

**APPENDIX D**  
**SAMPLE ORDINANCES**

## Chapter 130: SIGNS

[HISTORY: Adopted by the Board of Trustees of the Village of Victor 12-15-1986 by L.L. No. 4-1986. Amendments noted where applicable.]

### GENERAL REFERENCES

Electrical standards — See Ch. 76.  
Property maintenance — See Ch. 116.  
Site plan review — See Ch. 133.  
Zoning — See Ch. 170.

### § 130-1. Legislative purpose and intent.

- A. The Village Board finds that Victor's historical character and attractive buildings have a substantial positive impact on property values, the business climate, land use and the general welfare of its citizens and visitors. Signs have a substantial effect on the historical character, building use, appearance and value, which may be positive or detrimental. It is, therefore, the intent of this chapter to promote and protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, provide a more enjoyable and pleasing community and encourage the most appropriate use of the land.
- B. This chapter is adopted to regulate the use of signs in order to promote signs which are:
- (1) Compatible with surroundings, meaning that every sign shall be designated as an integral architectural element of the building and site to which it principally relates.
  - (2) Orderly, readable and safe.
  - (3) Harmonious in terms of color, materials and lighting with the building to which it relates.
  - (4) Nondistracting to motorists.

### § 130-2. Definitions. [Amended 10-20-2003 by L.L. No. 2-2003]

As used in this chapter, unless otherwise expressly stated, the following terms shall be as indicated

**ACCESSORY SIGN** — Any sign related to a business or profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.

**ERECT** — To build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign or exterior wall painting.

**FREESTANDING AND MONUMENT** — A sign commonly acting as a directory for multiple business and not attached to any building. [Added 2-11-2004 by L.L. No. 2-2004 Editor's Note: This ordinance also repealed the former definition for "ground sign." ]

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

**LIGHTING DEVICE** — Any light, string of lights or group of lights located or arranged to cast illumination on a sign.

**NONACCESSORY SIGN** — Any sign unrelated to a business or profession conducted or to a commodity of service sold or offered upon the premises where such sign is located.

**PERSON** — Any person, firm, partnership, association, corporation, company, institution or organization of any kind.

POLE SIGN — A generally larger scale "high-rise" identification sign on pole or two-pole mount. **[Added 2-11-2004 by L.L. No. 2-2004]**

PORTABLE SIGN — Any sign that is self-supporting and not structurally attached to the ground and designed to be readily movable. **[Added 1-26-1998 by L.L. No. 3-1998]**

PROJECTING SIGN — An identification sign which projects from the exterior of any building. **[Amended 2-11-2004 by L.L. No. 2-2004]**

SIGN — Any material, structure or device, or part thereof, composed or lettered or pictorial matter or upon which lettered or pictorial matter is placed when used or located out of doors or outside or on the exterior of any building, including interior window display area, for display of advertisement, announcement, notice, directional matter or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs and painted wall surfaces, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business. Wall sign arrangement would consist of multiple signs that denote services, vendors or any additional information or messages; area determined by taking the total measurement of the outside perimeter of arrangement. **[Amended 11-19-2001 by L.L. No. 1-2001]**

### **§ 130-3. Permit required.**

Except as otherwise provided in this chapter, no sign shall be erected after the effective date of this chapter until a permit has been obtained from the Village Clerk.

### **§ 130-4. General regulations.**

The prohibitions contained in this section shall apply to all signs in all use districts of the Village of Victor.

- A. No signs shall be placed to impede or interfere in any way with the operation of a traffic light, traffic directional control or any traffic or pedestrian visibility. No sign shall obstruct views of scenic interest or historic value.
- B. No sign shall be erected or maintained on the face of a building so that any portion thereof shall extend above the base of the roofline in the case of a one-story building. In the case of a multistory building, no sign shall be above the level of the second floor of the building. **[Amended 11-19-2001 by L.L. No. 1-2001; 10-20-2003 by L.L. No. 2-2003]**
- C. No sign shall be erected on the roof or mansard facia of any building or structure.
- D. No projecting sign shall be erected or maintained from the face of a building a distance of more than four feet, nor shall any such sign exceed three feet in height or provide less than eight feet in clearance between grade level and the bottom of the sign. The maximum size of said sign shall be 10 square feet. **[Amended 10-19-1998 by L.L. No. 7-1998]**
- E. No sign shall be illuminated by the use of flashing, intermittent, rotating or moving lighting. No illuminated sign or lighting device shall be so directed as to cause a glare or reflection hazard upon a street, highway, sidewalk or adjacent premises. All illumination shall meet the standards of the Electrical Code enforced by the Village of Victor. *Editor's Note: See Ch. 76, Electrical Standards.*
- F. No mobile, portable or temporary signs shall be placed on the face of any building, vehicle or upon any premises, except as provided in § 130-7, Temporary signs.
- G. No promotional or advertising device shall contain or consist of ribbons, streamers, spinners

or other moving devices, banners, posters or pennants. None of these devices or any similar devices shall be used to attract attention to a sign or other means of advertising. Exceptions may be granted upon application to Planning Board, in the Business District, for firms promoting new products or services for a period of 15 days, and frequency not to exceed quarterly. **[Amended 11-19-2001 by L.L. No. 1-2001]**

- H. No sound amplifiers, public-address systems or other sound devices shall be used as a means of advertising or to attract attention to a sign or a business.
- I. All signs shall be maintained in a good state of repair and in working order.
- J. Measurement. **[Added 11-19-2001 by L.L. No. 1-2001]**
  - (1) Sign area shall be based upon the entire sign with a continuous perimeter enclosing the extreme limits of the actual sign surface.
  - (2) For a sign consisting of individual letters or symbols attached to or painted on a surface building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
  - (3) The area supporting the framework (for example brackets, posts, etc.) shall not be included in the area if such framework is incidental to the display.
- K. Window signs. Any sign which is painted or mounted onto a windowpane shall not exceed 30% of window area and must be on the interior surface of windowpane. These will not be included in the dimensions requirements of § 130-6A, but will require review by the Planning Board and be subject to the approval considerations of § 130-9. **[Added 11-19-2001 by L.L. No. 1-2001]**
- L. Types. **[Added 2-11-2004 by L.L. No. 2-2004]**
  - (1) No pole-mounted signs.
  - (2) Freestanding, projecting, monument, and wall signs only.
  - (3) Two principal site business identification signs, i.e., one freestanding, projecting, monument, or wall sign with a maximum of two display faces, and one wall-mounted sign, or arrangement, may be displayed on the same lot as the other business with which they are associated.
  - (4) Advertising signs, such as sandwich boards, flags, banners, illuminated soda machines, and signage soda machines, are prohibited. (See Temporary signs, § 130-7 of the Code of Village of Victor.)
  - (5) All signs must reflect principal use of business or building.

#### **§ 130-5. Signs permitted in all districts.**

- A. Permitted signs in all use districts without a permit shall be as follows:
  - (1) Signs bearing the name of the principal occupant and/or the street address of a private dwelling, which signs shall not exceed 72 square inches.
  - (2) Professional nameplates, which shall not exceed one square foot in area.
  - (3) Signs advertising the sale, lease or rental of the premises upon which the sign is located, which signs shall not exceed six square feet in area.
  - (4) Signs as may be required by the Village, town, county, state and federal governments.

