

Local Law #1 of 2007

VILLAGE OF MILFORD

ZONING REGULATIONS

OTSEGO COUNTY, NEW YORK

A local law establishing Land Use Regulations
For the Village of Milford, New York

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ARTICLE 1 ENACTMENT, TITLE AND PURPOSE

Section 1.1 Enactment

The Village Board of the Village of Milford in the County of Otsego, on this 5th day of July 2007, under the authority of Section 7-700 of Article 7 of Chapter 62 of the Consolidated Laws of the State of New York, hereby enacts the following regulations.

Section 1.2 Title

This law shall be known as the Village of Milford Zoning Local Law.

Section 1.3 Purposes in View

This law is designed to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent overcrowding of the land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water sewerage, schools, parks and other public requirements. This law is made with reasonable consideration of the character of the various districts, and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the village.

Section 1.4 Application of Regulations

Except as hereinafter provided, no building structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified. No part of a yard or other open space or of any parking or loading area required for the purpose of complying with the provisions of this law shall be included as a part of a yard or other open space, or parking or loading area similarly required for another building.

ARTICLE 2 DEFINITIONS

Section 2.1 Meaning of Words

Except where specifically defined by this article, all words used in this law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the words "plot" and "parcel"; the term "shall" is always mandatory; and the word "used" or "occupied" as applied to any land or building shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied".

Section 2.2 Definitions

Accessory Building: A detached building housing an accessory use.

Accessory Use: A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use.

Airport: Any portion of land specifically designed and continually used for the landing and taking off of aircraft.

Alteration: As applied to a building or structure, means a change or rearrangement in the structural parts or in the existing facilities, other than repairs or an enlargement, whether by extending on a side or by increasing height, or the moving from one location or position to another.

Animal Hospital: Structure for the care and treatment of animals.

Architectural Value: A sum total of style, integrity or originality, antiquity and craftsmanship as they related to structures or buildings.

Area Regulations: The regulation of building size, setbacks or yards, parking and loading requirements and

similar regulations, but excluding performance standards.

Arrangement: The placement of materials into a harmonious order or into a correct or suitable sequence, relationship or adjustment.

Auto Body Shop: The use of a parcel of land or portion of *any* parcel of land whether inside or outside a building for the replacement, repair or painting of all or a portion of auto body or bodies.

Auto Showroom: A building for the display and sale of new and second-hand motor vehicles as defined in the Vehicle and Traffic Laws of the State of New York.

Auto-Wrecking Yard: The use of *any* parcel of land or portion of *any* parcel for the dismantling, cutting, demolition and burning of automobiles and storage of the same prior to and after completion of said processes.

Basement: That floor of a building which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building. Cellars are included in this definition.

Boarding House: A dwelling in which rooms, with or without board, are offered for rent. Rooming houses, adult homes, group homes, B&B's and tourist homes are included in this definition.

Breweries: A building for the enclosed process of making alcoholic beverages, bottling, packaging and delivery, including the storage of plant owned vehicles.

Building (Noun): Any structure which is permanently affixed to the land and is covered by a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals or chattels.

Building (Verb): Any action upon a building, structure, or portion thereof which involves, and is limited to the following: construct, erect, relocate, extend, remove, demolish or structurally change.

Building Coverage: That portion of a parcel occupied by a building as measured by the projection of the outermost walls to ground level. Building coverage is customarily expressed as a percentage of total parcel area.

Building, Front Line of: The line of that face of the building nearest the front line of the lot. This face *shall* include bay windows, covered porches whether closed or unclosed, or any projections thereof, which are over fifty (50) square feet in floor area.

Building, Height of: The vertical distance from the mean finished grade at the front line of a building to the horizontal projection of the highest structural part of a building.

Building, Principal: A building in which the principal use of the lot, on which it is located, is conducted.

Burn Barrel: An uncontrolled open fire for the purpose of onsite disposal of rubbish (or trash) generated by residential or commercial activities.

Camp: Any parcel or parcels of land or water on which are located two or more cabins, tents, travel trailers, houseboats or other accommodations of a design or character suitable for seasonal or temporary recreational oriented occupancy regardless of whether such accommodations are actually occupied on a seasonal basis or otherwise.

Camp Ground: A parcel of land used or intended to be used, let or rented for campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

Car Lot: A parcel of land for public selling or offering for sale of two (2) or more vehicles at any one time.

Channel: A natural or artificial watercourse of perceptible extent with a definite bed and banks to confine and conduct continuously or periodically flowing water.

Commercial Use: Businesses intended for the sale of retail goods or personal services; department store; restaurant; secondhand Shop; tavern; but excludes gas station, garage, carwash, utility and agriculture.

Commercial Laundry: A building or part of building, not otherwise defined, and used for the cleaning of clothing or household goods for profit.

Common Open Space: An area reserved for use by patrons, customers, residents, or the general public, suitably landscaped and exclusive of building coverage, parking areas or driveways.

Community Centers: A public or private building or structure for community use with no commercial activities being conducted therein.

Condominium: See definition of Dwelling, Multiple.

Day Camp: Land and facilities thereon designed to provide for the daytime care and instruction of children on a seasonal basis.

Developer: Shall mean the legal owner or owners of all of the land proposed to be included in a development proposal. The holder of an option or contract to purchase, a lessee having a remaining term of not less than twenty (20) years, or other person having an enforceable proprietary interest in such land, shall be deemed to be a developer for the purposes of the law.

Dog Kennel: A structure or land used for harboring, sheltering or boarding four (4) or more dogs, over six (6) months of age.

Dump: A lot or part thereof used primarily for the storage or disposal by abandonment, dumping, burying or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part of vehicles.

Dwelling, Multiple: A building or portion thereof containing three (3) or more dwelling units.

Dwelling, One Family: A detached building containing one (1) dwelling unit. This does not include mobile homes.

Dwelling, Two Family: A detached building containing two (2) dwelling units. This does not include mobile homes.

Dwelling Unit: A building or portion thereof providing complete housekeeping facilities for one (1) family.

Dwelling, Short Term Rental: Any One Family, Two Family or Multiple Dwelling, rented for the purpose of overnight lodging for a period of less than thirty (30) consecutive days.

Electrical Distribution Substation: A place with or without a building where equipment is assembled or placed and designed to receive energy from a high voltage distribution supply system, so as to convert it to a form suitable for local distribution and to distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.

External Features: The architectural style and general arrangement of such portion of the exterior of a structure as it is visible from a public way.

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

Farm: Any parcel of land which is in excess of ten (10) acres and used principally for the raising of agricultural products or the keeping of poultry, fowl, livestock, or domestic animals, including necessary farm structures and the storage of farm equipment.

Farming, Farm Use or Occupancy: Any activity customarily carried on upon a farm, such as cultivation of land and animal husbandry.

Farm Pond: As distinguished from swimming pool - any standing body of water used for the purposes of watering livestock, fish pond or wild life marsh.

