

## *REFERRAL PACKAGE - REFERENCE*

### *VARIANCE CRITERIA*

If you are told that you will need a variance, you will be required to appear before the Zoning Board of Appeals. The ZBA should be looked upon as a judicial body. You should also look at a variance as an exception to the rule. Variances by their nature are rarely given. To be given a variance you must prove to the board that your particular circumstances justify issuance of the variance. Past court cases and judicial determinations have produced a specific set of criteria that the ZBA must use to decide if your application is deserving of a variance. It is important that you be aware of these criteria and structures your argument and present evidence that addresses the criteria.

Applications must be reviewed by the Code Enforcement Officer 14 days before the scheduled meeting.

#### *Area Variance Criteria*

Balancing Test: The Board must balance the benefit to the applicant with detriment to the health, safety & welfare of the community. In addition the Board should consider:

- 1) Whether benefit can be achieved by other means feasible to applicant.
- 2) Undesirable change in neighborhood character or to nearby properties.
- 3) Whether the request is substantial.
- 4) Whether the request will have adverse physical or environmental effects.
- 5) Whether alleged difficulty is self-created.

#### *Use Variance Criteria*

Applicant must demonstrate (In writing) to the board *unnecessary hardship*. To do this applicant must prove *all of the following in each and every case*.

- 1) Applicant cannot realize a reasonable return from any allowed use (one that does not require a variance) as demonstrated by competent financial evidence.
- 2) The alleged hardship is unique and does not apply to substantial portion of district or neighborhood.
- 3) Requested variance will not alter essential character of the neighborhood.
- 4) Alleged hardship has not been self-created.

*In either case, if a variance is approved the board would grant the minimum variance necessary and may impose reasonable conditions*

**Application to the Zoning Board of Appeals for a Variance**

I/We, \_\_\_\_\_ do hereby request a variance from the Village of Cleveland Zoning Board of Appeals to receive a building permit as described below for the property described as:

Property Owner Name(s): \_\_\_\_\_

Property Location - Address: \_\_\_\_\_

Tax Map No. (if needed) \_\_\_\_\_

Description of variance requested. Please cite applicable section(s) of Village Land Use Law if possible and enclose a descriptive drawing or survey of the property with the appropriate dimensions and lot line stand offs marked accordingly:

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<b>To be completed by Zoning Board of Appeals</b>
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Zoning Board of Appeals convened on: \_\_\_\_\_ Present: \_\_\_\_\_

_____	_____
_____	_____
_____	_____

Letters to contiguous neighbors sent out on: \_\_\_\_\_

Variance was (circle one) Accepted Rejected On: \_\_\_\_\_

Signature of Zoning Board of Appeals Chairperson: \_\_\_\_\_

**NOTICES:**

Sewer and water connections will not be made until all applicable fees have been paid in full.

Village specifications for connection to village water or sewer systems must be employed. Installations not using specified materials will not pass inspection.

Certificates of Occupancy will not be issued in Cleveland until water and sewer services are connected and inspected.

## Local Law Filing

(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 Cleveland

Town

Village

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**

MAR 23 2009

Local Law No. 1 of the year 2009

MISCELLANEOUS  
& STATE RECORDS

A local law Village of Cleveland Land Development Law  
(Insert Title)

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

City

County

of Cleveland

Town

Village

as follows:

### ARTICLE I – TITLE AND APPLICATION:

- 1.1 Enacting Clause: The Village Board of Trustees for the Village of Cleveland, Oswego County and the State of New York, does hereby enact the Village of Cleveland Land Development Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 7-700 of the Village Law.
- 1.2 Official Title: The official title of this law is Village of Cleveland Land Development Law. As used in this document, it will be referred to as the "local law".
- 1.3 Application: This local law shall apply to all property within the Village of Cleveland.
- 1.4 Repealer: This local law repeals and supercedes Local Law number 1 of the year 1975, entitled "A local law for the regulation of trailers, house trailers, mobile homes and trailer parks"; Local Law number 1 of the year 1980, entitled "Village of Cleveland Land Development Regulations"; and Local Law number 1 of 1985, entitled the "Amended Village of Cleveland Land Development Regulations"; and Local Law No. 1 of 1997, Village of Cleveland Land Development Law.
- 1.5 Pre-Existing Use of Property which Would Comply with This Local Law: The use of property in existence on the effective date of this local law which is in compliance with all previous applicable laws and which would also comply with the terms of this local law may continue. Any changes or modifications to such use must also conform to this local law.

- 1.6 Pre-Existing Use of Property which Would Not Comply with This Local Law: The use of property in existence on the effective date of this local law which otherwise complies with all applicable laws, but which would not be permitted as a matter of the right by the terms of this local law, shall be considered nonconforming and subject to the provisions applicable to nonconforming lots set forth in Article 8 of this local law.
- 1.7 Pre-Existing Development of Property: The development of property which started prior to the effective date of this local law and which complied with all applicable laws and permits may be completed provided that such completion takes place within any time periods otherwise applicable to such development, and if no time periods are specified, no later than one (1) year from the effective date of this local law.

## ARTICLE 2 - PURPOSE:

The purpose of this local law is to:

1. Provide for the controlled growth of the residential, commercial, and industrial uses of land consistent with the economic and social needs of the community without interfering with existing land use.
2. Protect the unique character of the Village's natural resources.
3. Promote the health, safety and general welfare of the community consistent with the objectives of Article 7 of the Village Law.
4. Be aware of and consistent with the goals and policies common to adjacent communities.
5. Be consistent with the requirements of State law including the New York State Uniform Fire Protection and Building Code.

