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VILLAGE OF WELLSBURG, NEW YORK

~~XXXXXX~~ ZONING and BUILDING ORDINANCE -

FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY, ~~MORALS,~~ <sup>AND</sup> ~~OR~~ THE GENERAL WELFARE OF THE COMMUNITY, AND TO LESSEN CONGESTION IN THE STREETS, TO SECURE SAFETY FROM FIRE, PANIC AND OTHER DANGERS, TO PROVIDE ADEQUATE LIGHT AND AIR, TO PREVENT OVER-CROWDING OF LAND, TO AVOID UNDUE CONCENTRATION OF POPULATION, TO FACILITATE THE ADEQUATE PROVISION OF TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, PARKS AND OTHER PUBLIC REQUIREMENTS, UNDER THE PURSUANT TO ARTICLE VI-A OF THE VILLAGE LAW OF THE STATE OF NEW YORK, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZE OF YARDS, THE DENSITY OF POPULATION, AND THE USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSE, ARE HEREBY RESTRICTED AND REGULATED AS HEREINAFTER PROVIDED.

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ARTICLE I

Section 1. Definition: For the purpose of this ordinance certain words and terms shall have the following meaning unless the context otherwise requires.

1. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "building" includes the word "structure"; the word "occupied" includes the words "designed or intended to be occupied"; the word "used" includes the words "arranged, designed or intended to be used".

2. A "lot" is a parcel of land occupied by one building and the accessory buildings for uses customarily incident to it, including such open spaces as are used in connections with such building.

3. A "lot line" is a boundary line of a lot.

4. A "family" is any number of persons maintaining a common household, except that no more than two (2) such persons may be roomers. A roomer is a person living within the household who pays a consideration for such residence.

5. A "dwelling" is a building used wholly for habitation by one or more families.

6. A "single family dwelling" is a detached dwelling having accommodations for only one family.

7. A "rooming house" is a building other than a hotel where more than two (2) persons are lodged for hire or where rooms for more than two (2) persons are offered for hire.

8. A "tourist house" is the same as a rooming house.

9. A "hospital" is an establishment for temporary occupation by the sick or injured for the purpose of medical treatment and does not include an establishment for permanent occupation by the poor, infirm, incurable or insane.

10. A "nursing or convalescent home" is a building other than a hospital where persons, except insane, feeble-minded, drug or liquor patients, are lodged, furnished with meals and nursing care for hire.

11. A "yard" is the space on a lot not occupied by a building.

12. A "front yard" is a yard between the front lot line and the front line of a building extended to the side lines of the lot.

13. A "rear yard" is a yard between the rear lot line and the rear line of the principal building extended to the side lines of the lot.

14. A "side yard" is a yard between the principal building and a side lot line and extending from the front yard to the rear yard.

15. The "height" of a building is the vertical distance measured from the average elevation of the proposed grade line of the ground about the building to the mean height between eaves and ridge for pitched roofs, and to the highest part of the roof for flat roofs.

16. A "story" is that portion of a building included between the surface of any floor and the surface of the floor or roof next above; the first story of a wall is the lowest story which is seventy-five (75) per cent or more above the average level of the ground about the building.

17. An "accessory building" is a building subordinate and clearly incidental to the principal building on the same lot and used for purpose customarily incidental to those of the principal building.

18. A "non-conforming use" is a use of land existing at the time of enactment of this ordinance which does not conform to the zoning regulations of the district in which it is situated.

19. A "farm" is any parcel of land containing three or more acres which is operated for gain, in the raising of agricultural products, including livestock, poultry, and dairy products, and including the retail sale of farm products produced on the premises.

20. "Junk yard" is an area of land or a structure used for the storage, dismantling, demolishing and abandonment of junk or scrap materials including used lumber, machinery, automotive vehicles not in running condition or parts thereof and other salvage material, whether for sale or not for sale.

## ARTICLE II

## ESTABLISHMENT OF DISTRICTS

Section 2. Districts. For the purpose of this ordinance the Village of Wellsburg is hereby divided into three (3) types of districts as follows:

Residence Districts

Business Districts

Manufacturing Districts

Agricultural Districts

Said districts are set forth on the map accompanying this amendment, entitled Amended Building Zone Map, dated November 13, 1967, and signed by the Village Clerk. Said map and all explanatory matter thereon is hereby made a part of this ordinance.