Floor Area: The sum of the gross horizontal area of the several floors in any building including the basement of a building and its accessory buildings on the same lot, and including the area of roofed porches, roofed terraces, elevator shafts and stairwells (at each floor), attics and floor space used for mechanical equipment (where there is structural head room of seven feet six inches or more). All dimensions shall be measured before exterior faces of walls.

Floor Area Ratio: The total aggregate floor area of all buildings on a lot, divided by the area of such lot.

Funeral Parlor: A building used for preparation and ceremonies connected with the burial and/or cremation of the dead.

Garbage: The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.

Garage, Commercial: Any garage operated for gain, and which is used for storage, repair, sale, greasing, washing, servicing, adjusting, or equipping of motor vehicles and/or for the retail sale of fuel for motor vehicles. Gasoline stations are included in this definition.

Garage, Private: An enclosed space for the storage of one (1) or more motor vehicles and within which space no business activity or industry connected directly or indirectly with motor vehicles is conducted.

Garage Sales: The offering for sale of personal goods at the premises of any property. This definition shall also include, but not be limited to, the following: lawn, porch, barn.

Grade-Mean Finished: The mean finished grade is the average grade level of the ground measured at the front wall of the building.

Highway Right-of-Way: That line which measures the right-of-way of any road and which is established by the village, county or state agency having jurisdiction over the road.

Home Occupation: An occupation or a profession which:

- a. Is customarily carried on in a dwelling unit or in a building or other structure accessory to the dwelling unit, and
- b. Is carried on by a member of the family residing in the dwelling unit, and is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and which conforms to the following additional conditions:
 1. The occupation or profession shall be carried on wholly within the principal building or within a building or structure accessory thereto
 2. No more than one-half (1/2) of the floor area of the principal building shall be used for said home occupation
 3. In the conduct of said activity, no more than one (1) person outside of the family residing on the premises shall be employed
 4. In the conduct of such activity, there shall not be any exterior storage of materials or equipment
 5. No exterior sign or display shall be permitted except as provided by appropriate law of the Village of Milford

Home Owners Association: A contract agreed to by two (2) or more owners of homes in any area that provides regulations for the operation and maintenance of commonly owned facilities and/or open space.

Hospital: Any building whose principal purpose is the diagnosis, treatment or care of human ailments or conditions. Primary care facilities, nursing homes, convalescent homes, clinics and like facilities are included

in this definition.

Hotel: A building or any portion thereof, which contains living and sleeping accommodations for transient occupancy and has a common exterior entrance or entrances, and which may also include dining rooms, kitchens, serving rooms, ballrooms and other facilities and services intended primarily for the accommodation of the personal needs of its occupants.

Junk: Anything worn-out or fit to be discarded. Also, anything of inferior quality; something cheap or shoddy.

Junk Yard: Any parcel of land including buildings thereon, which is used primarily for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material; or for collecting storage, dismantling or salvaging of machinery or vehicles not in running condition and the sale of parts therefrom. The deposit on a lot of two or more wrecked or broken down vehicles or the major parts thereof for three or more months will be deemed to make the lot a "junk yard".

Landscaping: The act of altering or changing the natural features of a plot of ground (usually around a building) as by adding lawns, trees, bushes, etc. This definition does not include within the term altering such things as maintenance or replacement.

Laundromat: A business premises equipped with individual clothes washing machines for the use of retail customers.

Laundry Collection Station: A building in which clothes and household goods are collected and returned and services are paid for while actual laundering may occur on separate premises.

Living Area: That area comprised of the enclosed occupied living accommodations within a residence, exclusive of basements, garages, and open porches.

Loading Space: An off-street space, area or berth, with an appropriate means of access to a street or way, intended for the temporary parking of a vehicle while loading or unloading merchandise or materials.

Lot: See Parcel of Land.

Lot Line: The established division line between different parcels of property.

Lot, Corner: A double frontage lot where two (2) or more sides are formed by intersecting street lines or their projections, and the interior angle of said lines is one hundred and thirty-five (135) degrees or less.

Lot, Depth: The mean horizontal distance between the front and rear lot lines measured along the median between the two (2) side lot lines.

Lot, Front Line: The lot line abutting a public street or highway right-of-way. On corner or double frontage lots, this shall be the smaller of the lot lines abutting such rights-of-way, or the line abutting the street upon which a majority of adjacent lots front, whichever is more appropriate.

Lot, Width: The mean horizontal distance measured at right angles to its depth along the front lot line.

Master Plan: The officially adopted plan of the Village of Milford, New York.

Mining: The removal of top soil or extraction of petroleum products or natural gas and/or underground minerals such ores, rock, sand, or gravel, whether by drilling, tunneling or open pit methods.

Mobile Home: A mobile home is any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used as a detached single-family residence; and which is intended to be occupied as permanent living quarters containing one or more of following facilities: sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities, plumbing or electrical connections for attachment to outside systems. The mobile home/trailer shall meet the Mobile Home Construction and Safety Standards of the US Department of Housing and Urban Development and applicable codes of the New York State Uniform Fire Prevention and Building Code at time of manufacture. This definition of mobile homes includes all additions, which are purchased and added thereto, or additions made subsequent to installation

excluding travel trailers and other forms of recreational vehicles.

Mobile Home Park: Any parcel of land, under single ownership or contiguous parcels of land under multiple ownership with or without improvements, which has been specifically planned and improved for the long term placement (over 30 days) of (3) or more mobile homes, used for nontransient dwelling purposes.

Mobile Home/Trailer Plot: Mobile home/trailer plot shall mean an area of ground for the accommodation of one (1) mobile home/trailer.

Modular/Manufactured Home: A housing unit constructed off-site consisting of more than one (1) segment and designed to be permanently anchored to a foundation and to become a fixed part of the real estate, and which meets all the standards of the New York State Building Code.

Motel: A building or series of buildings serving the same functions as a hotel, but providing separate outside entrances to individual or small groups of rooms. The term motel includes auto courts, motor courts, motor inns or lodges, and tourist cabins or courts.

Motor Freight Station: An area or building used primarily for the maintenance and/or storage of trucks, tractor-trailer vehicles, and parts for tractor-trailer vehicles and industrial materials.

Museum: A building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

Non-Conforming Building: A building or structure existing at the time of enactment of this law or as a result of amendments thereto, which does not conform to the regulations of the district or zone in which it is situated.

Non-Conforming Use: A use of land existing at the time of enactment of this law or as a result of amendments thereto, which does not conform to the regulations of the district or zone in which it is situated.

Nursery: A place where plants are grown for sale, transplanting or experimentation.

Office Building: A building that is divided into offices, either single or suites, for the transaction of business other than for mercantile or manufacturing purposes where merchandise is on display and offered for sale. Offices used for a professional business or for public or semi-public activities in whole or part are included in this definition.

Ordinary Maintenance and Repair: An action involving painting, roof repair and other similar minor repairs, not including structural alterations or architectural details.

Parcel of Land: Any area of land as described by deed or other written indenture capable of being recorded pursuant to the Laws of the state of New York. Should such deed or written indenture combine descriptions of more than one area of land, whether they be adjoining or separate, each such separately defined area of land shall be a Parcel of Land.