- B. Permitted signs requiring permits:
- (1) Permitted signs in all use districts that shall require a permit shall be as follows:
    - (a) Signs customarily used to identify places of worship, cemeteries, public schools, libraries, museums, societies, social clubs and similar nonprofit-type uses. Such signs shall not exceed 8% of the total face of one side of the building, and in no event shall said signs total more than 36 square feet in area or 10 feet on any one side.
    - (b) Signs identifying multiple-family dwelling projects of more than five units or subdivision development which signs shall not exceed 20 square feet in area.
  - (2) Such signs shall either be attached to the first-floor facade of the involved structure or be executed as a ground sign not to exceed six feet above grade level and not be located nearer than 10 feet to a public street or highway right-of-way line.
- C. Restrictions. Not more than one sign per structure or premises, identifying all activities therein, shall be permitted for each street contiguous to the premises, and in no case shall there be more than two such signs on the premises; provided, however, that the following signs may be erected on a Saturday and Sunday between the hours of 12:00 noon and 6:00 p.m., regardless of the foregoing:
- (1) One sign, not exceeding six square feet, bearing a legend such as "Open" or "Open for Inspection," on a premises being advertised for sale.
  - (2) Two signs, not exceeding six square feet, bearing a legend such as "Open" or "Open for Inspection," at locations other than the premises being advertised for sale.

**§ 130-6. Signs in business and industrial districts. [Amended 5-1-1989 by L.L. No. 2-1989; 1-26-1998 by L.L. No. 3-1998; 11-19-2001 by L.L. No. 1-2001]**

- A. No signs shall be permitted in a business or industrial use district except as listed below, and all signs to be erected in these districts shall require permits. Permitted signs shall advertise only the name of the owner, street address, trademarks or trade names integral to the primary business, products sold and/or the business(es) or activity conducted on the premises where such sign is located and may be erected as provided herein:
- (1) Only one projecting, freestanding sign, or wall sign, permitted for each elevation, is permitted for each business on the premises (either one projecting, freestanding or wall sign). Additionally, one arrangement of wall signs is permitted on one elevation.
  - (2) Any projecting sign shall be limited to a maximum area of 10 square feet for each side.
  - (3) Any freestanding, monument, or wall sign shall be limited to a maximum area of 36 square feet for each side. Maximum height, eight feet; maximum width, four feet.  
**[Amended 2-11-2004 by L.L. No. 2-2004]**
  - (4) Any arrangement of wall signs shall be limited to a maximum area of 40 square feet.
  - (5) All non-street-level businesses in a building shall be limited to a total sign area at the second floor not to exceed six square feet. The size of the sign for each non-street-level business shall be apportioned according to the number of businesses on the premises. The sign for each business shall share common dimensions and colors with those of the other street-level signs and shall be grouped as determined by the Planning Board. The allowed sign area may be utilized as a projecting sign or wall sign, whichever is more appropriate for the particular building.

- (6) A sign may not project over a street line, public street, alley, or sidewalk unless such sign is attached to a building, in which case such sign may not project more than three feet from the building to which it is attached, with a minimum clearance of eight feet.
  - (7) Illuminated signs.
    - (a) Signs shall be illuminated with steady, stationary, shielded light sources directed onto the sign without causing glare.
    - (b) Internal illumination is generally discouraged, but it may be appropriate in certain circumstances, such as:
      - [1] Individual back-lit letters or logos, which are silhouetted against softly illuminated walls (i.e., Canandaigua National Bank).
      - [2] White-faced with color letter, wood or metal frame (i.e., Harloff-Cotton Funeral).
    - (c) Neon window signs may be permitted in cases where they are compatible with the building's historic and/or architectural character and where their color has been selected to harmonize with the building's exterior colors.
  - (8) Colors. Colors shall be chosen to complement, not clash with, the facade color of the building. Signs should normally not contain more than three colors, except in the case of illustrations. Examples of preferred background colors are burgundy, red, forest green, chocolate brown, black, charcoal, navy, beige, and white. Preferred lettering colors are ivory, white, black, navy, green or gold. Florescent colors are prohibited.
  - (9) The following types of signs are not considered signs that require a permit: "Debit," "Credit," or "ATM" decals, operating hours, community posters.
  - (10) Signs that are on the inside of windows, that are promotional, seasonal displays or greetings, are types of signs that are regulated in § 130-7, Temporary signs.
  - (11) Signs that are of a directional or warning nature will not be included in the square footage requirements as noted in § 130-6A(2) through (4), but shall require review by the Planning Board subject to the approval considerations of § 130-9.
- B. Portable signs shall be permitted in the business and industrial district in accordance with the following conditions:
- (1) Merchants will provide the Village office with a certificate of their liability insurance with limits of at least \$500,000. Additionally, a hold harmless agreement, as provided by the Village, must be executed with the Village. Such certificate must be filed before a sign permit will be issued.
  - (2) No sign may be displayed during hours when the business or businesses are closed.
  - (3) Sign must be displayed on the property of the business.
  - (4) Portable signs may not obstruct pedestrian traffic.
  - (5) Portable signs will be 24 inches wide by 42 inches high, and all such signs shall be of similar construction.
  - (6) Portable signs will be consistent in form, color, lettering and design with existing signs on the building.
  - (7) One portable sign per building. Where there is more than one business in a building, only one portable sign will be permitted. The portable sign may be shared.

- (8) Portable signs require a sign permit. No permit will be issued unless the Planning Board approves the design of the sign.
- (9) All property owners shall have three months from enactment of this subsection to comply with the provisions in this section dealing with portable signs.

**§ 130-7. Temporary signs. [Amended 11-19-2001 by L.L. No. 1-2001]**

All signs of a temporary nature, such as political posters or other posters, banners, promotional devices, decals and other signs of a similar nature, advertising or calling attention to coming events, civic activities or similar events, may be displayed, provided that:

- A. Such signs shall not be attached to fences, trees, utility poles or the like, nor shall they be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or nuisance to the health and welfare of the general public.
- B. Where such signs are to be fixed to the interior of a window, said signs shall not exceed 30% of the total window area. The measurement of this area is considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- C. All such signs may be displayed for a time period not to exceed 30 days. All temporary signs must be removed after 24 hours of the date of the event being advertised.
- D. All violations of this section shall be subject to the provisions of § 130-14 of this chapter.

**§ 130-8. Applications for permits.**

- A. An application for a sign permit, as required by this chapter, shall be made in writing to the Planning Board or otherwise designated official and shall contain the following information: **[Amended 12-21-1992 by L.L. No. 5-1992]**
  - (1) The name, address and telephone number of the applicant. The name and address of the owner of the involved property shall also be stated in the event that the applicant is not the owner thereof.
  - (2) Survey map or tap location map showing the location of the building, structure or land to which or upon which the sign is to be erected. **[Amended 11-19-2001 by L.L. No. 1-2001]**
  - (3) Detailed drawings of the proposed sign, including but not limited to the following information:
    - (a) Lettering and/or pictorial matter composing the sign.
    - (b) Color of the sign.
    - (c) Drawing of the building showing size.
    - (d) Construction materials and construction and mounting details.
    - (e) Type, location and intensity of any lighting devices.
    - (f) A location plan showing the position and height of the sign on any building, structure or land and its position relative to all adjacent structures, property lines and any private or public street, highway or sidewalk. **[Amended 10-19-1998 by L.L. No. 7-1998]**

B. For all signs, objects or devices overhanging public property or public access, the applicant shall provide proof of liability insurance coverage in the amount of \$500,000. **[Amended 10-19-1998 by L.L. No. 7-1998]**

(1) Hold harmless agreement as provided by the Village must be executed with the Village.

**§ 130-9. Approval considerations. [Added 11-19-2001 by L.L. No. 1-2001** *Editor's Note: This local law also renumbered former §§ 130-9 through 130-14 as §§ 130-10 through 130-15, respectively.* **]**

- A. All signs shall be erected and constructed in a fashion so as not to obstruct traffic, cause visual blight or detract from the value of property adjacent to that property.
- B. In reviewing sign applications or signs that require review, the Planning Board will take into consideration the following:
- (1) Will the sign be compatible with surroundings, meaning that it will be designed as an integral architectural element of the building and the site to which it principally relates.
  - (2) Design, including size and character of lettering, logos and related contents.
  - (3) Materials and texture.
  - (4) Colors.
  - (5) Lighting and illumination.
  - (6) Orientation and location.