Section 3. District Boundaries. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zone Map, the following rules shall apply:

1. The district boundaries are lot lines unless otherwise shown, and where the designation on the Zone Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.

2. Distances shown on the Zone Map are perpendicular or radial distances from street lines measured to the zone boundary line, which lines in all cases where distances are given are parallel to the street line.

3. In other cases the boundary line shall be determined by use of the scale of the Zone Map.

ARTICLE III  
RESIDENCE DISTRICTS

Section 4. Use Regulations. In any Residence District no building shall be erected, altered, or extended and no land or building or part thereof shall be used for other than any of the following purposes:

1. Dwelling.
2. Church or other place of worship; convent, parish house, Sunday School Building, provided that no bowling alleys shall be included in any such building unless fifty (50) feet from lot line.
3. Public library or public museum; public school, private school, college, parochial school, nursery school, school operated by a non-stock corporation under the education laws of the State, any institution of higher learning including dormitory accommodations.
4. Public park not conducted for profit, public playground. Field houses or other accessory buildings, including necessary and desirable concessions, are permitted, provided that no such building shall be nearer than one hundred (100) feet to any lot line.
5. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
6. Golf course except a miniature golf course operated on a commercial basis, provided that no building shall be nearer than one hundred (100) feet to any lot line.

5. A certificate of occupancy must be obtained from the Building Inspector or Village Board for any of the uses described in this Section under Subdivisions 1 and 2. ✓

6. No cellar or other underground structure shall be used for living quarters, or human habitation, without prior special approval of the Village Board, and once obtained shall not be continued for more than one year.

Section 6. Accessory Buildings: Accessory buildings may not occupy any required open space other than a rear yard except as noted below, and any such accessory building shall be not less than five (5) feet from any side or rear lot line, except that a private garage may be built across a common lot line with a party wall by mutual agreement between adjoining property owners. Accessory buildings shall in no case exceed twenty (20) feet in height. Where the natural slope of the ground exceeds a twenty (20) percent rise directly from the street line, a private garage, not over one story in height, may be located in the front yard not less than five (5) feet from said street line. On a corner lot no accessory building may be nearer the side street line than the required front yard depth on the side street.

The area occupied by a garage attached to a dwelling directly or by means of a covered passageway shall not be included in the computation for building coverage.

7. Hospital or sanitarium for the treatment of human beings, other than the insane, feeble-minded, epileptic, drug or liquor patients, provided that no building so used shall be within one hundred (100) feet of any street or within one hundred and fifty (150) feet of the lot line of any adjoining owner. Nursing or convalescent homes are prohibited. ✓

8. Cemetery and the buildings and structures incident thereto but only on special approval of the Village Board.

9. Necessary structures in connection with public utilities, but only on special approval of the Village Board.

10. One bulletin board or sign not exceeding two (2) square feet in area referring to the use of the premises, provided that such sign is affixed to a wall of a principal building. One sign advertising the sale, hire or lease only of the land or building on which it is located, provided that such bulletin board or sign shall not exceed twelve (12) square feet in area, and further provided that it be no nearer the street line than one-half of the required front yard distance. No sign in a residential district shall be illuminated by neon or other colored light nor by flashing or intermittent light. ✓

11. Such accessory uses as are customarily incidental to the above uses, subject to the provisions of Section 5 and 6.

Section 5. Accessory Uses. Permitted accessory uses in Residence Districts shall include the following:

1. The office of a resident doctor, dentist, musician, engineer, teacher, lawyer, artist, architect or member of other recognized profession, where such office is a part of the residence building. One sign not exceeding two (2) square feet may be displayed.

2. Customary home occupation, such as dressmaking, hair-dressing, laundering, or homecooking, conducted by one person only, resident in the dwelling, provided that no goods or products are publicly displayed and no advertisement other than one sign not exceeding two (2) square feet is displayed and affixed to wall of principal building.