Parking Lot: Any space used for the storage of more than three (3) vehicles on a continuing basis, such space either being for hire or accessory to an existing building or use of land.

Parking Space, Off-Street: An off-street area or berth, with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

Plan: The design of a development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, private streets, ways and parking facilities. The phrase "provisions of the plan" when used in these regulations shall mean the written and graphic materials referred to in this definition.

Plat: A plan for developing a piece of undeveloped property.

Plot: See Parcel of Land definition.

Private Swimming Pool: A pool constructed on a parcel of land designed to be used by the occupants of the

lot excluding public or club use.

Profession: A vocation, occupation or employment involving labor, skill, education, special knowledge and compensation for profit, but the labor and skill involved is predominantly mental or intellectual, rather than physical or manual.

Public Utility Use: A building, structure or lot used for or in connection with the transmission, distribution or regulation of water, sewer, gas, electric, telephone, or other public utility service.

Public & Semi-Public Use: Land use or buildings under the auspices of a governmental unit, public agency or those involving public benefit or advantage; hospitals, schools, parks and recreational facilities, cemeteries, passenger stations, libraries, fire stations, public utility installation, government offices or facilities, philanthropic institutions, places of worship, community centers, day nurseries, and like uses are included in this definition.

Rear-Yard Depth: The distance between the rear lot line and the nearest point of a principal building.

Reconstruction: Reproducing by new construction the exact form and detail of a deteriorated or missing part.

Recreational Areas: Land or structures designed for recreation or any groups.

Residential District: Any land use district within which a one (1) family dwelling is permitted as a principal use.

Restaurant: A building or portion of a building wherein food or beverages are available for on-site consumption including drive-in food service.

Restoration: Rebuilding to approach as nearly as possible the original form by removing later work or replacing missing original work.

Retail store: Any building or permanent structure or portion thereof in which one or more services or one or more articles or merchandise are sold at retail, including department stores. Retail outlets in which minor manufacturing or processing are incidental to the sale of goods or services on the same premises are included in this definition.

Road, Arterial: A street, road or highway designated as an arterial road on the Village Official Map, or constructed or proposed for construction, to arterial standards in compliance with the village subdivision regulations.

Road, Collector: A street, road or highway designated as a collector road on the Village Official Map, or constructed or proposed for construction, to collector standards in compliance with the village subdivision regulations.

Road, Local: A street, road or highway designated as a local road on the Village Official Map, or constructed or proposed for construction to local road standards in compliance with the village subdivision regulations.

Rubbish: Solid or liquid waste materials, including but not limited to rags, furniture, cartons, chemicals, paint, grease, sludges, oils, and petroleum products other than legitimate home heating and cooking products, construction materials including but not limited to sheet rock, chip board, asphalt or fiberglass shingles, or pressure treated lumber, automobile parts, tires, dead animals or animal parts, metal goods including but not limited to refrigerators, stoves, and like appliances, diapers, (yard) grass clippings, paper and paper products, packaging materials, Styrofoam, mattresses, cigarette filters, glass, plastic of any kind and furniture.

Scale: Harmonious relationship of parts to one another.

Screening: Fences, bushes, or trees or other natural and/or artificial materials which partially or completely obscures the visual character of any given building or use of land.

Shopping Center: A group of two (2) or more commercial uses, located in the same or separate buildings on a single lot, which also contains all or part of the required off-street parking for such uses, with common points

of ingress and egress.

Side Yard Width: The distance between the side line of the lot and the nearest point of a principal building.

Stable: A building or structure in which domestic livestock are housed.

Street: Any public way dedicated to public vehicular travel or otherwise acquired by a municipality for highway use purposes. Street shall be taken as synonymous with road or highway.

Street, Centerline: The line determined by connecting the mid-points of the surfaced portion of any street, road or highway.

Streetline: Limit of street or highway right-of-way line. For the purpose of this law, streetline shall be the highway right-of-way line.

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

Swimming Pool: Any body of water or receptacle for water having a depth at any point greater than two (2) feet, used or intended to be used for swimming, and constructed, installed or maintained in or above the ground. A swimming pool shall be deemed a structure for all purposes under the provisions of this law.

Texture: The visual or tactile surface characteristic and appearance of materials.

Theater: A place of assembly for the showing of movies and the production of plays and special events.

Theater, Outdoor Drive-In: An open lot or part thereof with its appurtenant facilities, devoted primarily to the showing of movies or theatrical productions to patrons seated in automobiles or outdoor seats.

Town House: A two story single-family dwelling unit attached to another similar dwelling unit utilizing common open space and parking.

Travel-Trailer: Any portable vehicle which is designed to be transported on its own wheels; which is designed and intended to be used for temporary living quarters for travel recreation or vacation purposes; and which may or may not include all of the accommodations and facilities included in a mobile home. The term travel-trailer shall include self propelled recreational motor homes.

Warehouse: A building or portion thereof designed or used for the storage of merchandise, supplies, or other commodities.

Wholesale Establishment: A building or buildings used as a wholesale distribution center.

Yard: An open space on the same lot with a building, unoccupied and obstructed from the ground upward except as otherwise provided herein.

Yard, Front: The area lying between the building front line and the center line of the highway or road. The minimum front yard required by these regulations shall be measured perpendicular to the center line, at a point midway between side lot lines, and shall be bounded by the front lot line at the required perpendicularly measured depth.

Yard, Rear: The area lying between the rear lot line and the rear-most part of a principal building. The minimum required rear yard shall be measured perpendicular to the rear lot line, at a point midway between side lot lines, and shall be bounded by the rear lot line, side lot lines, and a line parallel to the rear lot line at the required perpendicularly measured depth.

Yard, Side: The area lying between a side lot line and the nearest part of a principal building. A required minimum side yard shall be measured perpendicular to the side lot line at a point midway between points at which the lines demarcating the required minimum front and rear yards intersect the side lot line, and shall be bounded by said lines and a line parallel to the side lot line at the required perpendicularly measured depth.

ARTICLE 3 DISTRICTS

Section 3.1 Establishment of Districts and Map

- a. For the purposes described in Section 1.3 of this law, the Village of Milford is hereby divided into the following districts:

R-A Residential-Agricultural District

R-1 Residential District

B-1 Business District

- b. The boundaries of the zoning districts are shown on the Official Village Zoning Map, a copy of which is attached and hereby made a part of this law. The zoning map may from time to time be amended in the same manner as any amendment to this law. The Village Clerk may from time to time publish copies of the zoning map provided such copies bear a notice similar to the following: "This copy of the Official Village Zoning Map contains amendments adopted through the date shown hereon, and the user hereof shall consult the map on file with the Village Clerk for any subsequent amendments."