## ARTICLE 3 - DEFINITIONS:

Accessory Structure – A detached building which is of secondary importance to the principal building of the parcel, and which is not used for human occupancy.

Accessory Use – A use customarily incidental and subordinate to the principal use, and which is located on the same parcel with such principal use.

Agriculture – The raising of crops, animals or animal products, limited forestry, the selling of products grown on premises and any other commonly accepted agricultural operations. Incidental mechanical processing and sale of products grown on the premises are included in the definition.

Board of Appeals – The Board of Appeals shall consist of a three (3) or five (5) member board appointed by the Village Board. The Board of Appeals shall have such powers as are described herein and shall elect such officers and prescribe rules for conduct and appoint a recording secretary.

Certificate of Occupancy – A written certificate indicating that following examination, the building, dwelling unit, mobile home, mobile home park and the lot or site upon which the same is to be placed, is approved as complying with all the provisions of this law and the New York State Uniform Fire Protection and Building Code (hereinafter the "Uniform Code").

Code Enforcement Officer – An individual designated by the Village Board to enforce this local law and the Uniform Code.

Commercial Use – Any use involving the sale, rental or distribution of goods or services, either retail or wholesale.

Conservation – The protection or management of open land in a natural state. The definition may include management practices such as supplementary clearing and replanting, stream channel maintenance, and erosion control.

Development – Any activity other than agriculture or conservation activity which materially affects the existing condition of land or improvements including, but not limited to:

- (a) Excavation or deposit of earth or other fill, including alteration in the banks of any stream or body of water.
- (b) Construction, reconstruction, alteration in the banks of any stream or body of water.
- (c) Dumping or storing any objects or materials whether mobile, liquid or solid.
- (d) Starting any use of land, or improvements, and every change in land use, type or intensity.
- (e) Starting any noise, light, smoke or other emission and every change in its type or intensity.

Directional Signs – Off-site signs for the sole purpose of indicating directions to business and other establishments within the Village.

Dwelling – A building designed as living quarters for one (1) or more families.

Family – One (1) or more persons occupying a dwelling unit and living as a single housekeeping unit.

Home Occupation – An accessory use of commercial or professional character customarily conducted within the dwelling by the residents thereof. It must be clearly secondary to the primary residential use and must not change the character of the area from residential. Examples include professional offices, homemade product sales, and minor franchise sales.

Industrial Use – Any use involving the act of storing, preparing for treatment, manufacturing or assembling any article, substance or commodity.

Lot – A defined parcel of land considered as a unit, occupied or capable of being occupied by a building or buildings and for accessory buildings and/or use.

Lot Frontage – The portion of the lot abutting upon a street or road.

Lot of Record – A lot which is a parcel of land or which is part of a subdivision approved and recorded in the office of the County Clerk.

Mobile Home – A movable or portable unit with 900 sq. ft of viable living space, designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two (2) or more separately towable components designed to be joined into one (1) integral unit capable of being again separated into components for repeated towing. "Mobile Home" shall mean units designed to be used exclusively for residential purposes, excluding travel trailers. Modular Homes or other dwelling units that are constructed in two (2) or more main sections and transported to and permanently assembled on this site are not considered mobile homes.

Mobile Home Park – Any plot of ground which has been planned or improved for placement of mobile homes for non-transient use and upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home – A prefabricated dwelling unit delivered to the site in prefabricated structural units and permanently assembled.

Multi-Family Dwelling – A building designed or altered for use as a permanent dwelling for three (3) or more families.

Non-Conforming Lot – A tract of land lawfully existing at the time of the enactment or amendment of this local law which does not conform to the dimensional regulations of this law.

Permit, Building – Written authorization issued by the Code Enforcement Officer for the establishment of any land use or structure.

Person – Any individual, corporation, partnership, association, trustee or other legal non-government entity.

Principal Building – The primary or main structure constructed on any lot.

Planning Board – The Planning Board shall consist of a three (3) or five (5) member board appointed by the Village Board. The Planning Board shall have such powers as are described herein and in Section 7-718 of the Village Law. The Planning Board shall elect such officers and prescribe rules for conduct and appoint a recording secretary. In the absence of a Planning Board the Village Board will act in its place.

Renovation – The rebuilding or repair of the interior of any structure that does not affect the exterior dimensions of the principal building.

Setback – The distance from lot lines to the nearest outside wall of the principal and secondary structures.

Site Plan – Rendering, drawing, or sketch prepared to specifications and containing necessary elements as set forth in this local law.

Solid Waste –

(1) "Solid waste" means all substances, except as described in paragraph (4) of this subdivision, that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to any garbage, refuse, industrial and commercial waste, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharge that are point sources subject to permit under 33 U.S.C. 1342, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) except as may be provided by existing agreements between the State of New York and the government of the United States.

