accordance with the policy and procedures provided for by Article 12B, § 239-k, 239-l and 239-m of the General Municipal Law, any proposed special permit or variance affecting land or building within 500 feet of the boundary of the Village of Lima or from the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the existing or proposed right-of-way of any stream, or drainage channel owned by the county for which the county has established channel lines, or from the existing or proposed boundary of any state-owned land on which a public building or institution is situated, shall be referred to the Livingston County Planning Board. The term "proposed" shall be deemed to include only those recreational areas, parkways, thruways, expressways, roads or highways which are shown on a County Plan of Livingston County adopted pursuant to § 239-d, Subdivision (2), of the General Municipal Law or adopted as an Official Map of Livingston County pursuant to § 239-g of the General Municipal Law. If the Livingston County Planning Board fails to report within 30 days after receipt of a full statement of such referred material, the Board of Appeals may act without such report. If the Livingston County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof, after the adoption of a resolution setting forth the reason for the contrary action and shall, within seven days after final action, file a report of the final action it has taken with the Livingston County Planning Board.

D. Special procedures relative to appeal for administrative review, variance or application for a special permit.

- (1) Who may appeal. An appeal to the Board of Appeals for administrative review, variance or application for a special permit may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by any decision of the Code Enforcement Officer based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the Board of Appeals a notice of appeal specifying the grounds thereof. The Code Enforcement Officer

shall forthwith transmit all papers constituting the record upon which the action appealed from was taken to the Board of Appeals.

- (2) Time of appeal. Said notice of appeal shall be filed within 60 days from the date upon which the notice of refusal of building permit or refusal of certificate of occupancy is mailed by the Code Enforcement Officer, and failure to file notice of appeal within 60 days shall constitute a waiver of the right to appeal.
- (3) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.

E. Hearing; notice; public notice; notice to property owner; costs.

- (1) Hearing. The Board of Appeals shall fix reasonable time for the hearing of any application for variance, the hearing of an appeal for administrative review or the hearing of an application for a special permit.
- (2) Notice. The Board of Appeals shall give due notice of the hearing to the parties. Notice of such application for special exceptions or variances shall also be given by registered mail at least five days prior to the date of hearing to all persons, firms or corporations owning property or residing within 200 feet of the location of the property upon which the use is proposed to be established.

F. Provisions of appeal. If the variance is granted or the issuance of a permit is finally approved or other action by the appellant or applicant is authorized, the necessary permits shall be subject to the terms of § 185-95A(6). Should the appellant or applicant fail to comply with these provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his appeal or his application, and such permissions, variances and permits to him granted shall be deemed automatically rescinded by the Board of Appeals.

G. Scope.

- (1) In exercising the above-mentioned powers, such Board of Appeals may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premises and to that end shall have the powers of the officer from whom the appeal is taken. Notice of such decision shall be given forthwith to all parties in interest.
- (2) The Board of Appeals does not have the power to permit a use prohibited by this chapter.

H. Recourse.

- (1) Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, of any officer, department, board or bureau of the village may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules, and:
  - (a) It must be instituted within 30 days after the filing of a decision in the office of the Village Clerk;
  - (b) The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact, and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter; and□
  - (c) The court at special term shall itself dispose of the cause on the merits, determining all questions which may be presented for determination.
- (2) Costs shall not be allowed against the Board 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.

I. Alternate Member of Zoning Board of Appeals [Added 2-14-2006 by L.L. No. 2-2006]

(1) Purpose.

The Village Board of Trustees of the Village of Lima hereby affirmatively opts to exercise the authority delegated to it by Village Law Section 7-712 (11 )and the Municipal Home Rule

Law to establish the position(s) of Alternate Member of the Village Zoning Board of Appeals. It is the intention and purpose of this local law to establish such position(s) and to provide specific limitations and regulations related thereto.

- (2) Creation of the Position of Alternate Member of the Village of Lima Zoning Board of Appeals.