Section 3.2 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforementioned districts as shown on the Official Village Zoning Map, the following rules of interpretation shall be used:

- a. Where district boundaries are indicated as approximately following the centerlines or rights-of-way lines of roads, highways; railroads; public utility easements; water course; village boundaries; property lines; or lot lines, said boundaries shall be construed to be coincident with such lines or projections thereof.
- b. Where district boundaries are indicated as being approximately parallel to any of the features described in Section 3.2a, said boundaries shall be construed as being parallel thereto and at such distances as are indicated on the Official Village Zoning Map or as shall be determined by the use of the scale.
- c. Wherever any feature described in Section 3.2a is depicted on the Official Village Zoning Map but such depiction varies from the actual location observed in the field and indicated by a physical feature, monument or mark, such physical feature, monument or mark shall be considered as being the reference point in determining a district boundary.

ARTICLE 4: DISTRICT REGULATIONS

Section 4.1 R-A - One Acre Residential-Agricultural District

The following regulations shall apply in all R-A Districts:

- a. Permitted Uses:
 1. One family dwellings
 2. Two family dwellings
 3. Modular/Manufactured homes
 4. Mobile Homes (Subject to provisions of Section 6.2)
 5. Farms and agricultural uses, including temporary stands for the sale of agricultural products grown on the premises
 6. Public uses, places of worship, schools, parks and playgrounds, government facilities, public utility facilities and museums.
 7. Forest Management Areas
 8. Nurseries and greenhouses
 9. Accessory uses to any permitted use

- b. Uses permitted upon issuance of a Special Permit:
 1. Home occupations
 2. Camps, campgrounds, including travel trailer parks
 3. Apartment dwellings for the exclusive occupancy of persons employed by a permitted agricultural use on the same lot, or on adjoining lots in the same ownership as the land in active agricultural use. The number of such apartment dwelling units permitted shall not exceed one for every one (1) acres of land in active agricultural use
 4. Short Term rentals
 5. Excavation and Soil Mining

- c. Lot Area, Yard and Height Regulations:
 1. Minimum lot area - 1 acre (43,560 sq. ft. or 4,840 sq. yds.)
 2. Minimum frontage on a public highway - 100 ft.
 3. Minimum front yard setback - 55 ft. from the center line of highway or road
 4. Minimum side yard width - 25 ft.
 5. Minimum rear yard depth - 50 ft.
 6. Maximum building height - 35 ft.

- d. Special Regulations:
 1. Building Permits shall be required for all new construction
 2. Uses permitted under Section 4.1.b shall be subject to the site plan requirements of this law

Section 4.2 R-1 - Residential District

The following regulations shall apply in all R-1 Districts:

- a. Permitted Uses:
 1. One family dwellings
 2. Two family dwellings
 3. Mobile and Modular/Manufactured Homes
 4. Accessory uses to any permitted use

- b. Uses permitted upon issuance of a Special Permit:

1. Home occupations
 2. Hospitals
 3. Churches and places of worship
 4. Public or private schools
 5. Public Parks or playgrounds
 6. Other municipal facilities
 7. Boarding Homes
 8. Short Term Rentals
- c. Lot Area, Yard and Height Regulations:
1. Minimum lot area - 5,000 sq. ft.
 2. Minimum frontage on a public street - 50 ft.
 3. Minimum front yard setback - 55 ft. from centerline of highway or road
 4. Minimum side yard width - 25 ft.
 5. Minimum rear yard depth - 35 ft.
 6. Maximum building height - 30 ft.
- d. Special Regulations:
1. Building Permits shall be required for all new construction
 2. Uses permitted under Sections 4.2b shall be subject to the site plan requirements of this law.

Section 4.3 B-1 - Business District

The following regulations shall apply in all B-1 Districts:

- a. Permitted Uses:
1. Retail stores, shops and services
 2. Mixed occupancy structures containing dwelling units and business use
 3. Business and professional offices
 4. Restaurants, taverns
 5. Public offices, public service and public utility facilities
 6. Banks, insurance, real estate, savings and loan offices
 7. Theaters
 8. Accessory uses
- b. Uses permitted upon issuance of a Special Permit:
1. Parking lots not accessory to a permitted use
 2. Veterans, fraternal and civic organizations
 3. Hotels, motels, boarding homes, Short Term rentals, and Bed & Breakfast establishments
 4. Churches and places of worship
 5. Medical / Clinic
 6. Breweries
 7. Museums
- c. Lot Area, Yard and Height Regulations:
1. Minimum Lot Area - 5,000 sq. ft. or 5,000 sq. ft. per dwelling unit plus 3 sq. ft. for every sq. ft. of floor area of non-residential use, other than accessory uses, whichever is greater
 2. Minimum frontage on a public street -40 ft.
 3. Minimum front yard setback - 35 ft.
 4. Minimum side yard width - 10 ft.
 5. Minimum rear yard depth - 30 ft.
 6. Maximum building height - 30 ft.

d. Special Regulations:

1. Building Permits shall be required for all new construction
2. All uses permitted in this district shall be subject to the site plan review of this law

ARTICLE 5 GENERAL REGULATIONS APPLYING TO ALL DISTRICTS

Section 5.1 Prohibited Uses

Uses not specifically permitted under Article 4 of this law are prohibited, except that the Zoning Board of Appeals may find that within the intent of this ordinance or a specific district, a use is sufficiently similar to a permitted use as to be included within the definition of that use.

Section 5.2 Principal Buildings Per Lot

There shall be only one (1) principal building per lot, except that where a sufficiently large parcel exists in single ownership, several principal buildings or uses may be established provided each structure has an identifiable land area which satisfies the lot area and yard requirements of the district regulations applying to the district in which it is located. Such identifiable land area shall be shown on any required site plan. No part of any yard or area required for one (1) building or use shall be included as part of this yard or area similarly required for any other building or use.

Section 5.3 Exceptions to Lot area, Height and Yard Regulations

a. Substandard Lots:

Any lot held in single ownership, legally created and recorded before the effective date of this law, whose area, or frontage on a public street is less than the specified minimum lot requirements of this law for the district in which it is located, may be considered as complying with such minimum requirements and no variance shall be required, provided that:

1. Such lot does not adjoin another undersized lot held in single ownership
2. Such lot has a minimum area sufficient to provide for proper operation of a well and septic tank system, if such are required
3. Minimum required yard widths, or depths shall be reduced to not less than one half those required in the district, but no reduction in the required front yard setback shall be allowed.

b. Height Exceptions:

The height regulations within the district regulations shall not apply to the following types of structures:

1. Church spires, domes, belfries, towers or *cupolas* not used for human habitation.
2. Chimneys, sky lights, fire *walls* and stairwells
3. Water tanks, grain storage, barns, silos
4. Ornamental or decorative parapet walls, cornices, weather vanes or other decorative roof structures, other than signs.