(2) A material is discarded if it is abandoned by being:

- (i) disposed of;
- (ii) burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or
- (iii) accumulated, stored, or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

(3) A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

(4) The following are not solid waste for the purposes of this law:

- (i) domestic sewage;
- (ii) any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment, except for any material that is introduced into such system in order to avoid the provisions of this law;
- (iii) industrial wastewater discharges that are actual point source discharges subject to permits under ECL Article 17. Industrial wastewaters while they are being collected, stored, or treated before discharge, and sludges that are generated by industrial wastewater treatment are solid waste;
- (iv) irrigation return flows;
- (v) radioactive materials which are source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 as amended;
- (vi) materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process; and
  - (a) materials that are incorporated into a manufacturing process to produce a marketable product;
  - (b) compost;
  - (c) wood chips used for mulch, landscaping, or erosion control purposes;
  - (d) ash generated from the combustion of coal if the ash has been tested for toxicity and certified to be nontoxic and used as follows:



- (1) coal combustion bottom ash used as a traction agent on roadways, parking lots, and other driving surfaces;
- (2) coal combustion bottom ash or fly ash used as a cement substitute or aggregate in cement or concrete products; or
- (3) coal combustion bottom ash or fly ash used in situations where the ash is contained and leachate will not be generated, such as structural fill within building foundations.

Subdivision – The division of any parcel of land into two (2) or more lots, blocks or sites for the purposes of development, with or without roads including resubdivision and planned developments of permanent residences as associated facilities.

Travel Trailer – A motorized or non-motorized vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel or recreational uses.

Travel Trailer Park – Any plot of ground upon which two or more travel trailers, pick-up coaches or similar recreational vehicles and/or tents occupied for dwelling or sleeping purposes for transients are located.

Waterborne – Supported or carried by water.

#### ARTICLE 4 – ADMINISTRATION AND ENFORCEMENT:

4.1 Enforcement: A violation of this law is punishable by a fine not exceeding Two Hundred Fifty (\$250) Dollars for each day during which the violation continues and shall constitute disorderly conduct. In addition, the Village may use any other remedy available by law to prevent or stop a violation. Disorderly conduct shall constitute a separate and distinct offense.

(a) In addition to any other penalties imposed or other available remedies available to the Village, the Village Board may conduct a hearing to determine whether such violation constitutes a significant public health or safety issue. Such hearing shall be on a minimum of 10 days notice to the owner, which Notice may be served personally or by certified mail, return receipt requested, and First Class mail to the last known address of the owner as shown on the last completed tax roll.

- (1) Such Notice shall specify the date, time and place of the hearing, the purpose of the hearing, the nature of the alleged violation, and that the owner may be present and participate in the hearing individually and/or through counsel, the fact that if the Village does determine that there is a significant health, safety or welfare issue, that it may enter the property to clean up the violation, and that at all costs so incurred, including legal expenses, will be assessed against the land on which the violation occurred and shall be levied and collected in the same manner as provided in Section 5-518 of the Village Law for the levy and collection of a special ad valorem levy.
- (2) The Village Board shall conduct a hearing on the date and time indicated in the Notice and shall make findings of fact. Based on such findings, the Village Board shall determine whether any remedial action is required.
- (3) The Village Board shall notify the owner of its decision in the same manner as the Notice of Hearing. If no corrective action is taken within ten (10) days of such Notice being either mailed or personally served upon the owner, then the Village Board may authorize entry onto the property to do such remediation work as required and may charge all costs so incurred, including legal expenses, as a tax against the land.

(b) In addition to all other penalties and remedies available to the Village under this Section, the Village shall have the authority, upon resolution, to make an application at a special term of the Supreme Court in the judicial district in which such property is located for an Order determining the violation be a public nuisance, directing that it shall be repaired, secured or removed by either the owner or the Village and imposing a fine of Two Hundred Fifty (\$250) Dollars per day for each day the property remains in violation. In the event the Village is authorized to secure or otherwise eliminate the violation, the costs so incurred, including legal expenses, shall be a tax against the land on which such building is located in the same manner as provided in Section 5-518 of the Village Law for the levy and collection of a special ad valorem levy.

- (c) The hearing process outlined in subdivision (a) is not an administrative remedy that must be exhausted before proceeding to the Supreme Court. The Village Board for the Village of Cleveland shall have the discretion to determine which enforcement alternative is appropriate under the circumstances of each case and shall have the discretion to determine whether to pursue more than one enforcement alternative.

4.2 Any person may file a signed Complaint when a violation of this local law is suspected. All Complaints must be in writing and shall be filed with the Village Clerk or Enforcement Official. If a violation is found to exist, the Code Enforcement Officer shall order the violation to cease. Where uncertainty concerning the Uniform Code exists, an aggrieved party may seek an interpretation from the New York State Department of State. Forms for appeals to the State shall be provided by the Code Enforcement Officer.

4.3 Compliance with this law may also be compelled and violations restrained by Order or injunction of a court of competent jurisdiction.

4.4 Filing Fees: The filing fees for a permit for land development within the Village of Cleveland must be accompanied with the permit application and be in the form of cash or check. The Village Board may by Resolution establish and revise all fees. (Fee schedule on file with the Village Clerk.)

4.5 Building Permit Required for Development: No development or renovations including changes to the existing property shall take place within the Village unless the Code Enforcement Officer certified in writing that such development complies with the provisions of this local law. The form of the certification shall read as follows:

The undersigned has reviewed the plans for development of the subject property and states that such plans are in compliance with the Cleveland Land Development Law and of the terms and conditions of any special authorization issued pursuant to such local law and the Uniform Fire Protection and Building Code.