The position of Alternate Member of the Zoning Board of Appeals is hereby created and authorized by the Village Board of Trustees of the Village of Lima, in accordance with Section 7-712 (11) of the Village Law.

- (3) Establishment and Appointment of Alternate Members.

The Village Board may choose, in its exclusive discretion, to establish one or more Alternate Zoning Board of Appeals member positions. The Village Board shall not be required to establish such position or position(s), and in no event shall it establish or appoint more than three (3) Alternate Member positions. Appointment of specific parties to the position of Alternate Member shall be accomplished by Resolution of the Village Board at any regular or special meeting thereof.

- (4) Term.

The term of office of each Alternate Member of the Zoning Board of Appeals shall be limited to a maximum of three (3) years, provided that such member is appointed by action of the Village Board at its annual meeting. If an Alternate Member is appointed during the year at any time following the date of the annual meeting of the Village Board, the term of such appointment shall expire at the end of the second full year following said appointment, for a term that shall be less than a full three (3) year term.

- (5) Abolition of position of Alternate Zoning Board of Appeals Member.

In the event that the Village Board chooses to appoint one or more such Alternate member position(s), the position(s) cannot be abolished or terminated by the Village Board unless and until it becomes vacant.

- (6) Function of Alternate Zoning Board of Appeals Member Positions.

Upon the creation of one (1) or more Alternate Member positions,

the Chairperson of the Zoning Board of Appeals shall be authorized to substitute the services of an Alternate Member in lieu of a regularly appointed member of the Zoning Board of Appeals as established and constituted pursuant to Section 185-68 of the Lima Village Code, in the following instances and situations:

- (a) In the event that a regular member of the Zoning Board of Appeals is unable to participate in consideration of any matter before the Zoning Board of Appeals because of a conflict of interest, up to three (3) Alternate Members (but in no event more than the number of Alternate Members necessary to constitute a total Board participation constituting a majority plus one of the convened Board), if such number of alternate member positions have been established by the Village Board and appointments to said position(s) have been made by the Village Board, may be authorized to substitute for regular Board members as Alternate Members to consider said matter which is the subject of the conflict of interest.
- (b) When an Alternate Zoning Board of Appeals member has been selected or empaneled to substitute for a regular Zoning Board of Appeals member to consider a specific topic or matter before the Board, that Alternate Member shall continue to consider and to act as a substituted Alternate Member if such matter is adjourned and is to be reconvened or addressed by the Zoning Board of Appeals at a later time or date. Notwithstanding the foregoing, the Alternate Member shall not be authorized to participate in any new or different business or agenda items not specifically considered by said Alternate Member at or during the initial meeting at which the Alternate Member performed substitute service unless the regular Zoning Board of Appeals member for whom the Alternate Member substituted is absent at the later or reconvened meeting.
- (c) In the event that a regular Zoning Board of Appeals member is unable to be present to participate in a scheduled and noticed meeting of the Board due to illness or other excused, anticipated absence such as a vacation, one (1) Alternate Member may be substituted to attend such meeting to consider, act and deliberate in the place and stead of the absent member in all matters that come before the Board. The Alternate Member shall in such instance participate for and on behalf of the absent member for and during that meeting, in contrast to an Alternate Member substituting for a regular member due to a conflict of interest.

(d) The Chairperson of the Zoning Board of Appeals is authorized to select the Alternate Zoning Board of Appeals member to serve as a substitute from among those persons appointed by the Village Board as an Alternate Member.

(7) Scope of Authority.

Any Alternate Member of the Zoning Board of Appeals selected and empaneled as a substitute for a regularly-appointed Zoning Board of Appeals member shall possess all the powers and responsibilities of such member of the Board, except as specifically limited by this Section of the Lima Village Code. Designation of the Alternate Zoning Board of Appeals member as an acting Zoning Board of Appeals member for a specific meeting shall be so noted and entered in the Minutes of each Zoning Board of Appeals meeting at which such substitution is made.