This exception shall not apply whenever such use or structure occupies more than one quarter (1/4) of the roof area of any building on which it is located, or where such structure is intended for human habitation, or use, or for non-agricultural storage.

c. Uses and structures Permitted in Required Yards:

1. The following structures and uses are permitted in any required front yard:
 - a) window sills, belt courses, bay windows, cornices, eaves and other architectural features, provided the same project *less* than three (3) ft. into the required yard
 - b) awnings or canopies provided the same project less than six (6) ft. into a required yard
 - c) patios, gardens, terraces, private recreational and open space uses, ornamental sculptures, lawn furniture or any temporary use

- d) walls and fences of not more than six (6) ft. in height
- e) driveways and sidewalks

2. The following structures and uses are permitted in any required side or rear yard:

- a) any structure or use permitted in a required front yard under Section 5.3c1, above
- b) any accessory building or use, including private parking garages or off-street parking and loading areas, provided any such structures shall be located so that its distance from any lot line is at least equal to its height
- c) walls and fences of not more than eight (8) ft. in height
- d) porches, whether open or enclosed, provided that they meet the distance requirements for accessory structures in Section 5.3c2(b)
- e) swimming pools

3. Whenever a lot lies within a developed area where structures are located closer to a public highway than permitted under the applicable district regulations, the required front yard setback may be considered as being the average front yard setback of such structures, subject to the following conditions:

- a) there must be a minimum of four (4) existing structures located along the same side of the highway and within three hundred (300) ft. of the lot being considered for exemption from part of the front yard setback requirement
- b) at least one (1) of such existing structures shall be located on either side of said lot
- c) the road along which said lot has frontage shall not be shown on the Village Official Map, or in the Village Capital Program, as being proposed for widening
- d) it shall be demonstrated that a reduction of the required front yard setback will not adversely affect access to adjacent properties, increase hazards to public safety, or be incompatible with the existing pattern of development
- e) it shall be demonstrated that compliance with the required front yard setback will cause an unreasonable restriction upon the development of said lot
- f) all structures used in determining the average front yard setback shall be located within the same zoning district

Section 5.4 Obstructions to Vision on Corner Lots

Within a triangle formed by the street lines of two (2) intersecting streets or highways and a line connecting points on such street lines measured fifty (50) ft. from the point, or projected point, of intersection, no fence, wall, or hedge shall be erected or established except as meets the following criteria:

- a. No fence, wall or hedge shall exceed four (4) ft. in height, measured from the level of the existing or planned crown of the adjacent roadway.
- b. When necessary for public safety or private security, fences of open construction, including but not limited to chain link, wire or metal, may be erected within the aforementioned vision triangle, provided that the Village Highway Superintendent finds that such a fence will not materially obstruct vision or constitute a traffic hazard.
- c. When an intersection has traffic right-of-way continuously controlled by a suitable traffic control device, such that a lesser vision triangle is necessary to provide adequate traffic safety, the Village Highway Superintendent may recommend, and the Village Planning Board may grant a waiver of all or part of the requirements of this section.

Section 5.5 Yards on Corner Lots

On a corner lot, any lot line or yard abutting a street shall be considered a front lot line or front yard, and the minimum front yard setback required by the district regulations shall be provided. The owner of such corner lot shall decide which of the remaining yards shall be the rear and side yards.

Section 5.6 Performance Standards

All uses in all districts shall be subject to the following regulations:

- a. Vibration: No vibration shall be discernible at lot lines.
- b. Smoke: Emission of smoke which is of a shade equal to or darker than No.2 on a standard Ringleman Chart as issued by the United States Bureau of Mines, except that visible grey smoke of a shade equal to No.3 on said chart may be emitted for four (4) minutes in any thirty (30) minutes.
- c. Burn Barrels: Burn barrels are not regulated under this law and may be regulated under a separate local law adopted by the Village of Milford.
- d. Radioactivity or Electrical Disturbance: No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of equipment. All applicable Federal regulations must be complied with.
- e. Fire and Explosion Hazards: All activities involving, and *all* storage of inflammable and explosive materials, shall be provided with adequate safety devices against hazard of fire and explosion and adequate fire fighting and fire suppression equipment and devices standard in this industry.
- f. Glare: No light shall be erected that is directed onto a public street or any adjacent property in such a way as to create a safety hazard or interfere with the normal use of such adjacent property.
- g. Water Service and Sewage Disposal: No activity shall be permitted which would not meet the water quality and liquid waste disposal standards of the New York State Health Department.
- h. Noise: No activity shall be permitted which produces a sound level of seventy (70) decibels or more as measured on the "A" scale of a standard level meter having characteristics defined by American Standards Association specification S 1. 4-1961 "General Purpose Sound Level Meter", such measurement being made at any property line. Church bells, sirens and emergency equipment, and temporary sound equipment for which a permit has been issued by the Village Board shall be exempt from this requirement.

Section 5.7 Parking and Loading Areas

For all uses and structures, off-street parking and loading areas, together with access driveways, aisles and landscaping shall be required as follows:

Where more than one (1) use occupies a structure or parcel of land, the requirement for such structure or parcel of land shall be the total for each use therein, computed separately according to the appropriate requirements.

- a. Required Parking: Off-street parking shall be provided for all uses in accordance to the following standards:
 1. Residential uses - two (2) parking spaces or one and one half (1 1/2) parking spaces for every dwelling unit, whichever is greater
 2. Tourist homes, Bed & Breakfast, Short term rentals, hotels, motels - one (1) parking space for every guest bedroom
- b. Required Driveways and Aisles: Except for one or two family dwellings, *all* parking spaces required by this law shall be accessible from a public street by a driveway or aisle which shall conform to the following minimum requirements:
 1. No space in any required driveway or aisle shall be counted toward satisfying the parking requirements of this law
 2. Driveways serving parking areas containing eight (8) or fewer parking spaces shall be a minimum of twelve (12) ft. in width, while those serving nine (9) or more parking

spaces, or one (1) or more loading spaces, shall be a minimum of twenty-four (24) ft. in width

3. Aisles providing access between parking and loading spaces and driveways shall be a minimum of twenty-four (24) ft. in width
4. Driveways, aisles and required off-street parking and loading spaces shall have a minimum vertical clearance of fourteen (14) ft., clear of any obstructions
5. Entrances to a public street shall be no narrower than the driveway or aisle they serve, nor more than thirty-six (36) ft. in width, except where land dividers are installed to segregate entering, existing or turning traffic

c. Protection to Buildings: Wherever any driveway, aisle, parking space or loading space is adjacent to or within two (2) ft. of any building wall, a guard rail or other suitable protection consistent with the level of use, as determined by the Village Planning Board shall be installed. This provision shall not apply to one and two family dwellings.

d. Required Paving: Parking and loading spaces, driveways and aisles serving or located in a parking area containing eight (8) or fewer spaces shall be paved with at least a suitable base of compacted gravel. All other parking or loading spaces shall be paved to at least the standards of a local street. Whenever a driveway, aisle or loading space is intended for use by heavy trucks or equipment, such facilities shall be constructed to a standard sufficient to withstand damage from such use.

e. Required Maintenance: All required parking and loading spaces, driveways and aisles shall be maintained to at least the standard of original construction by the property owner.

f. Drainage: All parking areas, driveways and aisles shall be graded to permit drainage, either by surface or by storm drains of suitable capacity, and shall cross adjacent property only by way of a drainage easement to natural water course, or collective storm sewers.

g. Size: All required parking spaces shall contain a minimum of two hundred (200) sq. ft., and shall be at least ten (10) ft. in width and twenty (20) ft. in depth. All required loading spaces shall be at least ten (10) ft. in width and fifty-five (55) ft. in depth.

h. Location: The location of any entrance or exit of a driveway, aisle, parking or loading area where it enters a public right-of-way shall be subject to approval by the Village Superintendent, except whereas otherwise designated, and a permit for same shall be obtained from him prior to construction.