4.6 Mobile Home Permit –

- (a) An application for a permit to install, occupy and maintain a mobile home in said Village outside of a licensed mobile home park shall be made to the Code Enforcement Officer on the form furnished by the Village Clerk. Such application shall be as set forth in Section 4.5 above, and accompanied by the filing fee (Section 4.4). The application shall state the name and address of the applicant, the name and address of the owner of the premises, a description of the mobile home to be placed or stored on said premises, a description of the foundation on which it is to be mounted, the skirt or other covering to be provided for such foundation and the tie down provisions, which must be in accordance with the manufacturers specifications. No mobile home shall be issued a permit if it does not comply with all applicable HUD regulations (as evidenced by the presence of a HUD sticker affixed to the mobile home). The mobile home must be connected to the Village water and Village sewage systems and said connections shall be adequately protected from freezing. The application shall be accompanied by a map prepared at a minimum scale of twenty (20) feet to one (1) inch showing the location, boundaries and dimensions of the premises upon which the mobile home is to be located, and the proposed location of the mobile home thereon. Before issuing a permit, the Code Enforcement Officer shall personally inspect the premises described in the application. If the Code Enforcement Officer disapproves the site and/or plans, he shall inform the Village Board and the applicant, and the filing fee (Article 4.4) shall be refunded to the applicant. If the Code Enforcement Officer approves the proposed site and plans as outlined in the application, he shall inform the applicant of such approval and any additional requirements or recommendations, and the applicant shall proceed to file a permit with the Village Clerk for water and sewer and pay the applicable fees for each. The applicant shall then proceed with the preparation of the site and the installation of the water and sanitary facilities. The applicant shall notify the Code Enforcement Officer who shall make the final inspection.
- (b) The mobile home shall be installed upon a vented masonry foundation which is attached to a six (6) inch monolithic reinforced slab, the perimeter having a drop down of fifteen (15) inches and a width of twelve (12) inches, the slab shall be installed on a six (6) inch compacted gravel base and the top surface must be at least six (6) inches higher than the finished grade. The foundation wall shall have at least one (1) access door which can be locked and shall meet with the approval of the Code Enforcement Officer. No mobile home shall be placed or stored on any lot having a length of less than one hundred fifty (150) feet on any one side and having an area less than twenty thousand (20,000) square feet exclusive of other dwellings or structures. No mobile home shall be located less than eighty (80) feet from the centerline of any town or village highway and not less than one



hundred (100) feet from the centerline of State Route 49 nor within twenty (20) feet from any adjacent property line.

- (c) In addition, if the mobile home was previously installed at another site, the permit applicant must provide a signed and notarized statement that since the unit's manufacturing, there have been no structural changes or damages, no fire damage or any evidence of exterior or interior damage or deterioration. This certified statement must be provided to the Village prior to the issuance of a building permit. Further, if the unit arrives on site showing any violation of the Affidavit, the Code Enforcement Officer shall have the authority to void the building permit.

A separate storage shed of not greater than twelve (12) feet by twelve (12) feet shall be provided and located with minimum set back from rear or side property lines.

- 4.7 Authority of Village Officials and Boards: The general administration of this local law shall be divided among the Code Enforcement Officer, Board of Appeals, Planning Board and Village Board of Trustees as set forth in this Article. Such parties may recommend to the Village Board adopting regulations designed to govern the procedures to be followed for the submission of all applications within their respective authority, including the development of administrative forms, submission documents and filing fees and such regulations and fees may not be adopted without the approval of the governing body of this municipality except as otherwise required by law.
- 4.8 The Village Board shall appoint a Code Enforcement Officer who shall have authority to issue permits only in strict compliance with this law and shall have no authority to vary the requirements except under appeal procedures as outlined in Article 9.
- 4.9 Code Enforcement Officer: The Code Enforcement officer shall be responsible for the issuance of building permits and certifications that any development complies with the provisions of this local law, including the terms and conditions of any special authorization. Where there is a disagreement with any determination regarding this local law made by the Code Enforcement Officer as hereinabove referred to, an application may be filed by either the Code Enforcement Officer or other interested party with the Board of Appeals requesting a review of the Code Enforcement Officer's determination. The Code Enforcement Officer shall be empowered to enter the premises to make such inspections as necessary to assure compliance with this law. It shall be the mutual responsibility of the permit applicant and the Code Enforcement Officer to arrange inspections prior to issuance. Interpretations of the Uniform Code must be resolved by appeal to the New York Department of State as provided in Section 4.2 above.

ARTICLE 5 – PERMITTED USES: Building permits for the following developments shall be issued by the Code Enforcement Officer when the applicant has satisfactorily met the requirements of this local law and the Uniform Code:

- (a) one (1) and two (2) family dwellings
- (b) individual mobile homes
- (c) renovations to existing property or the addition of accessory structures.

ARTICLE 6 – SITE PLAN REVIEW:

- 6.1 Authority: Pursuant to authority delegated in accordance with Section 7-725(a) of the Village Law of the State of New York, the Village Board hereby authorizes the Village Planning Board to review and approve site plans. In the absence of a Planning Board, the Village Board is empowered to review and approve site plans.
- 6.2 Applicability: Before starting development of any structure or structures or uses included in the following list at any location within the Village, the developer shall submit a site plan together with any supporting data for review and approval in accordance with the standards and procedures set forth in this local law and applicable administrative regulations. No permit shall be issued until a site plan has been reviewed and approved by the Village Planning Board.
- 6.3 Activities Requiring Site Plan Approval: All land use activities on the following list shall require site plan approval by the Village Planning Board:

- (a) Any use involving the development of one (1) or more acres of land excluding customary agriculture uses such as pasturing land and crop raising.
- (b) Travel trailer parks and campgrounds.
- (c) Mobile home parks
- (d) All non-residential use
- (e) Multiple family dwellings (three (3) or more dwelling units) including homes for the aged
- (f) Subdivision of land into two (2) or more lots, or any resubdivision of land
- (g) Located within a designated flood plain
- (h) Any use not specifically permitted under Article 5 above.