**§ 130-10. Issuance of permit; variances; period of validity; fees.**

- A. Upon receipt of an application for a sign permit, the Planning Board shall examine said application and all data submitted therewith to ensure compliance with the requirements of this chapter and the guidelines promulgated hereunder and with other ordinances and local laws of the Village. The Planning Board shall approve or disapprove said application within 10 days of receipt of all required data and shall inform the Village Clerk of such approval or disapproval. **[Amended 12-21-1992 by L.L. No. 5-1992]**
- B. A party aggrieved by the determination of the Planning Board with respect to an application for a sign permit may, within 30 days of the decision complained of, present said application for a sign permit to the Zoning Board of Appeals of the Village of Victor. The Zoning Board of Appeals, after a hearing at which the aggrieved party may present his application, may approve, modify and approve or deny the application and shall have the authority to direct the issuance of a sign permit upon such conditions as may be appropriate. **[Amended 12-21-1992 by L.L. No. 5-1992]**
- C. Sign permits issued pursuant to this section shall be valid for a period of three months from the date of issuance, and if the proposed sign is not erected within said time, the permit shall become null and void.
- D. A fee as established by the Village Board shall be paid to the Village Clerk upon receipt of a sign permit. **[Amended 10-20-2003 by L.L. No. 2-2003]**

**§ 130-11. Nonconforming signs. [Amended 11-19-2001 by L.L. No. 1-2001]**

This section will apply to any sign that is in compliance and becomes nonconforming as a result of the modification of the code.

- A. Each nonconforming sign shall be allowed to be displayed for a period of time that provides for a reasonable opportunity for the owner to benefit from the investment made in the sign. This period shall be two years. After this time period has expired, nonconforming signs shall be removed or otherwise brought into compliance with this chapter.
- B. Removal.
  - (1) Any sign which has been ordered removed by the Code Enforcement Officer, or is abandoned or discontinued, shall be removed by the person, firm or corporation responsible for the sign within 30 days of written notice to remove. Any signs not removed within the time limit shall be deemed a public nuisance and shall be removed by the Village if the sign owner or property owner fails to do so after being ordered by the Code Enforcement Officer. Costs of said removal shall be charged to the sign owner and/or property owner and may be recovered by Village, if necessary, in an action of contract in the Town Court, or by placing a lien, in accordance with appropriate state law, on the property from which the sign has been removed.
  - (2) Removed sign to be stored. A sign removed by Village shall be held not less than 30 days by the Village, during which period it may be recovered by the owner upon paying the Village for costs of removal and storage, and upon payment of the imposed fine. If not recovered within the thirty-day period, the sign is determined to be abandoned and shall be disposed in the manner permitted by the law.

**§ 130-12. Construal of provisions; effect on prior acts.**

- A. The provisions of this chapter which are a substantial reenactment of a prior ordinance or local law shall be construed as a continuation of such provision, modified or amended according to the language used, and not as new enactments.
- B. The provisions of this chapter shall not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability or penalty, forfeiture or punishment incurred prior to the time this chapter takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such chapter had not been enacted.

**§ 130-13. Maintenance.**

- A. All signs erected and maintained within the limits of the Village of Victor shall be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose fastenings, and at all times shall be maintained in a safe condition so as not to be detrimental to the public health or safety.
- B. No sign shall be altered in any way subsequent to approval of plans therefor.
- C. No sign shall be maintained which advertises a business or activity which no longer exists on the property where said sign is located.

**§ 130-14. Notice of noncompliance; revocation of permit; costs. [Amended 5-1-1989 by L.L. No. 2-1989; 12-21-1992 by L.L. No. 5-1992; 10-19-1998 by L.L. No. 7-1998]**

In the event of a violation of any of the foregoing provisions, the Code Enforcement Officer shall give written notice to the permit holder and to the owner of the affected property if different from the permit holder, which notice shall specify the violations complained of and the remedial action required to remove the same. In addition, said notice shall advise of the contents of this section and the right to appeal an administrative decision to the Zoning Board of Appeals pursuant to

§ 130-10B of this chapter. If the stated violations are not corrected within 10 days of the issuance of a written notice as aforesaid, the Planning Board shall revoke the permit issued for such sign and shall have such sign removed and shall assess the costs and expenses incurred in such removal against the land on which such sign is located.

**§ 130-15. Penalties for offenses. [Amended 10-20-2003 by L.L. No. 2-2003]**

Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable to a fine of not more than \$250 or maximum imprisonment of 15 days, or both, and each day that such violation continues shall constitute a separate violation.

## **ARTICLE XI Site Plan Approval [Amended 1-31-2005 by L.L. No. 1-2005]**

### **§ 230-66. General procedure.**

In all cases where this chapter requires approval of site plans by the Planning Board, such site plans shall be submitted to said Board by the Village Engineer, and no building permit shall be issued by him or her except in conformity with the approved site plans.

### **§ 230-67. Uses and actions subject to site plan approval and minor site plan approval.**

- A. Site plan approval by the Planning Board shall be required in all districts for the following uses and actions:
  - (1) Any new construction or enlargement of a building, with the exception of new construction or enlargement of a residential building in an RA or RB District (see § 230-67B).
  - (2) A change of use in which a change of building footprint is also proposed.
  - (3) Proposed new roads and driveways, and changes to existing roads and driveways, with the exception of new roads and driveways and changes to existing roads and driveways in an RA or RB district.
- B. Minor site plan approval shall be required in all districts for:
  - (1) Any new construction of a residential building. The construction of residential decks and patios, walkways and gardens is not subject to site plan review.
  - (2) Any enlargement of a single-family or two-family home that brings the total habitable floor area to 80% or more of the maximum permitted habitable floor area. The maximum habitable floor area is calculated by multiplying the maximum FAR in that zoning district by the lot size. When any enlargement of a single-family or two-family home is subject to minor site plan review, then the structures accessory to that single-family or two-family home, such as garages, are subject to minor site plan review as well.
  - (3) Any proposed clearing of trees or earthwork on any property involving 20% or more of the site.
  - (4) Any change of use where no change to the building or site is proposed.
- C. Routine maintenance and investment such as repainting, reroofing, and resurfacing/residing, and window replacement shall be excluded from site plan review and minor site plan review.

### **§ 230-68. Presubmission.**

- A. Site plan review. Prior to the submission of a formal site development plan, the applicant should meet in person with the Planning Board and/or its designated representative to discuss the proposed site development plan so that the necessary subsequent steps may be undertaken with a clear understanding of the Board's attitude and requirements in matters relating to site development.
- B. Minor site plan review. For minor site plan review, the applicant shall submit the proposed building or clearing plan to the Village Engineer. Based on the proposed plan, the Village Engineer shall determine which of the criteria listed in § 230-69D shall be included on the site plan. The completed site plan shall then be submitted for review in accordance with § 230-69A and B of this article.