Section 5.8 Landscaped Areas Between Certain Uses

Along any lot line between a residential and non-residential use, a landscaped area shall be provided. Such landscaped area shall include a screening fence or non-deciduous trees and shrubs, or both, as deemed necessary by the Village Planning Board to protect the character of adjoining residential areas. Such fence or shrubs shall have a minimum erected or planted height of six (6) ft. and shall be located within a strip at least ten (10) ft. in width on the non-residential side of the lot line. Such landscaped areas may be included in satisfying the minimum side or rear lot requirements. The requirements of this section shall not apply to any lot line located a distance of one hundred (100) ft. or greater from any structure, outdoor use area, or parking area of said non-residential use. Planting and/or landscaping adjacent to Milford Village sidewalks require prior approval from Village Zoning Enforcement Officer.

Section 5.9 Temporary Uses

- a. Temporary uses, including signs, advertising said uses may be permitted in any district upon an issuance of a permit therefore issued by the Planning Board. Said permit shall specify the location and type of use, any signs permitted to advertise such use, the hours of operation, and the dates between which such temporary use shall be permitted. Such temporary use permits shall be not issued to allow a use for over thirty (30) days, and shall only be issued under the following conditions:
 1. An application for temporary use permit is made by the owner of the property on which such use is to be located

2. A sketch of the proposed layout of such temporary use including the approximate location of any buildings, structures, trailers, tents, enclosures, parking areas and signs shall be submitted for review with the permit application, and the use of the site shall be restricted to that which is shown on the application and sketch
 3. A sketch of the proposed layout of such temporary use including the approximate location of any buildings, structures, trailers, tents, enclosures, parking areas and signs shall be submitted for review with the permit application, and the use of the site shall be restricted to that which is shown on the application and sketch
 4. Adequate water and sewage disposal facilities shall be provided to accommodate the needs of persons involved in the temporary use. Sufficient information on the number of persons and duration of use shall be provided to the Village Board, who may request the advice and assistance of the New York State Department of Health in determining the number and type of such facilities that may be required.
- b. Requirements for the paving of driveways, aisles and parking areas under this law may be waived in the approval of a permit for temporary use, and if for a single daily event for which parking will be attendant controlled, the size of aisles and parking spaces may be reduced.
- c. The requirements of this section shall not apply to the following types of temporary uses:
1. Private home parties, family gatherings, garage sales or auctions conducted in a private residence or the lawns or yards thereof
 2. Temporary use of a building or structure for a use that would be a conforming use if established permanently
 3. Mobile homes or trailers as otherwise regulated by this law
 4. Roadside stands for the sale of agricultural products grown on the premises provided space is provided for customer cars to park off a highway and its shoulder areas
- d. As a condition to granting a permit for a temporary use, the Planning Board may require that a bond be provided by the owner or operator of such use, sufficient to clean and restore the site to a condition at least equal in quality to that which existed before the temporary use was established, should the owner or operator thereof fail to do so. Such cleaning and restoration may include removal of litter, garbage or other solid waste replacement or stabilization of top soil; removal of debris, equipment or other moveable property; and replacement of ground cover vegetation.

Section 5.10 Signs

- a. In all districts, the following types of signs are specifically prohibited:
1. Signs so located as to restrict vision and impair safety of employees, customers, pedestrians or motorists
 2. Lighting devices or internally lit signs so placed or directed as to permit the illumination therefrom to produce a glare or reflection onto a public street or sidewalk, that constitutes a hazard or nuisance
 3. Banners, posters, pennants, ribbons, spinners, streamers, or similar moving, fluttering or revolving devices, whether part of a sign, or used for the purpose of advertising or attracting attention when not a part of a sign
 4. Signs illuminated by or containing flashing intermittent, rotating or moving lights or devices, except by special permit
 5. Signs or sign structures exceeding fifteen (15) ft. in height
 6. Signs offering products or services not available on the premises upon which the sign is located
- b. Except for the following types of signs, no sign shall be erected until a sign permit has been issued therefore in accordance with this law:

1. Signs identifying the address of a premise
 2. Signs identifying the occupant of a residential structure
 3. One (1) sign identifying any permitted use, provided such sign does not exceed sixteen (16) sq. ft. in area
 4. One (1) sign advertising the sale or rent of the land or building on which it is located, provided such sign does not exceed six (6) sq. ft. in area
 5. Signs identifying the name of a farm
- c. All applications for a sign permit shall be accompanied by a sketch, or other description providing the following:
1. The type of sign
 2. The location of the sign in relation to existing buildings, roadways, driveways, parking areas, sidewalks or pedestrian paths, telephone and electric poles and lines, and other signs
 3. A description of the sign including its size, advertising content, method of illumination, method of structural support and estimated value. All signs shall be erected or supported to withstand a wind of seventy (70) miles per hour.
 4. The date of erection of the sign. If the sign was erected prior to the enactment of this law, the year of erection shall be sufficient.
 5. The name of the owner of the sign and the person responsible for its maintenance.
- d. Signs existing upon the date of enactment of this law shall be subject to the same requirements for a sign permit as a new sign and an application, as provided under Section 5.10c, shall be made therefore. A permit for all existing signs shall be issued for all existing signs within one (1) year of the enactment of this law regardless of whether such existing signs conform to the provision therein contained.
- e. Applications for a sign permit shall be reviewed by the Zoning Enforcement Officer, who shall issue a sign permit when the sign is found to be in compliance with this section. The Village Planning Board may make their approval of a sign permit subject to any conditions necessary to reduce any adverse impact of said sign upon neighboring residential property. Such conditions may include, but are not limited to, the size, location, lighting, color or means of structural support.
- f. All sign permits shall expire within three (3) years of issuance but may be renewed prior to their expiration. Such renewal application shall require submission of items listed under Section 5.10c, if any change has been made to the sign since the original application. Renewal applications may be approved by the Zoning Enforcement Officer, without review by the Planning Board, whenever the applicant certifies that no change has been made to the sign since issuance of the permit then in force.
- g. Signs which constitute a hazard to public safety by reason of their location or physical condition may be removed by order of the Zoning Enforcement Officer. If the hazard permits, the person to whom the permit for such sign was issued shall be notified prior to such removal.
- h. The Zoning Enforcement Officer may issue temporary sign permits in conjunction with temporary use permits issued under Section 5.9 of this law, either for a co-terminus period or for thirty (30) days, whichever is greater.

Section 5.11 Junk Yards

- a. Within six (6) months of the date of adoption of this law, all junk yards, dumps, wrecking yards, or places for the collection of waste materials or inoperable equipment, (furniture, household appliances, building materials, clothing, trash) shall cease operation and all such materials and equipment be removed.
- b. No unregistered and/or inoperable vehicle may be stored on each property unless such vehicle is stored in a completely enclosed building.