(8) General Application of Law and State Laws, Code and Regulations.

All provisions of Section 7-7 12 of the Village Law and Section 185-68 of the Lima Village Code, together with any other laws, statutes or regulations now or hereafter applicable to the training, continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to Alternate members of the Zoning Board of Appeals.

This law shall be effective immediately upon filing thereof with the Secretary of State.

**§ 185-97. PLANNING BOARD**

**A. Creation and Membership**

1. There is hereby established a Planning Board having the powers authorized under the Consolidated Laws of the State of New York. Said Board shall consist of five (5) members, appointed by the Village Board. An appointment to a vacancy occurring prior to expiration of term shall be for the remainder of the unexpired term.
2. In making such appointments, the Village Board may require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Village Board may reimburse the members for appropriate expenses incurred in obtaining training.
3. The Village Board shall have the power to remove, after public hearing, any member of the Planning Board for cause, including non-compliance with minimum requirements relating to meeting attendance and training as established by the Village Board by Local Law.
4. The Village Board shall select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.

**B. Powers and Duties of the Planning Board**

The Planning Board shall have the following powers and duties:

1. To review and recommend revisions to the comprehensive plan for the development of the Village as provided under Section 272-a of Village Law and/or Village Board Resolution.
2. To review and comment on all proposed zoning amendments and special use permit applications and to make investigations, maps, reports and recommendations relating to the planning and development of the Village as it deems desirable. This shall include but not be limited to changes in boundaries of districts, recommended changes in the provisions of this local law, other land use and development matters of importance to the Planning Board, and to act on any matter lawfully referred to it by the Village Board.
3. To review Site Plans as authorized by New York State Village Law and prescribed in Article X of these regulations.
4. To review proposals to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Village Board.
5. To review, act on or provide advisory reports as specified by this local law.
6. To make referrals to other Village Departments, Boards and/or officials to request advisory opinions to assist the Planning Board in making decisions which affect the development of the Village.

7. All such powers and duties as are conferred upon Village Planning Boards and subject to the limitations set forth in Sections 272, 272-a, 274, 274-a, 275, 276, 277, 278, and 281 of the New York State Village Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Planning Boards.

#### C. Planning Board Office

The Office of the Code Enforcement Officer shall be the Office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by the Village Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.

#### D. Alternate Member [Added 2-14-2006 by L.L. No. 3-2006]

##### (1) Purpose

The Village Board of Trustees of the Village of Lima hereby affirmatively opts to exercise the authority delegated to it by Village Law Section 7-718 (16) and the Municipal Home Rule Law to establish the position(s) of Alternate Member of the Village Planning Board. It is the intention and purpose of this local law to establish such position(s) and to provide specific limitations and regulations related thereto.

##### (2) Creation of the Position of Alternate Member of the Village of Lima Planning Board.

The position of Alternate Member of the Planning Board is hereby created and authorized by the Village Board of Trustees of the Village of Lima, in accordance with Section 7-718 (16) of the Village Law.

##### (3) Establishment and Appointment of Alternate Members.

The Village Board may choose, in its exclusive discretion, to establish one or more Alternate Planning Board member positions. The Village Board shall not be required to establish such position or position(s), and in no event shall it establish or appoint more than three (3) Alternate Member positions. Appointment of specific parties to the position of Alternate Member shall be accomplished by Resolution of the Village Board at any regular or special meeting thereof.

##### (4) Term.

The term of office of each Alternate Member of the Planning Board shall be limited to a maximum of three (3) years, provided that such

member is appointed by action of the Village Board at its annual meeting. If an Alternate Member is appointed during the year at any time following the date of the annual meeting of the Village Board, the term of such appointment shall expire at the end of the second full year following said appointment, for a term that shall be less than a full three (3) year term.

(5) Abolition of position of Alternate Planning Board Member.