**§ 230-69. Required submissions.**

- A. At least 15 days in advance of the Planning Board meeting at which a site development plan or an amendment of it or a minor site plan is to be presented, 10 copies of the site development plan and the information enumerated below must be submitted to the Village Engineer, along with a letter of application, if requested.
- B. In addition, the application shall be accompanied by a fee in an amount set by resolution of the Board of Trustees. *Editor's Note: The current fee resolution is on file in the office of the Village Clerk.* In the event that an application for site plan development is not approved, the applicant shall be entitled to a refund of 50% of the fee paid. Once approval has been given of a site plan, no refund shall be made regardless of whether the project is ever completed.
- C. The foregoing schedule of fees and provisions relating to refund of fees shall also be applicable to applications for approval of subdivision plats.
- D. The information to be submitted and which, in total, constitutes a site development plan shall be as follows:
  - (1) Legal data.
    - (a) The names of all owners of record of all adjacent property and the lot, block and section number of the property.
    - (b) Existing zoning district boundaries.
    - (c) Boundaries of the property: building or setback lines and lines of existing streets, lots, reservations, easements and areas dedicated to public use. All lengths shall be in feet and decimals of a foot, and all angles shall be given to the nearest 10 seconds or closer if deemed necessary by the surveyor. The error of closure shall not exceed 1:10,000.
    - (d) A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract.
  - (2) Existing buildings and facilities.
    - (a) The location of existing buildings.
    - (b) The location of existing water mains, culverts and drains on the property with pipe sizes, grades and direction of flow.
  - (3) Topographic data.
    - (a) Existing contours with intervals of two feet or less, referred to a datum satisfactory to the Board.
    - (b) The location of existing watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of six inches or more measured three feet above the base of the trunk, and other significant existing features.
  - (4) Development data.
    - (a) The title of development, date, North point, scale, and name and address of record owner, engineer, architect, land planner or surveyor preparing the site development plan.
    - (b) The proposed use or uses of land and buildings and proposed location or locations of buildings, including proposed grades.
    - (c) All proposed lots, easements and public and community areas. All proposed

streets with profiles indicating grading and cross sections showing width of the roadway, location and width of the sidewalk and locations and size of utility lines. All lengths shall be in feet and decimals of a foot, and all angles shall be given to the nearest 10 seconds or closer if deemed necessary by the surveyor. The error of closure shall not exceed 1:10,000.

- (d) All means of vehicular access and egress to and from the site onto public streets.
  - (e) The location and design of any off-street parking areas or loading areas.
  - (f) The location of all proposed waterlines, valves and hydrants and of all sewer lines with profiles, indicating connections with existing lines or alternative means of water supply or sewage disposal and treatment.
  - (g) The proposed location, direction, power and time of proposed outdoor lighting by means of data, details and an illumination contour plan which shows that lighting equal to or greater than 1/2 footcandle will not splay off site.
  - (h) The proposed screening, where deemed necessary by the Board.
  - (i) The proposed stormwater drainage system.
  - (j) The location, either existing or proposed, of tents, ramada structures, inflatable structures and similar structures or facilities which are erected or intended to be erected for more than 30 days within any one-year period, all of which are deemed structures or facilities that must be shown on any required site plan.
  - (k) A plan showing existing slopes, rock outcrops, and rock ledges on the site and the environs within 200 feet of the property boundaries, and the postconstruction plan showing proposed topographic contours and profiles, with existing and proposed contours to be shown at a maximum vertical interval of two feet.
- (5) Architectural features.
- (a) Purpose. To improve the overall visual and built quality in the Village, to encourage quality exterior building design, and to encourage buildings that are appropriate in design and scale to the site and surrounding area, the Planning Board shall also consider architectural features in its review of site development plans and minor site plans.
  - (b) Required submissions. In addition to the materials listed in § 230-69D(1) through (4), the applicant shall be required to submit the following materials to the Planning Board in order to demonstrate the design context within which a development is proposed.
    - [1] A photographic montage or appropriate drawings of the proposed development and its accompanying street district. The montage or drawings shall show the proposed building and all buildings within a two-hundred-foot radius of the proposed building. If the building is within 200 feet of a corner, the montage or drawings shall include the corner and that part of the adjacent block within the two-hundred-foot radius of the proposed building.
    - [2] Scaled building elevations.
    - [3] Narrative description and/or samples of proposed exterior building materials and treatments.

#### **§ 230-70. Review by Planning Board.**

- A. The Planning Board shall review the site plans or any amendment of such plans in the same manner as is prescribed by state law for the review of subdivision plats, **Editor's Note: See Art. 7 of the Village Law** with public notice for hearing to be identical to those required by § 230-76A for the Zoning Board of Appeals. For minor site plan review, the public notice and public hearing provisions of § 230-76A are not required. The Planning Board may approve minor site plans in one meeting if the Board determines that the applications meet the approval criteria. The Planning Board shall by resolution approve, with or without modifications, or disapprove a minor site plan application within 90 calendar days of receipt of a complete application by the Planning Board. If such decision is not rendered by the Planning Board by the 91st day, the application shall be deemed approved unless the applicant has consented to a further continuation of the review process.
- B. In considering and approving the site development plan, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and shall make any appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter and particularly with regard to satisfactorily achieving the criteria listed below.
- (1) Maximum safety of traffic access and egress.
  - (2) A site layout, including the location, character and appearance of any proposed building, group of buildings or sign location, with the power, direction and time of any outdoor lighting of the site, which would have no adverse effect upon any properties in adjoining residence districts by impairing the established character or the potential use of properties in such districts.
  - (3) The reasonable screening, at all seasons of the year, of all playgrounds and parking and service areas from the view of adjacent residential properties and streets.
  - (4) Conformance of the proposed site development plan with such portions of the Master Plan of the Village of Croton-on-Hudson as may be in existence from time to time.
  - (5) In applicable cases, a drainage system and layout which would afford the best solution to any drainage problems.
  - (6) In specific cases where the Planning Board finds that the maximum setback distances from the front, side or rear lot lines fail to maintain adequately the residential characteristics of surrounding residential properties, if any, it may require that such distances be increased, but in no case may it reduce said minimum setbacks.
  - (7) Location, arrangement, appearance and sufficiency of the off-street parking and loading.
  - (8) Adequacy of water supply and sewage disposal facilities.
  - (9) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  - (10) Safe, adequate and convenient pedestrian access and circulation both within the site and to adjacent streets.
  - (11) The preservation of scenic views and vistas, consistent with reasonable use of property, particularly to the Hudson and Croton Rivers.
  - (12) Quality of architectural features. The following criteria are intended to provide a framework within which the Planning Board may judge the appropriateness of the project to the neighborhood context and, for renovations, to assess the compatibility of the proposed addition with the existing exterior building. The criteria are also designed to enable the designer of the project to exercise creativity and innovation.

- (a) Site development: the orientation, setback, alignment, spacing and placement of all buildings, and structures.
- (b) Building design:
  - [1] Scale and proportion. The height, width, bulk and general proportions of the development, the ratio of wall surface to openings, and the ratio of the width and height of windows and doors.
  - [2] Setback and orientation. The setback of the building, accessory structures, and retaining walls, and the orientation of the proposed building to the setbacks on the lot, as well as to the setbacks of proximate buildings and the common street setback.
  - [3] Directional expression. The vertical, horizontal, or nondirectional facade character of the proposed building or addition, and its relationship to the existing building and/or proximate structures.
  - [4] Windows and doors. The pattern of placement and proportions of windows and doors, and their relationship with that of the existing building and other structures in the two-hundred-foot vicinity of the building.
  - [5] Roof form. Roof form should be in proportion to the structure and should relate to the materials and construction of the existing building and structures in the two-hundred-foot vicinity.
  - [6] Features and details. Balconies, decks, covered porches, bracketed eaves, columns, balustrades, towers, turrets, skylights, and arches should be in proportion to each other.
  - [7] Wall materials. Walls should be constructed of natural materials such as masonry, stone or wood, or of synthetic materials that are selected for harmony with natural materials.
  - [8] Lighting. All lighting should be appropriate to the building and its surroundings in terms of style, scale and intensity of illumination. Low-wattage systems are preferred. Site lighting should be shielded to prevent glare or spillage onto adjoining properties.
  - [9] Diversity of design. The designs for proposed new buildings should avoid:
    - [a] Overly repetitive use of identical architectural features such as facade openings, cornice lines, etc.
    - [b] Overly similar treatment of building elevations.
    - [c] Excessive identical replication of the architectural style or treatment existing in surrounding buildings.
  - [10] Historic quality. The building's value within the historic district or landmark fabric of the Village (i.e., built before 1931), or listed on, or determined eligible for, the state and/or National Register of Historic Places, or designated as a historic site or property by Westchester County.