3. Garage space or parking space for not more than two (2) motor vehicles, provided that for each one thousand (1000) square feet that the area of the lot exceeds two thousand five hundred (2500) square feet, one additional motor vehicle may be garaged or parked, provided, not more than one (1) commercial vehicle <sup>in excess of 3/4-ton capacity</sup> shall be garaged on any lot in a Residence District and no commercial vehicles shall be parked ungaraged.

Notwithstanding the above, in the case of dwellings housing or designed to house more than two (2) families the provisions of Section 37 shall apply.

4. A temporary building for commerce or industry in a Residence District where such building is necessary or incidental to the development of a residential area. Such building may not be continued for more than one year except upon special approval of the Village Board.



Section 7. Height Regulations. In any Residence District no building shall be erected, altered or extended so as to exceed two and one-half (2½) stories or thirty (30) feet in heights except as provided by Section 25 and 26.

Section 8. Yard Regulations. In Residence Districts yards of at least the following depths are required, except as provided by Section 27 and 29:

Residence

Front Yard	--- fifteen (15) feet
Rear Yard	--- <del>thirty (30)</del> twenty-five (25) feet
Side Yard	--- six (6) feet each

Special yard requirements for specific uses as established by Section 4 are required.

#### ARTICLE IV

#### BUSINESS DISTRICTS

Section 9. Use Regulations. In Neighborhood Business Districts no building shall be erected, altered or extended and no land or building or part thereof, shall be used for other than one or more of the following uses:

1. Any use permitted by Section 4.
2. Retail store.
3. Business or professional office.
4. Restaurant or other place for the serving of food but only on special approval of the Village Board. In granting approval the Village Board shall determine that a need for such use exists for the convenience of the neighborhood and that the general welfare of the community will be served.

5. Bank or other monetary institution.

6. Gasoline sales station but only on special approval of the Village Board.

7. Place of business of the following and businesses of a similar and no more objectional nature, provided that any manufacture or processing of goods on the premises is clearly incidental to a retail business conducted on the premises.

- |              |  |
|--------------|--|
| Baker        | Optician                                     |
| Barber       | Photographer                                 |
| Caterer      | Printer                                      |
| Cleaner      | Shoeshiner, shoemaker or repairer            |
| Confectioner | Tailor                                       |
| Decorator    | Telegraph and telephone office               |
| Dressmaker   | Theaters and other places of public assembly |
| Dyer         | but not automotive race tracks or drive-     |
| Florist      | in theatres                                  |
| Furrier      | Undertaker                                   |
| Hairdresser  | Upholsterer                                  |
| Hand Laundry | Wholesale uses, but not junk yards           |
| Manicurist   |  |
| Milliner     |  |

Section 10. Outdoor storage. There shall be no outdoor storage for goods, supplies, rubbish or refuse in connection with any of the uses permitted by Section 9.

Section 11. Signs. In Business Districts there shall be permitted only one extended exterior sign on each street for each business conducted on the premises. In the event a business shall have fifty (50) feet or more frontage on a street, there shall be permitted two (2) such extended exterior signs. Such sign or signs shall not exceed twenty (20) square feet on each street frontage. No person shall erect, construct, maintain or use any artificially illuminated billboard or other advertising medium in the Village, except illuminated globes on top of gasoline pumps, within fifty (50) feet of any street part or other public place or on any vacant lot or on the exterior of any building, or in the interior of any building within six (6) feet of any window and visible from any street, unless the same is illuminated by constant light.

## ARTICLE V

## MANUFACTURING DISTRICTS

Section 12. Use Regulations. In Manufacturing Districts buildings and land may be used for any lawful purposes except that the following trades, industries or uses may be permitted only upon special approval of the Village Board:

Acid manufacture  
Alcohol manufacture  
Ammonia, Bleaching powder or chlorine manufacture  
Arsenal  
Asphalt manufacture or refining  
Automobile wrecking  
Bag cleaning  
Blast furnace  
Boiler works  
Bottled gas storage  
Brick, tile or terra cotta manufacture  
Candle manufacture  
Celluloid manufacture  
Cement, lime, gypsum, or plaster of paris manufacture  
Central mixing plant for cement, mortar, plaster or paving materials  
Coke oven  
Creosote treatment or manufacture  
Disinfectants manufacture  
Distillation of bones, coal or wood  
Dyestuff manufacture  
Explosives manufacture or storage  
Extermination and insect poison manufacture  
Emery cloth and sandpaper manufacture  
Fat rendering  
Fertilizer manufacture  
Garbage, offal or dead animal reduction or dumping  
Gas manufacture or storage  
Glue manufacture  
Iron, steel, brass or copper foundry or fabrication plant