In the event that the Village Board chooses to appoint one or more such Alternate member position(s), the position(s) cannot be abolished or terminated by the Village Board unless and until it becomes vacant.

(6) Function of Alternate Planning Board Member Positions.

Upon the creation of one (1) or more Alternate Member positions, the Chairperson of the Planning Board shall be authorized to substitute the services of an Alternate Member in lieu of a regularly appointed member of the Planning Board as established and constituted pursuant to Section 31-1 of the Lima Village Code, in the following instances and situations:

- (a) In the event that a regular member of the Planning Board is unable to participate in consideration of any matter before the Planning Board because of a conflict of interest, up to three (3) Alternate Members (but in no event more than the number of Alternate Members necessary to constitute a total Board participation constituting a majority plus one of the convened Board), if such number of alternate member positions have been established by the Village Board and appointments to said position(s) have been made by the Village Board, may be authorized to substitute for regular Board members as Alternate Members to consider said matter which is the subject of the conflict of interest.
- (b) When an Alternate Planning Board member has been selected or empaneled to substitute for a regular Planning Board member to consider a specific topic or matter before the Board, that Alternate Member shall continue to consider and to act as a substituted Alternate Member if such matter is adjourned and is to be reconvened or addressed by the Planning Board at a later time or date. Notwithstanding the foregoing, the Alternate Member shall not be authorized to participate in any new or different business or agenda items not specifically considered by said Alternate Member at or during the initial meeting at which the Alternate Member performed substitute service unless the regular Planning Board member for whom the Alternate Member substituted is absent at the later or reconvened meeting.

- (c) In the event that a regular Planning Board member is unable to be present to participate in a scheduled and noticed meeting of the Board due to illness or other excused, anticipated absence such as a vacation, one (1) Alternate Member may be substituted to attend such meeting to consider, act and deliberate in the place and stead of the absent member in all matters that come before the Board. The Alternate Member shall in such instance participate for and on behalf of the absent member for and during that meeting, in contrast to an Alternate Member substituting for a regular member due to a conflict of interest.
- (d) The Chairperson of the Planning Board is authorized to select the Alternate Planning Board member to serve as a substitute from among those persons appointed by the Village Board as an Alternate Member.

(7) Scope of Authority.

Any Alternate Member of the Planning Board selected and empaneled as a substitute for a regularly-appointed Planning Board member shall possess all the powers and responsibilities of such member of the Board, except as specifically limited by this Section of the Lima Village Code. Designation of the Alternate Planning Board member as an acting Planning Board member for a specific meeting shall be so noted and entered in the Minutes of each Planning Board meeting at which such substitution is made.

(8) General Application of Law and State Laws, Code and Regulations.

All provisions of Section 7-718 of the Village Law and Section 31-1 of the Lima Village Code, together with any other laws, statutes or regulations now or hereafter applicable to the training, continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to Alternate members of the Planning Board.

This law shall be effective immediately upon filing thereof with the Secretary of State.

**§ 185-98. Order to abate violation. [Amended 5-27-1986 by L.L. No. 3-1986]**

Upon determination by the Enforcement Officer that there has been a violation of any provision of this chapter, he shall serve upon the holder of any permit issued under this chapter or, if no such permit has been issued, then upon the owner and/or the person occupying the land where the violation shall have occurred, an initial order, in writing, and in the same manner as prescribed for the service of a summons pursuant to the Civil Practice Law and Rules, directing that the conditions specified therein be corrected within 10 days after the delivery of such order.