**§ 230-71. Variations or waivers.**

Variations or waiver of the general requirements outlined above may be permitted by the Board when, in its judgment, special factors warrant such variations or waiver.

#### **§ 230-72. Maintenance of on-site improvements.**

- A. It shall be the duty of each owner of property within the Village of Croton-on-Hudson for which property site plan approval under this article has been granted to erect, maintain, repair and replace all on-site landscaping, screening, paving and any other similar improvements required contingent to such site plan approval. Single-family and two-family homes are exempt from this requirement but are subject to the requirements of Chapter 179, Property Maintenance, of the Village Code and of the Property Maintenance Code of New York State.
- B. Notice of violation. Whenever the Village Engineer of the Village of Croton-on-Hudson determines that such on-site improvements are not being properly erected, maintained, repaired or replaced as required by Subsection A above, he shall include such determination in a notice of violation to be sent by the Village Engineer by registered or certified mail addressed to the owner of record of such land at the address shown on the last preceding assessment roll of the Village, which notice shall direct the owner to remove the violation within 30 days of mailing of the notice. The notice of violation shall specify the manner in which the on-site improvements do not comply with requirements, the correction that is required to be made and a statement that, in the event that the owner fails to comply within such 30 days, the Board of Trustees may direct the Department of Public Works to erect, replace, repair or maintain such on-site improvements and provide for the assessment of all costs and expenses so incurred by the Village in connection with any action taken by the Village to be placed as a lien against the property and included in the following year's Village tax levied on the property.
- C. Enforcement of violation notice. Whenever the notice of violation has not been complied with within the thirty-day period after mailing of the same, the Board of Trustees shall, by resolution, direct the Department of Public Works to erect, repair, replace or maintain such on-site improvements in the manner specified in the notice of violation and to assess the costs and expenses of the same as a lien against the property as provided in Subsection B.
- D. Recovery of expenses. The costs and expenses incurred pursuant to Subsection C shall be paid by the owner of record of the property as shown on the last preceding assessment roll of the Village. The Department of Public Works shall file among its records an affidavit stating with fairness and accuracy the items of cost and expense incurred and the date of execution of actions authorized by the Board of Trustees. The Receiver of Taxes and appropriate Village officials shall incorporate all such costs and expenses as a lien against the property by including the same in the following year's Village tax levied on the property unless said costs and expenses have been paid in full prior to preparation and mailing of the tax notice.

#### **§ 230-73. Parks and playground sites.**

- A. In all cases where this chapter requires approval by the Planning Board of any site plan development that includes residential units, the regulations adopted by the Village Board of Trustees applicable to subdivisions regarding provision for parks for playground or other recreation purposes, or money in lieu thereof, shall apply. *Editor's Note: See Article XII, Subdivision of Land, § 230-123.* Where money in lieu of recreation land is accepted, the amount shall be calculated based on the per-dwelling-unit fee then in effect for a subdivision in an RA District.
- B. This section shall not apply to property which formed part of a subdivision that was itself approved on condition that land or money be set aside for parks, playground or other recreational purposes.

**§ 230-74. Plan amendments for dish antennas.**

In all cases where site plan approval is required under this chapter, the installation of a dish antenna in excess of 36 inches in diameter shall be deemed an amendment to the site plan or an action requiring a site plan if none has heretofore been approved and shall require submission to and approval by the Planning Board.

## **ARTICLE VIII Historic Preservation [Added 3-22-1993 by L.L. No. 5-1993**

Editor's Note: Section V of this local law provided for the continuation of the current Historic Review Commission members for their terms as appointed. ]

### **§ 187-44. Purpose.**

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the Village of Fayetteville has many significant historic, architectural and cultural resources which constitute its heritage, this article is intended to:

- A. Protect and enhance the landmarks and historic districts which represent distinctive elements of the Village's historic, architectural and cultural heritage.
- B. Foster civic pride in the accomplishments of the past.
- C. Protect and enhance the Village's attractiveness to visitors and the support and stimulus to the economy thereby provided.
- D. Ensure the harmonious, orderly and efficient growth and development of the Village.

### **§ 187-45. Historic Preservation Commission.**

The Village of Fayetteville Historic Review Commission shall hereafter be known as the Village of Fayetteville Historic Preservation Commission.

- A. Members of the Historic Preservation Commission shall be appointed by the Mayor, subject to the approval of the Board of Trustees. The Historic Preservation Commission shall be composed of five members. At least one member shall reside in and own real property in the Historic District. At least one additional member shall own real property in the Historic District. Of the remaining members, two shall be residents at large of the Village of Fayetteville and one shall be an individual with a demonstrated degree of expertise in the area of historic architecture. **[Amended 1-8-2001 by L.L. No. 1-2001; 6-11-2001 by L.L. No. 4-2001]**
- B. Terms of office shall be five years. Those persons currently serving as members of the Village of Fayetteville Historic Preservation Commission shall continue to serve their three-year terms as previously appointed. The first appointments of members after expiration of each three-year term shall be for terms so fixed that at least one will expire at the end of each official year commencing at the end of the current such year and continuing in succeeding years until the entire original appointments run out. At the expiration of each original appointment hereunder, the succeeding appointments shall be for five-year terms. No term shall exceed five years. **[Amended 4-26-1993 by L.L. No. 7-1993]**
- C. Of the members of the Historic Preservation Commission, the Mayor shall appoint one as Chairperson and one as Vice Chairperson, subject to the approval of the Board of Trustees. **[Amended 1-8-2001 by L.L. No. 1-2001]**
- D. The powers of the Commission shall include:
  - (1) Upon funding by the Board of Trustees, employment of staff and professional consultants as necessary to carry out the duties of the Commission.
  - (2) Promulgation of rules and regulations as necessary for the conduct of its business.

- (3) Adoption of criteria for the identification of significant historic, architectural and cultural landmarks and for the delineation of historic districts.
  - (4) Conducting surveys of significant historic, architectural and cultural landmarks and historic districts within the Village.
  - (5) Recommending to the Board of Trustees designation of identified structures or resources as landmarks and historic districts.
  - (6) The making of recommendations to the Village government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this article.
  - (7) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
  - (8) Making recommendations to Village government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Village.
  - (9) Recommending acquisition of a landmark structure by the Village government where its preservation is essential to the purposes of this article and where private preservation is not feasible.
  - (10) Approval or disapproval of applications for certificates of appropriateness pursuant to this article.
- E. The Commission shall meet at least quarterly, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Mayor.
- F. A quorum for the transaction of business shall consist of three of the Commission's members, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness.
- G. Associate members. In addition to its regular members, the Historic Preservation Commission may include up to two associate members who shall be appointed to one-year terms by the Mayor, subject to the approval of the Board of Trustees. Each associate member may attend meetings and may participate in deliberations including executive session deliberations unless excluded from such executive sessions by vote of the Commission. Each associate member shall have such additional powers and voting rights as are conferred upon them by § 187-43.1. **[Added 2-9-1998 by L.L. No. 1-1998; amended 6-11-2001 by L.L. No. 4-2001]**

**§ 187-46. Designation of landmarks or historic districts.**

- A. The Commission may recommend to the Board of Trustees that an individual property be designated as a landmark if it:
- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
  - (2) Is identified with historic personages;
  - (3) Embodies the distinguishing characteristics of an architectural style;
  - (4) Is the work of a designer whose work has significantly influenced an age; or
  - (5) Because of unique location or singular physical characteristic, represents an

established and familiar visual feature of the neighborhood.