#### ARTICLE 7 – PLANNING BOARD REVIEW AND APPROVAL:

7.1 General Procedures: "A Site Plan Review Application" shall be obtained from the Village Clerk. The completed application shall be filed with the Village Clerk for presentation to the Planning Board. If the application is for a subdivision of five or more lots, the applicant shall submit, in triplicate, a site plan and supporting data prepared by an architect, engineer, and land surveyor or planner, and shall include the following information presented in drawn form and accompanied by a written text:

- (a) Survey of the property to scale with north arrow and date, showing existing features of the property, including contours, large trees, buildings, structures, streets, utility easements, rights of way, land use; ownership of surrounding property.
- (b) Site plan showing proposed lots, blocks, building locations and land use areas.
- (c) Traffic circulation, parking and loading spaces, and pedestrian walks.
- (d) Landscaping plans, including site grading, landscape design, and open areas.
- (e) Preliminary architectural drawings for buildings to be constructed.
- (f) Preliminary engineering plans, including street improvements, storm drainage system, public utility extensions, water supply and sanitary sewer facilities.
- (g) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development, as required by the Planning Board.
- (h) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.
- (i) A description of the proposed uses, including hours of operation, number of employees, expected volume of business, type and volume of traffic expected to be generated, and a description of any hazardous materials, fumes, noise to be generated and/or stored on site.
- (j) A completed Short Form Environmental Assessment Form as provided in part 617 of the State Environmental Quality Review Regulations, part 617 of title six of the official Compilation of Codes, Rules, and Regulations of the State of New York.
- (k) A list of all federal, state, county and local permits required for the proposed use including, but not limited to SPEDES permit for storm water discharge.

A public hearing shall be scheduled within sixty (60) days from the date such application is filed. Notice of all such hearings shall be published in newspaper of general circulation in the Village at least five (5) days prior to the hearing date. A final decision shall be made within sixty-two (62) days after hearing unless extended by mutual consent of the applicant and Planning Board. All decisions shall be filed in the office of the Village Clerk and a copy mailed to the applicant. Appeals from any determination of the Planning Board (shall be filed with the Board of Appeals) under this section shall be made in accordance with the provisions of Article 78 of the Civil Practice Law and Rules of the State of New York.

After the Planning Board approves a subdivision Site Plan, the applicant shall submit the Site Plan to the Oswego County Health Department for final approval. After Oswego County Health Department approval, the applicant shall file the stamped Site Plan with the Oswego County Clerk and file a copy with the Cleveland Village Clerk prior to starting work.

7.2 Findings: No site plan or project shall be approved unless the following findings are made:

- (a) Any subdivisions of five (5) or more residential lots must comply with Article 11-Realty Subdivisions: Water and Sewerage Service of the New York State Public Health Law and Article 17-Realty Subdivisions: Sewerage Service of the New York State Environmental Conservation Law.
- (b) Applicable regulations and other general and special controls contained in this local law are complied with.

- (c) There will be no adverse impact upon the character or integrity of any land use within the immediate vicinity having unique cultural, historical, architectural or similar significance.
- (d) The development will be in harmony with the natural environment.
- (e) Adequately designed open space, drainage facilities, landscaping and other features considered appropriate to the function of the development shall be provided.
- (f) Traffic controls for the vehicular and pedestrian movement are designed to protect the safety of the general public and the occupants, employees, attendants and other persons for whose benefit the use is intended. In making this determination, the Planning Board shall review, but need not be limited to, the following considerations:

- (1) Location and adequacy of parking and loading facilities.
- (2) Pedestrian right-of-way
- (3) Traffic regulatory devices.
- (4) Location, number and design of points ingress and egress.
- (5) Accessibility to emergency vehicles with particular emphasis on proximity to structures, no parking or loading zones or areas and provision for turning and free movement.
- (6) Storage facilities for snow.
- (7) Age and mobility of all persons for whose benefit the use is intended.
- (8) Speed limits upon and general character of public highways and close proximity.

- (g) The proposed use will have adequate supporting services such as fire and police protection, public and private utilities and all other supporting governmental services necessary and appropriate to the proposed use.
- (h) Adjoining property owners are not adversely and unreasonably impacted by drainage from the development.

7.3 Criteria: In making a determination as to the compliance with any one (1) or more of the findings and conditions specified in this Article, consideration shall be given but not need to be limited to the following elements:

- (a) Geometric characteristics of all structures and related improvements.
- (b) Design characteristics.
- (c) Physical attributes of the site, including size, shape, elevation, topography and natural vegetation.

The Planning Board may approve any application subject to the conditions that are necessary and reasonable.

7.4 Distance between Principal Buildings: The minimum distance between buildings on one lot shall not be less than ten (10) feet.