**§ 185-99. Penalties for offenses. [Amended 5-27-1986 by L.L. No. 3-1986]**

- A. The person, firm, company or corporation who shall omit, neglect or refuse to do any act required by this chapter, or who shall omit, neglect or refuse to do any act or condition imposed by the Village Board, Zoning Board of Appeals or the Planning Board or who shall build any structure contrary to the plans or specifications submitted to the Enforcement Officer and certified by him as complying with this chapter shall be guilty as follows:
- (1) For a first offense of a violation, punishable by a fine of not more than \$250 or by imprisonment not to exceed 15 days, or by both fine and imprisonment; and
  - (2) For a second offense and any subsequent offense occurring within one year after the conviction of a first offense of a Class A Misdemeanor, punishable by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or by both fine and imprisonment; and
  - (3) In addition to the foregoing, by a penalty of \$500 for each offense to be recovered by the Village of Lima in civil action.
- B. Each and every week that a violation of any of the provisions of this chapter continues after written notice shall have been served upon the person in violation of this chapter pursuant to the Civil Practice Law and Rules shall constitute a separate violation. In addition to the remedies set forth, the Village Board may institute an appropriate action or proceeding to abate any violation of the provisions of this chapter or to compel compliance therewith.
- C. Any person, firm, company or corporation who shall fail to acquire any permit or license herein required within 30 days of the time that said

permit or license should have been acquired under this chapter shall pay to the Village Clerk before the issuance of any said permit or license, a sum equal to three times the fee set for the issuance thereof.

**§ 185-100. Amendments; referral to Livingston County Planning Board.**

The regulations, restrictions and boundaries established by this chapter may from time to time be amended, supplemented, changed or modified or repealed by ordinance in accordance with the procedures provided by § 7-706 and 7-708 of the Village Law. However, all amendments to this chapter which would change the district classification or the regulations applying to real property lying within a distance of 500 feet from the boundary of the Village of Lima or the boundary of any existing or proposed county or state park or other recreational area or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the right-of-way of any existing or proposed stream or drainage channel owned by the county for which the county has established channel lines or from the boundary of any existing or proposed county or state owned land on which a public building or institution is situated shall be referred to the Livingston County Planning Board as required by § 239-rn of the General Municipal Law. The term "proposed" shall be deemed to include only those recreational areas, parkways, thruways, expressways, roads or highways which are shown on a plan of Livingston County adopted pursuant to § 239-d, Subdivision (2), of the General Municipal Law or adopted as an Official Map of Livingston County pursuant to § 239-g of the General Municipal Law. If the Livingston County Planning Board fails to report within 30 days after receipt of a full statement of such referred matter, the Village Board of Lima may act without such report. If the Livingston County Planning Board disapproves of the proposed amendment, supplement, change or modification or recommends modification of the proposal of the Village of Lima, the Village Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action and shall, within seven days after final action, file a report of the final action it has taken with the Livingston County Planning Board.

**§ 185-101. Assessment of charges. [Added 5-27- No.3-1986].**

- A. In order to secure compliance with this chapter and to protect and preserve the public health, safety and welfare, the Village Board shall have the power to perform work, labor and services as required of persons under this chapter and to add the cost thereof to the village tax bill applicable to the property where such is performed, pursuant and subject to the terms and conditions of this section.

- B. Upon inspection by the Enforcement Officer and subsequent to the service of an order to abate violation as set forth in § 185-98 of this chapter, the Enforcement Officer may report to the Village Board, in writing, his findings and recommendations regarding any act or acts required of any person, firm, company or corporation who shall have omitted, neglected or refused to do any such act required of him pursuant to this chapter.
  
- C. The Village Board shall thereafter consider such report and may be resolution determine, if in its opinion such report warrants in the interest of public health, safety or welfare, that such act or acts be performed and may order that such be performed. Such resolution and order shall contain the following:
  - (1) A description of the subject premises and/or structure;
  - (2) A statement of the particular act or acts required of acts required of the person, firm, company or corporation or their agent or person in control thereof and
  - (3) A statement that such act or acts shall commence within 10 days after service of the order and be completed within a reasonable time thereafter as the Village Board may specify, which may (for good cause shown) be extended by the Village Board.