ARTICLE 6 GENERAL REGULATIONS APPLYING TO SPECIFIC USES

Section 6.1 Gasoline Filling Stations and Service Stations

- a. No access driveway or street entrance for a gasoline filling station or service station shall be located within two hundred (200) ft. of and on the same side of the street as a school, public library, theater, church, bank or other place of public assembly, park, playground or fire station.
- b. No fuel pump shall be located closer than fifty (50) ft. to any side or rear lot line, nor closer than twenty (20) ft. to any front lot line.
- c. All repair work shall be performed, and all equipment, supplies, and waste stored, within a structure or enclosed storage yard, so as not to be visible from side or rear lot lines within one (1) year of passage of local law.
- d. No more than two (2) unregistered vehicles, and not more than one (1) inoperable registered vehicle for each service bay, may be stored on the property of a gasoline filling station or car repair business. Such vehicles shall be stored in a screened area to reduce visibility from any street or property line.

Section 6.2 Mobile, Modular and Manufactured Homes

- a. Mobile Homes Regulated: Individual mobile homes shall be subject to all the regulations pertaining to detached, one-family dwellings, in addition to the following standards:
 1. The mobile home shall be provided with anchors or tie-downs, according to manufacturer specifications.
 2. The mobile home will be provided with skirts to screen the space between the mobile home and the stand. Such skirts shall be made of concrete block or a permanent material similar to that used in the mobile home and providing a finished exterior appearance, and shall be installed within four months from date of issuance of permit for the mobile home.
 3. Any construction or storage space, additional rooms, or enclosed patios or carports shall have a finished exterior appearance. No exposed building paper, wallboard or other impermanent and unfinished material will be permitted.
 4. The mobile home bears the seal required by the State of New York or an equivalent acceptable to the State of New York.
 5. No additions shall be made to a mobile home except a canopy and/or porch open on three sides, or an addition made by the mobile home manufacturer and /or built in conformance with the New York State Uniform Fire Prevention and Building Code Regulations.
 6. Exterior finish of a mobile home must consist of materials customarily used in site built housing.
 7. All outbuildings must meet setback requirements from said mobile homes the New York State Fire Prevention Building Code.
 8. The mobile home must be placed on a concrete slab with the specifications approved by the New York State Fire Prevention Building Code.
- b. Mobile Home Parks are not permitted in any of the three aforementioned districts.

Section 6.3 Excavations and Soil Mining

- a. Excavations in connection with the construction of any building shall be considered as being permitted under the building permit issued for such building. Grading, cuts and fill shown on any approved site plan shall also be permitted under such building permit.
- b. No excavations, soil mining, mining of ores or minerals, or drilling for petroleum, gas or other underground liquids, gases or minerals shall be permitted until a permit has been issued therefore. Wells for the purpose of providing domestic or agricultural water supplies shall not require a permit.
- c. Application for such permit for excavation, soil mining, mining or drilling shall be made on forms provided by the Zoning Enforcement Officer, and shall be accompanied by drawings and other supporting materials, as follows:
 1. The location of operations, with distances to all property lines and to all buildings, streets or other existing improvements within one hundred (100) ft. of such property lines
 2. The approximate yield anticipated from the operation, estimated either in terms of gallons or cubic yards per day; estimated drilling or excavation depth
 3. The location of all access roads, building and structures to be used in the operation of such facility
 4. A description of the type of equipment to be used in operation of the facility, except that equipment to be used temporarily at such site need not be described
- d. In issuing any permit required under Section 4.1b, the Planning Board may require that a bond be provided by the owner of the property, of sufficient amount to permit the Village to restore the site to stable slopes and adequate ground cover sufficient to prevent erosion, land or rock slides, and remove any hazard to public safety should the owner thereof fail to do so.
- e. No part of any excavation or waste bank resulting in a finished slope of ten (10) percent or greater shall be located within twenty-five (25) ft. of any property lines, or within fifty (50) ft. of any existing building on any adjoining property. An excavation resulting in slopes greater than twenty (20) percent shall be enclosed by a fence not less than six (6) ft. in height located or maintained at the upper edge of such slope or along a property line, at the option of the owner.

Section 6.4 Non-Conforming Structures and Uses

- a. Subject to the following conditions, any lawfully erected building or structure, existing at the time of enactment of this law, may be continued although such building or structure does not conform to the provisions of this law.
 1. A non-conforming building may not be enlarged, extended or altered except in conformance with this law, except that repairs not exceeding seventy-five (75) percent of assessed value of the building or structure shall be permitted where such repairs are necessitated by fire, wind, flood or other causes
 2. Any building or structure under construction at the time of enactment of this law may be completed provided a copy of the site development is provided to the Zoning Enforcement Officer.
 3. Any permitted use may occupy a non-conforming building or portion thereof. Where the design or construction of a non-conforming building is such that it is unsuitable for any conforming use, the Board of Appeals may issue a special permit to allow the establishment or reestablishment of a non-conforming use in such structure provided such use is contained wholly within an enclosed structure and meets the performance standards of Section 5.6 of this law.
- b. Subject to the following conditions, any lawfully established use of any land, building or structure, existing at the time of enactment of this law, may be continued although such use does not conform to the provisions of this law.

1. A non-conforming use shall not be enlarged or extended into adjoining land, building or structural areas
 2. Whenever a non-conforming use has been discontinued for a period of one (1) year, such use shall not be re-established except in conformance with this law.
 3. Once changed to a conforming use, no building or land shall revert to a non-conforming use
- c. When a use, building or structure becomes non-conforming as a result of amendment to this law or of the zoning district map made a part thereof, such use shall be subject to the regulations and restriction applicable to a non-conforming use.
- d. When a use, building or structure becomes non-conforming by reason of a decrease in area, required yard, parking or loading facilities, as a result of governmental action including condemnation or acquisition, such use, building or structure shall not be considered a non-conforming use and shall not be subject to the regulations and restrictions applicable thereto.