- B. The Commission may recommend to the Board of Trustees that a group of properties be designated as a historic preservation district if it:
  - (1) Contains properties which meet one or more of the criteria for designation of a landmark; and
  - (2) By reason of possessing such qualities, it constitutes a distinct section of the Village.
- C. The Board of Trustees may act to include a proposed property or properties in the Historical Preservation Overlay District by local law to amend the Village of Fayetteville Zone District Map. In addition to the procedural requirements otherwise required, notice of a proposed designation by the Board of Trustees shall be sent by registered mail to the owners of the property or properties proposed for designation, describing the property or properties proposed and announcing a public hearing by the Board of Trustees to consider the designation. Use of the names and addresses for those persons shown on the current Village real property tax rolls for purposes of mailing Village tax invoices for each affected parcel shall be deemed to satisfy the requirements of this section for purposes of mailed notice. **[Amended 4-26-1993 by L.L. No. 7-1993]**
- D. The Board of Trustees shall hold a public hearing prior to designation of any landmark or historic district. The Historic Preservation Commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.
- E. Within 60 days after filing of a recommendation for designation made by the Commission pursuant to § 187-46A or B above, the Board of Trustees must act to either reject the recommendation or schedule a public hearing. **[Added 4-26-1993 by L.L. No. 7-1993]**
- F. Upon filing with the Village Clerk of a recommendation for designation by the Commission made pursuant to § 187-46A or B above, no building permits shall be issued by the Codes Enforcement Officer until after the next regularly scheduled meeting of the Board of Trustees. **[Added 4-26-1993 by L.L. No. 7-1993]**
- G. The Board of Trustees may, by resolution, make a finding that it is considering designation of a landmark or historic district and, upon such finding, prohibit the issuance of building permits by the Codes Enforcement Officer for properties within the proposed area for a period of 45 days. The Board of Trustees may, by resolution, extend such prohibition for two successive thirty-day periods upon a finding that substantial progress is being made toward completion of the designation. **[Added 4-26-1993 by L.L. No. 7-1993]**

**§ 187-47. Alteration, demolition or new construction.**

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within a historic district, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district, without first obtaining a certificate of appropriateness from the Historic Preservation Commission.

**§ 187-48. Criteria for approval of certificate of appropriateness.**

- A. In passing upon an application for a certificate of appropriateness, the Historic Preservation

Commission shall not consider changes to interior spaces. **[Amended 4-26-1993 by L.L. No. 7-1993]**

- B. The Commission's decision shall be based on the following principles:
  - (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible.
  - (2) Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district.
  - (3) New construction shall be compatible with the district in which it is located.
- C. In applying the principle of compatibility, the Commission shall consider the following factors:
  - (1) The general design, character and appropriateness to the property of the proposed alteration or new construction.
  - (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.
  - (3) Texture, materials and color and their relation to similar features of other properties in the neighborhood.
  - (4) Visual compatibility with surrounding properties, including proportion of the property's front facade, roof shape and the rhythm of spacing of properties on streets, including setback.
  - (5) The importance of historic, architectural or other features to the significance of the property.

**§ 187-49. Certificate of appropriateness application procedure.**

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Historic Preservation Commission. The application shall contain:
  - (1) Name, address and telephone number of applicant.
  - (2) Location and photographs of property.
  - (3) Elevation drawings of proposed changes, if available.
  - (4) Perspective drawings, including relationship to adjacent properties, if available.
  - (5) Samples of color or materials to be used.
  - (6) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, method of illumination and a plan showing the sign's location on the property.
  - (7) Any other information which the Commission may deem necessary in order to visualize the proposed work.
- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historic Preservation Commission. The certificate of appropriateness required by this article shall be in addition to and not in lieu of any building permit that may be required by any other local law or ordinance of the Village of Fayetteville.
- C. The Commission shall approve, deny or approve the permit with modifications within 45 days

from receipt of the completed application. The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Village Clerk's office for public inspection. The Commission's decisions shall state the reasons for denying or modifying any application.

**§ 187-50. Hardship criteria.**

- A. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
  - (1) The property is incapable of earning any reasonable return, regardless of whether that return represents the most profitable return possible.
  - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.
  - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- B. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning any reasonable return, regardless of whether that return represents the most profitable return possible.

**§ 187-51. Hardship application procedure.**

- A. After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or authorization to proceed with demolition shall be issued unless the Commission makes a finding that a hardship exists.
- B. The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- C. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Village Clerk's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

**§ 187-52. Enforcement.**

All work performed pursuant to a certificate of appropriateness issued under this article shall conform to any requirements included therein. It shall be the duty of the Village of Fayetteville Building Code Enforcement Officer to inspect periodically any such work to assure compliance. In the event that work is found that is not being performed in accordance with the certificate of appropriateness or upon notification of such fact by the Historic Preservation Commission, the

Building Code Enforcement Officer shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

**§ 187-53. Maintenance and repair.**

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material, color or outward appearance.

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**ARTICLE VIII A Use Chart**

**§ 187-54. Zoning Use Chart.**

See the Use Chart included at the end of this chapter.

**§ 187-55. (Reserved)**

**§ 187-56. (Reserved)**

**§ 187-57. (Reserved)**

**§ 187-58. (Reserved)**

**§ 187-59. (Reserved)**

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**ARTICLE IX Communications Towers [Added 5-26-1998 by L.L. No. 3-1998]**

**§ 187-60. Purpose and goals.**

- A. The purpose of this article is to establish guidelines and procedures for the siting of wireless communications towers, antennas and related structures.
- B. The goals of this article are to:
  - (1) Encourage users of towers and antennas to configure them in a way that minimizes the adverse aesthetic impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
  - (2) Encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
  - (3) Avoid potential damage to person and property from tower failure through engineering and careful siting of tower and other structures; and
  - (4) Minimize the total number of towers throughout the community.

**§ 187-61. Review authority.**

The Planning Board shall review and approve, approve with modifications or disapprove applications for special permits for antennas and/or towers requiring same under this chapter.

Special permit applications shall be submitted to and reviewed by the Planning Board pursuant to the special permit procedures set forth elsewhere in this chapter as supplemented by the additional criteria and requirements of this article. The Planning Board may impose conditions and/or restrictions to such permits to accommodate the requirements of this chapter.

**§ 187-62. Exempt antennas or towers.**

- A. The Village Board of Trustees may establish and periodically amend by resolution a schedule describing certain types of towers or antennas that shall be exempted from any or all special permit requirements set forth in this article.
- (1) Any schedule of exempt antennas and/or towers established pursuant to this section shall not apply to any antenna or towers referred to in this section until 45 business days, excluding legal holidays, after:
    - (a) Adoption of such schedule by the Village Board; and
    - (b) Completion of the notice requirements set forth in the following subsection.
  - (2) Within 10 business days, excluding legal holidays, after adoption of such schedule of exempts antenna and/or towers by the Village Board, such schedule shall:
    - (a) Be posted conspicuously at or near the main entrance to the Village Clerks office; and
    - (b) Be provided to the Village Codes Enforcement Office; and
    - (c) Be published once in the newspaper designated by the Village for such purpose or in a newspaper of general circulation within the Village.
- B. The following are exempt antennas and towers:
- (1) Tower. Any tower extending no more than 10 feet above the highest building on the premises designed and used for no more than one of the types of exempt antennas referred to in this subsection.
  - (2) Antennas. Any antennas extending no more than 10 feet above the highest building on the premises designed and used only for noncommercial purposes and only for the reception of the following types of signals that are not retransmitted off of the premises upon which the antenna is located:
    - (a) VHF and UHF broadcast television.
    - (b) Citizens band radio.
    - (c) AM or FM radio.