#### **ARTICLE XVI: Application for a Permit**

##### **§ 185-102. Procedure of building permit and site plan review.**

- A. Upon making an application for a one- or two-family dwelling to the Code Enforcement Officer:
  - (1) If all the requirements are met, a permit shall be granted.
  - (2) If all the requirements are not met, a permit shall be denied. A review by the Board of Appeals for a variance of this chapter can result in:
    - (a) An affirmative vote by the Board, authorizing the Code Enforcement Officer to grant a permit.
    - (b) A negative vote by the Board, denying a permit.
  
- B. Upon making an application for other than a one- or two-family

dwelling to the Code Enforcement Officer:

- (1) If all requirements are met, the application goes to the Planning Board for site plan review.
- (2) The applicant presents a sketch plan to the Planning Board for review where suggestions, codes and laws to be followed are learned.
- (3) The applicant presents a preliminary plot plan to the Planning Board. The plot should be as complete as possible so the Board can make suggestions and ensure that applicable codes and regulations are met.
- (4) The applicant presents final plot plan to the Board upon which the Board will base its decision to approve or disapprove the site plan. If denied, applicant can reapply to the Planning Board with changes necessary to make plan conform. Board can then, after deliberation, approve or disapprove the site plan.

**§ 185-104. Fees and Reimbursable Costs (Amended 8-4-1994)**

- A. An application for site plan review shall be accompanied by a fee as shall be specified in the separate rate and fee schedule, as shall be adopted and amended by the Village Board from time to time.
- B. Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, which said sums shall be reasonable sums necessary to defray expenses otherwise charged to the Village of Lima Planning Board to carry out its review functions. Insofar as may be reasonable and feasible, the Planning Board or Code Enforcement Officer shall monitor and project cost estimates upon the request of the applicant. Notwithstanding the foregoing, neither the Planning Board nor the Code Enforcement Officer can be held responsible for additional costs or expenses or charges greater than those projected by said party as long as such costs and charges can reasonably be demonstrated to be necessary in conjunction with the site review function.

**§ 185-105. Letter of Credit or Other Security**

When, in the judgment of the Village, certain facilities must be built or construction practices undertaken, the Village may, at its discretion, require a

performance bond, letter of credit or other acceptable security as a condition precedent to site plan approval and subsequent granting of a building permit.

**§ 185-106. Sign requirements for applications requiring public hearings. [Added 11-1-2006 by L.L. No. 6-2006]**

A. Purpose

The purpose of this local law is to establish requirements for posting of informational signs on properties which are subject to any application made to the Village of Lima seeking a variance, change in zoning classification, subdivision of land and/or a special or conditional use permit, so as to provide the general public with information on the nature of the relief requested, and the time, date and place of any public hearing.

B. Statement of Public Policy.

No Board or political subdivision of the Village of Lima shall undertake to approve, consent to, issue a permit for, or file any subdivision map as a result of any application seeking a variance, change in zoning classification, subdivision of land and/or a special or conditional use permit, without first diligently providing public notice of all public hearings and proceedings. It is understood that in addition to all requirements for public notice set forth in the New York State Village Law as amended, from time to time, the Village Board of Trustees for the Village of Lima deems it appropriate and diligent to mandate that certain signage be conspicuously placed on any property that is subject to an application seeking any relief in the form of a variance, change in zoning classification, subdivision of land and/or a special or conditional use permit. This requirement is intended to safeguard and preserve the rights of neighboring citizens to participate in the process of providing critical public input for consideration by the board or political subdivision of the Village of Lima.

C. Applicability.

This local law shall apply to any application submitted to the Lima Village Board, the Village of Lima Planning Board or the Village of Lima Zoning Board of Appeals, seeking relief, approval or consent in the form of a variance, change in zoning classification, subdivision of land anchor a special or conditional use permit. This local law shall also apply to any self-initiated action of the Village Board to seek a change of zoning classification of any individual parcel of land.