7.5 Distance from Property Lines: The minimum distance between any point on a principal building or accessory structure and the property line shall not be less than fifteen (15) feet.

7.6 Lot Coverage: Maximum lot coverage for all development shall not exceed 50% gross land area.

#### ARTICLE 8 – NONCONFORMING LOT:

8.1 General Restrictions: The preexisting use of property which would not comply with the provisions of this local law as referred to in Article 1.6 may continue to be used, altered or repaired and maintained, except that where any of the following changes occur, a special permit shall be required from the Planning Board:

Enlargement or expansion of any structure or lot which results in additional floor space, lot area, cubic space, or the use of additional air space or sub-surface space.

## ARTICLE 9 – BOARD OF APPEALS:

- 9.1 The Board of Appeals shall consist of a three (3) member board appointed by the Village Board. The Board of Appeals shall have such powers as are described herein and shall elect such officers and prescribe rules for conduct and appoint a recording secretary.
- 9.2 The power of the Board of Appeals is as follows:
- (a) Interpretation – To hear and decide appeals from any order, requirement, decision or determination made by the Enforcement Officer.
  - (b) Variances – To vary or adapt the specifications of any requirements of this local law under the following circumstances:
    - (1) Presence of exceptional physical conditions which make strict application result in unreasonable limitation.
    - (2) Where the owner can show that such application would impose unreasonable hardship in such a way as to deprive the owner of any reasonable use of his land.
    - (3) No variance shall be granted if the harm caused by such a variance is greater than the benefit to the community.
- 9.3 Procedure: The Board of Appeals shall act in accordance with Section 7-712 of the Village Law, the procedures specified by this local law and their own by-laws. All appeals and applications made to this Board shall be in writing and shall refer to the Section of the law involved, state the claimed interest of the community. Applications for appeals shall be obtained from the Code Enforcement Officer or Village Clerk.

## ARTICLE 10:

### 10.1 On-Premises Advertising and Identification:

- (a) Commercial and Industrial Signs - One two-dimensional sign identifying the commercial and industrial use at their sites, not exceeding thirty-two (32) square feet on a surface and limited in word and graphics to the name of the establishment and its principal service or purpose will be permitted.  
Farm and Resident Occupation Signs – One two-dimensional sign identifying the resident's occupation or farm at its site not exceeding six (6) square feet on a surface limited in wording and graphics to the establishment's name and its principal purpose or service will be permitted.
- (b) No sign will project into the public right-of-way.
- (c) No sign will have flashing lights, moving parts or projections beyond its surface area.

### 10.2 Directional Signs:

- (a) No sign shall project into public right-of-way
- (b) No sign shall have flashing lights, moving parts or projections beyond its surface area.

## ARTICLE 11 – GEOMETRIC CONTROLS:

- 11.1 All lots and structure shall be developed in accordance with the standards set forth herein. Unless specially authorized by the Planning Board under the provisions of this local law pertaining to site plan approval, no individual lot will be improved with more than one (1) principal structure together with such accessory and secondary structures as are necessary and incidental to the use and enjoyment of such property. No part of any yard or other open space required for the purpose of complying with provisions of this local law shall be included as a part of a yard or open space required for any other structure.
- 11.2 Minimum Lot Area for a single-dwelling unit except mobile homes shall be no less than ten thousand (10,000) square feet.
- 11.3 Minimum Lot Frontage shall be one hundred (100) feet except along streets where special conditions may require exceptions.

11.4 In order to promote fire and traffic safety, all buildings, including mobile homes, must be set back the following distances:

- (a) Eighty (80) feet from the centerline of any public road, except State Route 49 which shall require a set back of one hundred (100) feet from the centerline of the highway.
- (b) Fifteen (15) feet from side lines and twenty (20) feet from rear lot lines.

11.5 Lot Exceptions: One (1) or more adjacent lots held by one owner at the time of passage of this law that are substandard in frontage may be used, as permitted in Article 5. If the area is too small, use shall be limited to a single-family dwelling. The ownership recorded in the office of the County Clerk shall be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time.

#### ARTICLE 12 – OFF-STREET PARKING AND LOADING:

12.1 New Land Use Activities: Uses established after the effective date of this local law shall provide off-street parking and loading spaces in accordance with the following standards:

- (a) One (1) parking space for every three (3) seats in a public meeting place,
- (b) One (1) parking space for every employee at places of employment,
- (c) One (1) parking space per two hundred fifty (250) square feet in commercial establishment,
- (d) One and one half (1.5) parking space per apartment in a multiple-family dwelling.

12.2 Existing Land Use Activities: Existing uses are subject to the following:

- (a) Existing spaces shall not be reduced below minimum requirements of this Article.
- (b) Changing existing uses shall require more or fewer spaces as follows: if the use needs more spaces than the original, spaces equal to the difference shall be provided; if such change results in a reduction, existing spaces may not be reduced below the number required for the new one.
- (c) Existing uses which do not comply with the provisions of this Article shall not be considered nonconforming because of such noncompliance.

12.3 Location: Parking spaces accessory to a principal use shall be located on the same lot as the principal use, unless a special permit is granted under Article 12.5.

12.4 Yard Setbacks: No parking space shall be located in any front yard or within five (5) feet of any side or rear lot line except in driveways.