**§ 187-63. Expenses.**

- A. Expert assistance. The Planning Board may require the assistance of a qualified professional engineer, electrical engineer and/or other expert to assess the issues and standards relevant to permits sought pursuant to this article. The cost for same shall be borne by the applicant pursuant to the procedures set forth in this chapter.

**§ 187-64. Factors considered in granting special use permits for towers.**

In addition to the criteria and standards set forth in that section of this chapter pertaining to special permits generally, the Planning Board shall consider the following in determining whether or not a special permit shall issue:

A. General.

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- (7) Proposed ingress and egress.

B. Availability of suitable existing or approved towers or alternate tower structures.

C. Compliance with all other requirements of this chapter.

**§ 187-65. Inventory of existing sites.**

Each applicant shall provide to the Codes Enforcement Officer an inventory of its existing or approved towers, antennas, or alternate tower structures that are either within the Village or within one mile of its borders, including specific information about the location, height and design of each tower.

**§ 187-66. Collocation requirements.**

- A. No new tower or structure shall be permitted unless the applicant demonstrates that no existing or approved tower, alternate tower structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. Evidence of this may consist of, but is not limited to, any of the following:
- (1) Existing or approved towers or alternate tower structure are not of sufficient height to meet applicant's engineering requirements.
  - (2) Existing or approved towers or alternate tower structure do not have sufficient structural strength to support the proposed antenna and related equipment.
  - (3) The proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternate tower structures, or vice versa.
  - (4) Fees, costs, or contractual provisions required to share an existing tower or alternate tower structure or to adapt an existing tower or alternate tower structure are unreasonable.
  - (5) The applicant demonstrates that there are other limiting factors that render existing towers or alternate tower structures unsuitable.
  - (6) The applicant demonstrates that an alternative technology that does not require the use of towers or alternate tower structures is not reasonably attainable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

- B. The applicant shall submit information requested by the Planning Board related to the availability of suitable existing or approved towers, alternate tower structures or alternative technology.
- C. Any communications antenna permit issued pursuant to this chapter shall contain the following conditions which shall be binding upon the applicant and its successors in interest:
  - (1) The applicant shall negotiate in good faith for and allow shared use of the proposed tower by others for reasonable consideration and upon reasonable conditions.
  - (2) Upon request, the applicant shall timely provide technical information and leasing terms relevant to leasing space for mounting of an approved antenna to the Village or a potential shared-use tenant.
  - (3) The applicant shall impose no more than a reasonable charge for shared use, based upon generally accepted accounting principles. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs (including taxes), site design, construction and maintenance financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to reasonably accommodate a shared user over a reasonable lease term.
  - (4) The applicant shall remove the tower, antennas and associated facilities upon cessation of operations at the site and will provide a similar commitment as part of any lease agreement to the owner of the premises upon which the tower, antennas and associated facilities are located.
- D. In order to keep neighboring municipalities informed and to facilitate the identification of suitable existing structures in a neighboring municipality:
  - (1) The applicant shall give notice to the Town of Manlius Code Enforcement Officer and the Syracuse Onondaga County Planning Agency. Such notice shall include a copy of the application and any accompanying drawings, the location of the proposed tower, a general description of the project, the height of the tower and its capacity for future shared use.
  - (2) Proof of such notice shall be submitted to the Planning Board with the application.

**§ 187-67. Maximum height.**

The height of any tower, antenna or alternate tower structure shall not exceed the minimum required to achieve the objective, but in no event more than 110 feet above the ground on which the antenna is placed.

**§ 187-68. Setbacks from property lines.**

- A. Lot size. For purposes of determining whether the installation of a tower, antenna or alternate tower structure meets applicable requirements, the dimensions of the entire premises shall control even though the improvements may be located on leased parcels within such premises.
- B. Setback requirements:
  - (1) Towers must be set back from all property lines a distance equal to at least 100% of the height of the tower.
  - (2) Accessory structures must satisfy the applicable minimum zoning district setback requirements.

- (3) The Planning Board may reduce the setback requirements imposed by this section for structures other than towers to allow the integration of an antenna into an existing or proposed structure such as a church steeple, light pole, power line or similar structure.

**§ 187-69. Aesthetics.**

- A. Towers and antennas shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- B. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- C. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- D. Security fencing. Towers and accessory structures shall be enclosed by locked security fencing not less than six feet in height and the tower shall also be equipped with appropriate anticlimbing devices.
- E. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special permit is required.
  - (1) Towers and accessory structures shall be landscaped with a buffer of plant materials that effectively screens the view of the tower and accessory structures from residential properties. The standard buffer shall consist of a landscaped strip at least eight feet wide outside the perimeter of the towers and accessory structures.
  - (2) Existing tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

**§ 187-70. Accessory structures.**

- A. All accessory structures:
  - (1) Shall be located in a rear or side yard;
  - (2) Shall be no greater than eight feet in height or 120 square feet of gross floor area;
  - (3) Shall be located a minimum of 15 feet from all lot lines or in accord with applicable setback requirements, whichever is greater;
  - (4) Shall be screened by an evergreen hedge or other suitable visual screen with an ultimate height of at least eight feet.
- B. Modification of building size requirements. The requirements for accessory structures set forth in this section may be modified by the Planning Board to encourage collocation.
- C. Lighting. Towers and structure shall be artificially lighted only to the extent required by the Federal Aviation Administration or other applicable law or regulation. To the extent permissible such lighting shall be designed to cause the least disturbance to the surrounding views.
- D. Signs. No signs shall be allowed on an antenna or tower, except as required by law.

**§ 187-71. Tower structural requirements.**

- A. No permanent platforms or other additions, other than antenna, that increase off-site visibility are permitted.
- B. The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
- C. All utility connections to the tower shall be installed beneath the ground surface.
- D. Any proposed structure shall be designed to accommodate the applicant's proposed antennas and comparable antennas for the maximum number of users feasible but in no case for less than one other user.
- E. Where feasible, structures should be designed to allow for future rearrangement of antennas upon the structure and to accept antennas mounted at varying heights.

**§ 187-72. Performance standards.**

- A. Compliance with other laws. All towers and antenna must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of New York State or the federal government with the authority to regulate towers and antennas.
  - (1) The applicant shall submit evidence of compliance with applicable state, federal or other standards for tower or antenna construction prior to issuance of a certificate of occupancy. Certification to same by a licensed professional engineer shall be deemed sufficient.
  - (2) The operator of every antenna or tower shall submit to the Code Enforcement Officer copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of such antenna or tower and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.
- B. Construction code and safety standards. All towers and antennas shall be constructed and maintained in compliance with applicable state and federal law and regulations as well as applicable sections of the National Electrical Code as amended from time to time.
  - (1) If a tower fails to comply with such standards and constitutes a danger to persons or property then, upon notice being provided by the Codes Enforcement Officer to the owner of the premises upon which the tower in situated, the owner of the premises shall bring such tower into compliance with such standards within 60 days from delivery of such notice to the owner.
  - (2) In the event the owner fails to bring such tower into compliance within said 60 days the Village may cause the removal of the tower or antenna at the expense of the owner of the premises.
- C. The reasonable costs of verification of compliance with this section incurred by the Village or its agencies shall be borne by the owner of the premises upon which the tower is located.

**§ 187-73. Removal of abandoned antennas and towers.**

- A. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Village notifying the owner of such abandonment.