(continued)

Lamp black manufacture  
 Salvage or Junk Yards, material salvage yards,  
 storage of scrap rags, paper, metal, automobile  
 parts or other material  
 Match manufacture  
 Oilcloth or linoleum manufacture  
 Paint, oil, shellac, turpentine or varnish manufacture  
 Paper and pulp manufacture  
 Petroleum products refining or reclaiming  
 Planing mill (except a small wood-working plant)  
 Potash works  
 Pyroxylin manufacture  
 Rolling mill  
 Rubber or gutta percha manufacture or treatment  
 Sauerkraut manufacture  
 Shoe polish manufacture  
 Smelting of metal ores  
 Soap manufacture  
 Soda and compound manufacture  
 Stock feeding pen  
 Stockyards or slaughter of animals  
 Stone crusher or quarry  
 Storage of gasoline, oil, or other inflammable liquids  
 except for purposes of immediate retail  
 Storage or bailing of rags, scrap paper, scrap metal  
 or junk including automobile parts or building  
 materials salvage yards  
 Stove polish manufacture  
 Tanning, curing or storage of raw hides or skins  
 Tar roofing or waterproofing manufacture  
 Vinegar manufacture  
 Wood pulling  
 Yeast production  
 Any trade, industry or use that is so noxious or  
 offensive by reason of emission of odor, dust,  
 smoke, fumes, noise or vibration as to be dangerous  
 to public health and safety.

Section 13. Height Regulations. In Manufacturing Districts no building shall be erected, altered or extended so as to exceed sixty (60) feet in height, except as provided in Section 25.

Section 14. Yard Regulations. In Manufacturing Districts no yards are required except as provided in Sections 28 and 30.

Section 15. Residence Prohibited. In Manufacturing Districts no building or land shall be used for dwelling purposes.

Section 16. Automobile Trailers. No automobile trailer designed to be used for human habitation, stored or parked in any Residence or Business District, shall be placed in use.

~~Section 17 (a) Pages 26, 27~~

## ARTICLE VII

### NONCONFORMING USES

Section 17. Continuation of Existing Uses. Except as provided in Sections 18, 19, 21, 22 and 33, any use of land, or a building or part thereof, existing at the time that this ordinance becomes effective and in conformity with the existing Zoning Ordinance, may be continued, although such building or use does not conform to the provisions hereof. This Section shall not apply to the provision of Section 42.

Section 18. Abandonment of Use. When a nonconforming use has been discontinued for a period of at least one year, it shall not thereafter be re-established, and the future use shall be in conformity with the provisions of this ordinance.

Section 19. Junk Yards and Billboards. Notwithstanding any other provisions of this ordinance, any automobile or other junk yard, or any billboard or other nonconforming sign or advertising device in existence in a Residence District at the time of the adoption of this ordinance shall be discontinued within two (2) years of such date.

Section 20. Alterations. No nonconforming building shall be altered or extended except as authorized by the Board of Appeals.

Section 21. Changes. A nonconforming use may be changed to another nonconforming use of the same or more restrictive classification, and when so changed to a more restrictive use, it shall not again be changed to a less restrictive use. The order in which the various districts are named in Section 2 shall be taken as the order of the classification of restrictiveness for the most restrictive to the least restrictive.

Section 22. Restoration. Nothing herein shall prevent the substantial restoration within six (6) months and continued use of a nonconforming building damaged less than seventy-five (75) percent of the equalized assessed valuation of such building immediately prior to such damage, by fire, flood, earthquake, act of God, or act of the public enemy.

## ARTICLE VIII

## GENERAL PROVISIONS

Section 23. Existing Lots. Other provisions of this ordinance notwithstanding, nothing shall prohibit the use of a lot of less than the required area for a single family dwelling in any district except a Manufacturing District, provided that all the other provisions of this ordinance are complied with, when such lot, at the time of the passage of this ordinance, was owned or leased by persons other than those owning or leasing any adjoining lot.