12.5 Joint Use of Parking Facilities: Parking spaces for any use may be joined with any other use provided that a special permit application form (available from the Village Clerk) be completed and filed with the Planning Board (via the Village Clerk). The Planning Board shall authorize issuance of the permit provided the following findings are satisfied:

- (a) There will exist no substantial conflict in principal hours or periods of peak demand of the uses for which the joint space is provided.
- (b) Such spaces shall not be located further than five hundred (500) feet from any of the principal uses which they serve.
- (c) A parking covenant is executed.

12.6 Off-Street Loading Requirements:

- (a) On-premise loading spaces shall be provided in accordance with the provisions set forth in this Article.
- (b) Each loading berth shall be at least ten (10) feet by fifty (50) feet in size and have a minimum clear height providing access to the street of fourteen (14) feet.
- (c) Off-street loading facilities shall otherwise be subject to the provisions applicable to parking spaces.



#### ARTICLE 13 – SUPPLEMENTARY REGULATIONS:

- 13.1 Flood Hazard Areas: These areas are shown on the Flood Hazard Boundary Map for the Village of Cleveland, Federal Insurance Administration, Federal Emergency Management Agency, U.S. Department of Housing and Urban Development.
- 13.2 Wetland Areas: These areas are shown on the Department of Environmental Conservation's Freshwater Wetlands Map for the Village of Cleveland.
- 13.3 State Environmental Quality Review (SEQR): All activities occurring within the Village shall conform to the requirements and guidelines of Article 8 of the Environmental Conservation Law, "State Environmental Quality Review" Act (SEQR), as amended.
- 13.4 Sewage Disposal: All dwellings or structures which require sanitary facilities shall conform to the requirements and guidelines of the Village of Cleveland's Sewer Use Law.
- 13.5 Water Supply: No project will be approved unless connected to the Village water system.
- 13.6 Storm Water Drainage: A storm water drainage plan shall be prepared by the applicant, where required, meeting the following criteria and standards. A natural or surface channel system shall be designed to convey through the project the peak storm water runoff from all tributary upstream areas of 20 year storm. Controlled release and storage of excess storm water runoff shall be required in combination for all commercial and industrial projects and for residential projects larger than one (1) acres whenever the capacity of the natural downstream, outlet channel is inadequate. No habitable structures shall be constructed within this floodway, but streets, parking and playground areas and utility easements may be considered. Outlet control structures shall be of simple design requiring little or no alteration for proper operation. Each storm water storage area shall be provided with an emergency overflow facility designed for a storm of 20 year intensity. An adequate easement over the land within the project shall be dedicated for the purpose of improving and maintaining any drainage ways and facilities.
- 13.7 Road Standards: Before any road can be accepted by the Village of Cleveland, it must meet the Village design and construction standards and be approved by the Village Highway Superintendent.
- 13.8 Junkyard: No person shall operate, establish or maintain a junkyard without first obtaining a license from the Village Board in accordance with the Junk Car Law of the Village of Cleveland and the requirements of Section 136 of the New York General Municipal Law regulating junk yards.
- 13.9 Mining: No person shall mine more than one thousand (1,000) tons of a material from the earth within one calendar year without applying for a permit from New York State Department of Environmental Conservation Law, in accordance with Title 27 of Article 23 of the Environmental Conservation Law.
- 13.10 Storage and Handling of Hazardous Materials: No use for any period of time shall discharge across the boundaries of the lot wherein it is located, toxic or nontoxic matters in such concentration as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property of others. No person shall engage in storage, transportation, treatment or disposal, including storage at the site of generation, of hazardous wastes without obtaining a permit from the Department of Environmental Conservation and complying with the requirements of Article 27, Title 9 of the Environmental Conservation Law.

#### ARTICLE 14 – MOBILE HOME AND TRAVEL TRAILER PARKS:

After the effective date of this local law, it shall be unlawful for any person to construct, maintain, operate, or alter any mobile home park or travel trailer park within the Village without obtaining site plan approval to construct and license to operate such park provided in Article 7 of this local law. No person, firm or corporation, being the owner or occupant of any land or premises within the Village shall use or permit the use of such land as a mobile home park or travel trailer park contrary to the provisions of Part 7 of the New York State Sanitary Code. A violation of this Sanitary Code shall be a violation of this local law. No travel trailer or mobile home shall be sited in any park unless it has a HUD sticker.



14.1 Application for a Park Permit:

- (a) The applicant for a mobile home park or travel trailer park permit shall be responsible for furnishing all tests, plans, engineering, land surveying services, environmental studies, and all other information required to determine compliance with the provisions of this law and Part 17-Mobile Home Parks contained in the New York Public Health Law. Application shall be in writing and signed by the applicant.
- (b) Each application shall be accompanied by a site plan as required in Article 7 at an appropriate scale to insure legibility of all details, and shall show location or proposed lots, interior roadways and walkways, parking spaces, power telephone lines, water and sewer systems, service buildings, park property boundary lines and dimensions, significant natural features such as woods, watercourses, rock outcrops, wetland and the names adjacent property owners.
- (c) Any modification or expansion to the original park site shown on the application shall require a permit following the same procedure noted herein. Expansion or modification of a park existing prior to the effective date of this law shall also require a permit. Violation of this Section may result in the revocation of any existing park permit.
- (d) For those parks containing five (5) or more mobile homes, the applicant must maintain a permit issued by the Oswego County Health Department.

14.2 Park Design Standards: In addition to the general requirements herein provided in Articles 7.2 and 7.3, the following standards shall apply to all mobile home and travel parks.