D. Size, Content and Placement of Sign(s).

- (1) An applicant seeking relief, approval or consent in the form of a variance, change in zoning classification, subdivision of land and/or a special or conditional use permit shall cause to be placed upon the subject property or properties, a sign of no less than four (4) square feet in size, said sign to indicate that the property is subject to an application seeking relief, approval or consent in the form of a variance, change in zoning classification, subdivision of land and/or a special or conditional use permit (as is applicable to that particular application), that the application and any related file concerning the application are available for public review at the Village Offices, and the date, time and place of any public hearing scheduled for the purpose of addressing said application. Such sign(s) shall be posted at least ten (10) days prior to the date of the scheduled public hearing or at which the application is to be addressed, and the applicant shall be responsible to take reasonable steps to keep the sign(s) posted until the scheduled public hearing has taken place.
- (2) Said sign shall be conspicuously placed on the property which is the subject of the application, such that it can be readily observed from the public right-of-way adjoining or nearest the property. In the event that the subject property is located adjacent to a private driveway or roadway, not readily accessible to the public, said signage shall be placed at the juncture of said private driveway or roadway and the public right-of-way, so as to be visible without impeding sight distance. Said sign shall be posted within fifteen (15) feet of the property line of the property which is the subject of the application, or in the case of a parcel not readily accessible to the public as close as may be reasonably practical to the access right-of-way used to access that property. One sign shall be posted along any public road frontage of a parcel, such that if the property fronts on more than one public road one sign shall be posted on each road frontage.
- (3) In the event that one application is intended to impact more than one parcel of real property (i.e., a change of zoning classification or large subdivision), the code enforcement Officer for the Village of Lima may, at that party's sole discretion, require more than one sign be posted to effectuate the intended notice provisions of this local law.
- (4) Notwithstanding any code provision or local law that may or shall express a contrary indication, the size and posting of the signage required hereunder shall be exempt from any local law or regulation designed to regulate private signage.

E. Fees to be paid by Applicant.

All signage required by this local law shall be provided by the Village of Lima. All applicants required to post the signage required by this section shall pay a fee to the Village of Lima as may periodically be prescribed by fee schedule adopted by the Village Board. Failure of an applicant to return any signage shall result in an additional fee charged to the applicant for the full replacement value of said sign.

**SECTION 3. SUPERCESSION**

This local law shall supercede and annul Section 185 of the Village Code as it is presently enacted, replacing said former Section 185 with the provisions and regulations of this local law.

**SECTION 4. SEVERABILITY.**

Should any section or provision of this local law contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the local law as a whole or any part thereof other than the part so explicitly declared to be invalid.

**SECTION 5. EFFECTIVE DATE.**

This local law shall be effective immediately upon filing thereof with the Secretary of State, or shall earlier be effective after adoption upon presentation to an applicant for a land use decision requiring a public hearing.

# Proposed Zoning Changes Village of Lima

**DRAFT: September 2009**

## Village Zoning - As Proposed

-  S Residential
-  R Residential
-  M-R Residential
-  DB Downtown Business
-  GB General Business
-  M Industrial
-  L-C Land Conservation

## Proposed Overlay Districts

-  Historic Preservation Overlay
-  Stream Corridor EPOD



0 500 1,000 2,000  
 Feet

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 20 09 of the ~~(County)~~(City)(~~Town~~)(Village) of Lima was duly passed by the Board of Trustees on October 27 20 09, in accordance with the applicable ~~(Name of Legislative Body)~~ provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted ~~(Elective Chief Executive Officer\*)~~ on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ ~~(Elective Chief Executive Officer\*)~~

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

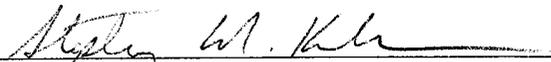
Date: \_\_\_\_\_

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF LIVINGSTON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature Stephen M. Kruk  
Village Attorney

Title

County \_\_\_\_\_  
City of Lima  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: 10/27/09