// Section 24. Building Floor Area. No dwelling in any district shall be erected or altered so as to provide for less than eight hundred (800) square feet of enclosed ground floor area. For the purposes of this ordinance, a house trailer, which is used for dwelling purposes, whether on wheels or otherwise supported, shall be considered a dwelling. Such trailers if used for dwelling purposes must be located, however, in trailer camps duly licensed by the Village Board, but the above minimum ground floor area shall not apply to a house trailer located in a trailer camp.

// Section 25. Height Regulations. The limitations of heights shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, and other necessary features usually carried above roofs, nor to towers or spires of churches or other buildings if such features are in no way used for living purposes.

Section 26. Greater Height Allowed with Wider Yards. In the event that all required yards exceed the required minimum, any building in a Residence or Business District may exceed the height limit for the district in which it is located by six (6) inches for each foot over such minimum requirement.

Section 27. Front Yard Exceptions. Other provisions of this ordinance notwithstanding, no building in any district need have a front yard greater in depth than the average depth of the front yards of the lots next thereto on either side, a vacant lot or lot with a front yard greater than the minimum required depth being counted as if it were the minimum front yard for the district in which it is located, but in no case shall the front yard in any Residence District be less than fifteen (15) feet in depth.

Section 28. Front Yard Transition. Where a Manufacturing District abuts a Residence District on a street line, there shall be provided for a distance of fifty (50) feet from the district boundary line into such Manufacturing District, a front yard equal in depth to one-half of the required front yard depth for such Residence District.

Section 29. Side Yard on Corner Lot. On a corner lot in a Residence District, the side yard on the street side shall be at least one-half the required front yard on the side street.



Section 30. Side and Rear Yard Transition. On every lot in a Business or Manufacturing District that abuts directly a Residence District, there shall be provided a yard of at least six (6) feet on such lot along the line or lines where it abuts such Residence District.

Section 31. Open Porches. In determining the percentage of building coverage of the size of yards for the purpose of this ordinance, porches, open at the sides but roofed shall be considered a part of the building.

Section 32. Fences and walls. For building coverage, the provisions of this ordinance shall not apply to fences, or walls not over six (6) feet high above the natural grade, except as limited by Section 33, nor to terraces, steps, unroofed porches, or other similar features not over three (3) feet high above the level of the floor of the ground story.

Section 33. Corner Visibility. In any Residence District no structure, fence or planting over three(3) feet in height shall be maintained on any corner lot within a triangular area formed by the lot lines along the streets/<sup>or alleys</sup> to the points on such lines, a distance of thirty (30) feet from their intersection, and a line connecting such points. Any fence or planting that does not conform to the requirements of this Section shall be made to conform within one year from the date that this ordinance becomes effective.

Section 34. Projections in Yards. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projections of sills, belt courses, pilasters, leaders, chimneys, cornices, eaves and ornamental features, provided that no such projection may extend more than two and one-half (2 1/2) feet into any required yard.

Bays, including their cornices and eaves, may extend not more than two (2) feet into any required yard provided that the sum of such projections on any wall shall not exceed one-third the length of such wall.

An open fire balcony or fire escape may extend not more than four (4) feet into any required yard.

Section 35. Reduction of Lot Area. Whenever a lot upon which stands a building is changed in size or shape so that the area and yard requirements of this ordinance are no longer complied with, such building shall not thereafter be used until it is altered, reconstructed or relocated so as to comply with those requirements. The provisions of the Section shall not apply when a portion of a lot is taken for a public purpose.

Section 36. More than One Building on a lot. When there is more than one principal building on a lot in any district, the space between such buildings must be at least equal to the sum of the side yards required by such buildings or the sum of the rear and the front yards, whichever is the smaller amount.

Section 37. Parking Facilities. Every building housing or designed to house more than two (2) families shall provide in connection with it and on the same lot garage space or off-street parking space for automobiles <sup>equal</sup> to the number of the dwelling units provided in such dwellings.

Every school or other educational institution shall provide in connection with it off-street parking space for at least two automobiles for each classroom.

Every hospital, sanitarium, or nursing or convalescent home shall provide in connection with it, off-street parking space for at least one automobile for each five (5) beds provided in the building.