- B. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower, antennas and associated facilities upon cessation of operations at the site shall be submitted at the time of the application.
- C. In the event the owner fails to remove an abandoned antenna or tower within said 90 days the Village may cause the removal of the tower or antenna at the expense of the owner of the premises.
- D. Bond. Prior to issuance of the special permit, the applicant shall cause to be issued to the Village a bond in an amount determined by the Planning Board to cover the estimated costs of removal of the proposed tower and/or antenna. Such bond shall be maintained continuously in effect as a condition of the special permit.
  - (1) The bond shall provide that the surety shall pay to the Village such amount, up to the face value of the bond, as the Village incurs in removing any tower or antenna pursuant to the terms of the article.
  - (2) Alternative arrangements employing cash deposits or letters of credit issued by a commercial bank may be employed if found to constitute equivalent security by the Planning Board.
  - (3) The amount of the bond may be reviewed and modified by the Planning Board, after three years from its last amendment, to reflect changes in the estimated costs of removal of the proposed tower and/or antenna.

## Chapter 114: NOISE

[HISTORY: Adopted by the Board of Trustees of the Village of Fayetteville 8-14-2000 by L.L. No. 1-2000, repealing former Ch. 114, Noise, which was adopted 4-24-1972 as Art. II of Ch. 12 of the Code of Ordinances (1972). Amendments noted where applicable.]

### GENERAL REFERENCES

Animals — See Ch. 65.

Peddling and soliciting — See Ch. 122.

### § 114-1. Declaration of policy.

- A. It is hereby declared to be the policy of the Village of Fayetteville to prevent unreasonably loud, disturbing and unnecessary noise (as defined herein) and to reduce noise level within the Village so as to preserve, protect and promote the public health, safety and welfare and to foster convenience, peace and quiet within the Village by the inhabitants thereof. The Village Board finds that problems concerning the disturbance of peace, quiet and tranquility by noise from various sources and activities are best resolved by thoughtful discussions and cooperative agreements between affected parties. However, to resolve remaining problems of noise which are disturbing to others, it is the policy of the Village of Fayetteville and the purpose of this chapter to establish standards, enforcement procedures, and penalties.
- B. This chapter shall be liberally construed so as to effectuate the purposes described herein.

### § 114-2. Definitions.

For the purposes of this chapter, the terms used herein are defined as follows:

**BURGLAR ALARM** — Any sound signal device designed and intended to produce an audible signal upon unauthorized entrance into or tampering with a building or motor vehicle.

**CONSTRUCTION** — Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, highways, roads, utility lines or other property.

**DEVICE** — Any mechanism which is intended to or which actually produces sound when operated or handled.

**EMERGENCY** — A public calamity or an exposure of any person or property to imminent danger.

**PERSON** — Any individual or group of individuals, partnership, company, corporation, trust, association, firm, organization, syndicate, administration, bureau, department or other entity.

**REAL PROPERTY LINE** — Either the boundary, including its vertical extension, which separates the parcel of real property owned or controlled by one person from that owned or controlled by another person, including intrabuilding real property divisions.

**UNNECESSARY NOISE** — Any excessive or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities, or which causes injury to animal life or damage to property or business. Standards to be considered in determining whether unnecessary noise exists in a given situation, include but are not limited to the following:

- A. The intensity of the noise;

- B. Whether the nature of the noise is usual or unusual;
- C. Whether the origin of the noise is natural or unnatural;
- D. The intensity of the background noise;
- E. The proximity of the noise to sleeping facilities;
- F. The nature and the zoning district of the area within which the noise emanates;
- G. The time of the day or night the noise occurs;
- H. The duration of the noise;
- I. Whether the sound source is temporary;
- J. Whether the noise is continuous or intermittent;
- K. Whether alternate methods are available to achieve the objectives of the sound producing activity.

**§ 114-3. Prohibited noises.**

No person shall make, continue, cause or consent to the making of any unnecessary noise. The following acts are declared to be prima facie evidence of a violation of this chapter and are prohibited, but said enumeration shall not be deemed to be exclusive.

- A. Burglar alarms. No person shall operate or cause to be operated an audible burglar alarm unless such alarm automatically terminates its operation within 15 minutes after it has been activated and does not operate more than 15 minutes in any one-hour period.
- B. Construction and operation of machinery. No person shall conduct or cause the conduct of construction and/or the operation of machinery, equipment and/or domestic power tools, including lawn mowers, sanders, grinders, and leaf blowers so as to cause unnecessary noise across a real property line between the hours of 9:00 p.m. the preceding night and 8:00 a.m. on Monday through Saturday, and between the hours of 9:00 p.m. the preceding night and 9:00 a.m. on Sundays and federal holidays.
- C. Exhausts. No person shall cause the discharge into the open air of the exhaust of any device, including but not limited to any motor vehicle engine, except through a muffler which will effectively prevent the creation of unnecessary noise therefrom.
- D. Horn or signal. No person shall sound or cause the sounding of any horn or signal on any car, motorcycle, bus or other vehicle, except as a warning signal pursuant to the provisions of the Vehicle and Traffic Law of the State of New York.
- E. Loading and unloading vehicles. No person shall cause or permit the creation of unnecessary noise in connection with loading or unloading of any material, equipment or garbage cans or the handling of bales, boxes, crates or similar containers.
- F. Motor vehicles. No person shall use or cause to be used any automobile, motorcycle, bus or other motor vehicle so out of repair, so loaded or in such manner as to create load and unnecessary grating, grinding, rattling or other unnecessary noise.
- G. Sound reproduction devices. No person shall operate, play or permit the operation or playing of any radio, CD or tape player, television, public address system, loud speaker, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create unnecessary noise at a distance of 75 feet from the noise

source or across a real property line, whichever is less.

- H. Vocal disturbances. No person shall cause or permit to be caused any unnecessary noise by shouting, yelling, whistling, singing or other vocal exclamations.

#### **§ 114-4. Exceptions.**

The following sounds are exempted from the provisions of this chapter:

- A. Sounds created by the use of any organ, bell, chimes or any other similar instrument or device of any church, synagogue or school on or within its own premises in connection with religious rites or ceremonies of such church or synagogue or in connection with a school education program.
- B. Sounds created by snow blowers, chain saws and other domestic tools and equipment when used to clear driveways, streets or walkways during and after snowfalls, rainstorms, ice storms, windstorms or other similar emergencies.
- C. Sounds created by agricultural activities.
- D. Sounds connected with athletic, recreational, or sporting events of any public organization or private school, provided that such sounds shall be reduced between the hours of 12:00 midnight and 7:00 a.m.
- E. Sounds connected with organized activities sponsored by any school district or fire district or department within the Village, provided that such sounds shall be reduced between the hours of 12:00 midnight and 7:00 a.m.
- F. Sounds connected with municipally sponsored celebrations or events including lawful fireworks displays, parades, carnivals and the like held in accordance with all pertinent provisions of the Village Code, provided that such sounds shall be reduced between the hours of 12:00 midnight and 7:00 a.m.
- G. Sounds connected with the lawful hunting of animals or game during the appropriate hunting or gaming seasons.
- H. Sounds created by emergency construction or repair work authorized or performed by the Village of Fayetteville, any incorporated Village within the Village of Fayetteville, the County of Onondaga, the State of New York or any recognized utility serving the area.
- I. Sounds created by the exercise of commercial activities to the extent that such sounds are already controlled by the Village of Fayetteville through site plan approval, special permit or otherwise. Sounds created by municipal emergency alarms, police cars, fire engines, ambulances and other emergency vehicles when used in connection with an emergency, drill or test procedure.
- J. Sounds connected with activities open to the public where consent has been obtained from the Village of Fayetteville Board of Trustees or such other authority or officer of the Village of Fayetteville as is designated by the Village of Fayetteville Board of Trustees.

#### **§ 114-5. Enforcement.**

- A. The provisions of this chapter may be enforced by the Codes Enforcement Officer of the Village of Fayetteville and area law enforcement agencies.
- B. Upon resolution of the Village Board, the Codes Enforcement Officer of the Village of Fayetteville shall have authority, pursuant to Article 150 of the New York Criminal Procedure

Law, to issue appearance tickets as defined therein for the purpose of enforcing this chapter.