Grading and Drainage: Lands used as mobile home or trailer park shall be well drained, of ample size, and free from heavy or dense growth of brush or weeds. The land shall be properly graded to insure proper drainage during and following a rainfall and shall at all times be drained so as to be free from stagnant pools of water. No lots shall be laid out in areas designated as wetlands on State Wetland maps or subject to flooding on Federal Flood Hazard maps.

Access: Each park shall have at least four hundred (400) feet of frontage on a public road. Internal roads shall be such that access to the public road be not more frequent than one in six hundred (600) feet. Where more than fifty (50) units are planned, at least two entrances shall be provided. Names of park residents, home address, make, description, year and license or identification number of the mobile home or travel trailer shall be provided to the Village on an annual basis. These records shall be available to any law enforcement official, the Village Code Enforcement Officer and the Village Assessor.

14.3 Mobile Home Park Requirements:

Lot Size: Each mobile home lot shall contain at least seventy-five hundred (7,500) square feet and no more than one mobile home shall be permitted to occupy one lot.

Stand: Each mobile home lot shall be provided with a stand which provides adequate foundation to ensure against shifting and settling and must provide adequate anchors to ensure against uplifting and overturning.

Yards: Each mobile home lot shall have a minimum setback of twenty (20) feet from interior streets and there shall be a minimum set back of twenty (20) feet between any mobile home including addition, and a side or rear lot line.

Parking: Each mobile home lot shall provide off-street parking spaces for two (2) automobiles, which shall be paved with a hard surface to eliminate mud and dust. Guest parking shall also be provided reasonably nearby in the amount of two (2) spaces for every ten (10) lots.

14.4 Travel Trailer Park Requirements:

Lot Size: Each lot in a travel trailer park shall be a minimum of two thousand five hundred (2,500) square feet in size.

Slope: Lots shall be located on generally level ground, not to exceed an 8% slope that is well drained, free of flood hazard and clear of dense brush. Where terrain is adequate, pull-thru sites should be provided.

Mobile Homes: Mobile homes shall not be parked permanently or temporarily in any travel trailer park site.

Occupancy: Travel trailers shall not be parked for occupancy in a travel trailer park for more than one hundred eighty (180) days in any one year, unless a winterized service building is provided. However, the travel operator may designate an area of the park site to be used to store unoccupied travel trailers for longer periods than one hundred eighty (180) days.

Recreation: A minimum of five (5) percent of the total area of the travel trailer park shall be dedicated to a recreation area and shall be reasonably equipped and fully maintained by the park operator.

Service Building: Any park containing twenty (20) or more lots shall provide a building(s) containing at least one (1) automatic washer and dryer, a public telephone, and unless admission to the park is restricted to units equipped with these facilities, one toilet, lavatory and shower for each sex for each twenty (20) lots. All service buildings shall be of substantial construction and shall be maintained in a clean, sanitary and sightly condition.

- 14.5 Inspection: The applicant shall notify the Village Clerk when the park is ready for final inspection. The Code Enforcement Officer shall promptly make the arrangements with the applicant to make a final inspection. If satisfied that the park project complies with the regulations contained herein and that the project has been completed as specified on the approved site plan, the Code Enforcement Officer shall issue a Certificate of Completion granting final permission to use the park.
- 14.6 Park License: Upon completion of final inspection; issuance of a Certificate of Completion and payment of the fee required herein, license to operate the mobile home park or travel trailer park shall be issued by the Village Clerk, authorizing the operation of the park for the period of one (1) year from the date thereof. The Village Board may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this law. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with this law. The license certificate shall be conspicuously posted in the office or on premises of the park at all times.
- 14.7 License Renewal: The park license shall be renewed annually on the anniversary of the original date of approval. It shall be the park owner's responsibility to initiate the renewal procedure by completing the renewal application form and submitting it to the Village Clerk thirty (30) days prior to the expiration of the current license. After inspecting the park for health and safety irregularities or design modifications, the Code Enforcement Officer shall approve or disapprove the application in writing.
- 14.8 License Fee: The license fee or the license renewal fee, in such amount as the Village Board may establish by Resolution, shall be submitted with the completed renewal application. The license fee shall not be returned if the renewal application is disapproved. An applicant whose renewal application has been disapproved shall be granted a thirty (30) day grace period in which to correct any deficiencies noted by the Enforcement Officer. In such cases, the license fee shall include the original inspection and up to two (2) reinspections. Thereafter, a new application and fee shall be required.

#### ARTICLE 15 - AMENDMENTS:

The Village Board may, from time to time, amend, supplement, or repeal the regulations and provisions of this local law after notice and public hearing. The Village Board, by Resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

- (a) By publishing a notice at least fifteen (15) days prior to the time of such hearing in newspaper of general circulation in the Village; and
- (b) All proposed changes shall be referred to the Cooperative Planning Board and to the County Planning Board for their recommendations and a report thereon at the public hearing held by the Village Board.

ARTICLE 16 – INTERPRETATION:

- (1) A conflict between the requirement of this law and those of any other law, ordinance, rule, regulation, statute or other provision of law shall be resolved by giving effect to the provision imposing the more restrictive requirement or higher standard.
- (2) The provisions of the law are severable and the invalidity of a particular provision shall not invalidate any other provisions.

ARTICLE 17 – EFFECTIVE DATE:

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