Section 38. Location of Certain Activities. Other provisions of this ordinance notwithstanding, the following uses or activities shall not be permitted nearer to any Residence District than the following specified distances:

1. Garage or shop for the painting of automobiles or for the repairing of automobile bodies or fenders involving hammering or other work causing loud or unusual noise or fumes or odors - two hundred (200) feet.

2. Animal hospital, kennel, or place for the boarding of animals - one hundred (100 ) feet.

3. Theater, dance hall, commercial bowling alley, roller skating rink - two hundred (200) feet.

4. Any use listed in Section 12 - three hundred (300) feet.

Section 39. Extraction of Natural Products. In any District, the removal of sod, loam, sand, gravel, or quarried stone for sale, except when incidental to, or in connection with, the construction of a building, shall be permitted only on special approval of the Village Board.

Section 40. Access to Business of Manufacturing Use. No driveway or other means of access for vehicles, other than a public street, shall be maintained or used in any Residence District for the servicing of a business or manufacturing use located in a Neighborhood Business or Manufacturing District.

Section 41. Public Garages and Gasoline Sales Station.

1. No part of any public garage or premises used for conducting business, shall be used for residence or sleeping purposes except by a watchman.

2. No part of any building used as a public garage or gasoline service station and filling pump, lift or other service appliance shall be erected within twenty (20) feet of any Residence District.

3. No gasoline or oil pump, no oiling or greasing mechanism and no other service appliance installed in connection with any gasoline sales station or public garage shall be within ten (10) feet from any street door.

Section 42. Motor Vehicle Parking in Front Yard. No required front yard shall be used for the open-air parking or storage of motor vehicles. In the event a building in existence at the adoption of this ordinance

shall be situated on a lot, the side yard of which shall not have sufficient width for the establishment of a driveway, parking of motor vehicles shall be permitted in the front yard.

## ARTICLE IX

### ADMINISTRATION

Section 43. Enforcement. This ordinance shall be enforced by the Building Inspector who shall in no case, except under a written order of the Board of Appeals, grant any building permit or certificate of occupancy for any building or premises where the proposed construction, alteration or use thereof would be in violation of any provision of this ordinance.

Section 44. No building in any district shall be erected, constructed, altered, repaired, demolished, nor, shall there be a renewal of any building or structure without a building permit issued by the Building Inspector. ✓

The signature of the Building Inspector shall be recorded on all approved plans and permits. The Building Inspector may revoke a permit or approval granted under the provisions of this ordinance in case of a falsified statement, or misrepresentation of a material fact, in the application or on the plans. After the revocation of a permit, it shall be unlawful to proceed with any work and any builder, owner, or other person who does proceed with such work shall be guilty of a violation of this ordinance and subject to the penalties provided.

No such permit shall be issued, except on written order of the Board of Appeals, where the proposed construction, alteration, or use would be in violation of any provision of this ordinance. ✓

Every application for a building permit shall state the intended use of the building and shall be accompanied by a plot

plan drawn to scale and with all dimensions shown indicating the size and shape of the lot and buildings.

Unless there has been substantial progress in the work for which a building permit was issued, said building permit shall expire one year from the date of issue.

Section 45. Certificate of Occupancy. It shall be unlawful to use or permit the use of any building or land or part thereof hereafter erected, changed, altered or extended, in whole or in part, until a certificate of occupancy shall have been applied for and issued by the Building Inspector. The building must comply with New York State Building Construction Code Regulation. Any building so erected, changed, altered, or extended, in whole or in part, shall comply with the New York State Building Construction Code as adopted by the Village of Wellsburg.

Section 46. Fees for Building Permits.

Garage: Single car, \$5.00; Doubt car, \$7.50.

Residential homes: valued construction up  
to \$8,000.00 --- \$7.50  
construction costs  
over \$8,000.00 --- 10.00

Expansion and alterations of residential  
homes: \$ 5.00

Commercial: 1/2 of 1% of the cost of construction  
of commercial buildings with a minimum of \$10.00,  
and a maximum of \$50.00.

Manufacturing: 1/2 of 1%, Maximum \$100.00

All fees collected by the Building Inspector shall be turned in to the Village Treasurer at the end of each month.

The Village Board shall by resolution provide for the compensation and expenses of the Building Inspector and determine the disposition of the fees collected.

The collection of the fees authorized in this Section shall become non-operative at such time as the Village Board may adopt a Building Code with a schedule of fees for building permits and certificates of occupancy.

Section 47. Board of Appeals. There is hereby established a Board of Appeals which shall function in the manner prescribed by law.

The members of the Board of Appeals shall be residents of the Village of ~~Elmhurst Heights~~ <sup>Wellsburg</sup> and shall be appointed by the Village Board to serve for terms as prescribed by law. Vacancies occurring in said Board by expiration of term or otherwise shall be filled in the same manner.

The Board of Appeals shall choose its own chairman and vice-chairman, who shall preside in the absence of the chairman. In the absence of both the chairman and vice-chairman, the Board of Appeals shall choose one of its number as acting chairman. Such chairman, or the party acting in his stead during his absence, may administer oaths and compel the attendance of witnesses.

The Board of Appeals may appoint a secretary who shall take minutes of all its meetings and keep its records.

The Board of Appeals shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this ordinance and all its resolutions and orders shall be in accordance therewith.

The Board of Appeals shall, in accordance with the provisions hereinafter contained in this Section, hear and determine appeals from any refusal of a building permit or certificate of occupancy by the Building Inspector, or review any order or decision of said Building Inspector, where such order or decision is based upon the requirements of the ordinance.

Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this ordinance, the Board of Appeals shall have the power, in passing upon appeals, to vary or modify the application of any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed and public safety and welfare secured and substantial justice done. The Board of Appeals shall also hear and decide all matters referred to it or upon which it is required to pass by the terms of this ordinance. The appellant shall bear the cost of advertising as required in connection with hearings.

Section 48. Violations and Penalties. Any person, firm, corporation or other, violating any provision of the ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not exceeding fifty (50) dollars, or to imprisonment for not exceeding fifty (50) days, or to both such fine and imprisonment, for each and every violation and for each day and every day that such violation continues.



Section 49. Amendments. This ordinance may be amended as provided by law. Any proposed amendment having been denied by the Village Board shall not be re-submitted by the same proponent, or proponents, within the period of one year.

Section 50. Validity. The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

Section 51. Short Title. This ordinance shall be known as the Zoning Ordinance of the Village of Wellsburg, New York.

Section 52. When Effective. This ordinance shall be in force and effect immediately upon adoption and publication as provided by law.

Section 53. Swimming Pools. A building permit and a certificate of occupancy and use shall be required for the construction, alteration, installation, or maintenance of any swimming pool. A "swimming pool" shall be defined as any body of water or receptacle for water having a depth at any point greater than three feet (3'), used, or intended to be used, for swimming or bathing and constructed, installed, or maintained in or above the ground, outside any building. ✓

SAFEGUARDS. No person in possession of land within the Village, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool, shall fail to maintain on the lot or premises upon which such swimming pool is located and completely surrounding it, a fence or wall not less than 5 feet in height, with openings, holes or gaps therein no larger than 4 inches in width, or, if

larger than 4 inches in width, no larger than 4 inches in length except for doors or gates; provided, however, that if a picket fence is erected or maintained the horizontal dimension shall not exceed 4 inches; provided, further, that a dwelling house or accessory building may be used as a part of such enclosure; and provided, further, that existing hedges may be used as such enclosure or a part or parts thereof with the written approval of the Building Inspector. The Building Inspector, in his discretion, may approve such existing hedges, which substantially comply with the above requirements for fences or walls.

All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device designed to keep, and capable of keeping, such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped.

Fences shall be constructed of weather resistive materials and shall be assembled or fabricated with sufficient rigidity to prevent any substantial alteration or deformation of the lawful openings, holes or caps.

Fences or walls existing as of December 1, 1960, having a height of not less than 4 feet shall be exempt from the heights requirement of this Section.

EXTENSIONS OF TIME. Upon the application of the property owner, the Board of Trustees may grant extensions of time for compliance with this code, in individual cases, upon a showing of good cause. Such extensions of time shall not exceed 30 days at a time.