ARTICLE 7 ADMINISTRATION AND ENFORCEMENT

Section 7.1 Administrative and Enforcement Officer

- a. This law shall be enforced by the Zoning Enforcement Officer, who shall be appointed by the Village Board. The Village Board shall fix the salary or compensation of such officer, and provide for the payment thereof.
- b. The Village Clerk is hereby given the following duties and authority:
 1. To accept all applications required by this law, and to transmit such applications to the secretaries of the Planning Board or Zoning Board of Appeals
 2. Where specifically authorized by this law, to issue permits
 3. To serve as Deputy Zoning Enforcement Officer, to have the same duties and authority as that official in his absence
 4. To provide, upon request, copies of the Village Zoning Local Law and Map, and any forms, rules, and regulations used in administering this law
- c. The Zoning Enforcement Officer is hereby given the following duties and authority:
 1. To enforce such forms, rules and regulations as he deems necessary for the proper administration and enforcement of this law, said forms, rules and regulations shall be reviewed and approved by the Village Board, and shall be available for public view at the Village Clerk's Office
 2. To examine or inspect - or cause the same to be done - any land, building or structure at an appropriate time for the purposes of administering or enforcing this law. A written report of each such examination or inspection shall be prepared and kept on file.
 3. To receive complaints of violations of this law, or to make complaints based upon his own examination, inspection or knowledge
 4. To act upon any and all complaints, and to serve a written notice of violation upon the owner or occupant of the premises where there appears to exist a violation of any provision of this law
 5. To perform any other administrative or enforcement duties specified in this law, including but not limited to the issuance of permits, licenses or certificates, accepting or reviewing applications, plans or plats, and carrying out any lawful order of the Village Planning Board or Zoning Board of Appeals

Section 7.2 Permits, Certificates and Licenses

- a. No building or structure shall be constructed, erected, altered, extended, or repaired unless a zoning compliance permit is issued therefore by the Zoning Enforcement Officer, subject to the following conditions:
 1. No zoning compliance permit shall be required for any activity involving a cost of less than two thousand dollars (\$2,000) that does not involve the creation of a new dwelling unit, an enlargement of the usable floor area of an existing building or structure, or the creation of a new building or structure having a floor area greater than one hundred ninety six (196) sq. ft.
 2. Every zoning compliance permit application shall include the following:

- a) the location, size, dimensions and zoning district of the lot or lots on which the work is to be performed
 - b) a sketch or drawing showing the location of the proposed building or structure, including dimensions to all property lines, and to the nearest building within one hundred (100) ft. of the proposed building or structure
 - c) a statement or drawing describing the proposed structure including its height, floor area, use and any information necessary to determine the off-street parking and loading area requirements of Section 5.7 of this law
 - d) a statement or drawing showing all proposed parking and loading areas, driveways, anchors or tiedowns, or required landscaped buffer areas
 - e) any other statements or drawings necessary to determine that the proposed work will comply with the various provisions of this law

- 3. Whenever a proposed building, structure or land use requires approval of a site plan, no zoning compliance permit therefore shall be issued until such site plan is approved in accordance with the provisions of this law, and such site plan may be substituted for the drawings and statements required under Section 7.2a(2)

- b. No building or structure shall be wholly or partially demolished except after issuance of a demolition permit issued therefore by the Zoning Enforcement Officer, subject to the following conditions:
 - 1. The application for such permit shall contain the location of the structure, a description of the structure, a description of the method of waste removal, and a description of site restoration measures, including filling of foundations and excavations and erosion retardation
 - 2. No demolition permit shall be issued for the clearing of a site for new construction unless a building permit for such new construction has been approved

- c. No excavation, site grading or activity regulated under Section 6.3 of this law shall occur except after an excavation permit has been issued therefore by the Enforcement Officer, subject to the following conditions:
 - 1. The application for such permit shall contain sufficient information to assure compliance with Section 7.3 of this law
 - 2. No excavation permit shall be issued for grading or foundation work associated with new construction unless a building permit for such new construction has been approved

- d. No land, building, or structure shall be occupied except after a certificate of occupancy has been issued therefore by the Zoning Enforcement Officer subject to the following conditions:
 - 1. The use conforms to all applicable provisions of this law
 - 2. The land or structure to be occupied conforms to that proposed on any approved building permit application or site plan, together with any recorded conditions made in the approval of such permit or plan
 - 3. The use, or the land, building or structure occupied by the use, does not conform to all the applicable provisions of this law but is a bona fide non-conforming use as defined and regulated under Section 6.4 of this law

- e. No sign or advertising structure shall be erected or established except after issuance of a sign

permit by the Zoning Enforcement Officer in accordance with the provisions of Section 5.10 of this law.

- f. Whenever a site plan is required by this law, said site plan may be used to satisfy any requirement for drawings to accompany any permit, certificate or license application, provided the information required on such drawings is shown on the site plan.
- g. Whenever several permits are required for the same project, such permits may be applied for simultaneously with one another and only a single fee charged. In such instances, the charged fee shall be the greatest of any of the fees that would be charged if the permits were issued separately.
- h. The Zoning Enforcement Officer shall issue, issue subject to conditions, or refuse to issue any requested permit, certificate, or license within ten (10) days of this receipt of the application therefore, except that where such application involves review by an official board under the provisions of this law. Where such review is required, the Zoning Enforcement Officer shall notify the applicant of such fact, and of any necessary applications, statements, plans or other documentation required for such review, within ten (10) days of receipt of the original application. The Zoning Enforcement Officer shall notify the applicant of meetings at which his application will be acted upon by any reviewing board, and said officer shall take such action as may be directed by such board within ten (10) days of such direction.

Section 7.3 Site Plan Review

- a. Upon application for any permit, certificate or license, the Zoning Enforcement Officer shall determine if site plan approval is required under this law.
- b. Upon submission of a site plan for review, the Zoning Enforcement Officer shall determine that all information required by this law are depicted thereon or contained in accompanying documents. He shall notify the applicant of any additional information required, or that the site plan is complete with seven (7) days of its submission to him. If the site plan is complete, he shall refer said site plan to the Village Planning Board for review.
- c. Within forty-five (45) days of receipt of a completed site plan, the Village Planning Board shall review same, and approve, approve with changes, or disapprove the site plan application. Failure of the Planning Board to act within forty-five (45) days shall constitute approval unless the applicant and Planning Board mutually agree to extend this time limit. The Planning Board may deem it necessary to hold a public hearing. .
- d. Upon approval or approval with changes, the applicant shall prepare three (3) copies of the approved site plan with the Enforcement Officer who shall then issue the appropriate building permit. One (1) copy of the approved site plan shall be filed with the Village Clerk.
- e. Upon completion of the work depicted upon the site plan, the Zoning Enforcement Officer shall make a field inspection, noting on one (1) copy of the approved site plan, compliance between the site plan and actual development, and shall submit the same to the Village Planning Board. No performance bond or other surety shall be released and no certificate of occupancy issued unless or until the Planning Board is satisfied that actual development is in substantial compliance with the approved site plan.
- f. Whenever a site plan is submitted for a planned development for which a zone change is required, approval by the Village Planning Board shall be made conditional upon the granting of a change of zone by the Village Board, and all time limits upon review and approval herein specified shall be waived. In such an instance, however, review of a site plan by the Planning Board may be made at the same time as it prepares its advisory report to the Village Board.
- g. Except as may be waived by the Planning Board, all site plans required under this law shall include the following information presented in drawn form or accompanied by a written text:
 - 1. A survey of the property showing boundaries and existing features including

topographic contours, buildings, structures, trees of over eighteen (18) inch circumference measured at chest height, streets, utility easement, rights-of-way and land use

2. The location of all proposed buildings and land use areas, showing floor area and location of vehicular and pedestrian entrances
 3. The proposed traffic circulation, parking and loading areas and pedestrian walks, including dimensions sufficient to assure compliance with this law
 4. The landscaping plans, including site grading and plant materials. Finished grade elevations shall be shown at not greater than two (2) ft. contour intervals.
 5. The preliminary architectural drawings for all buildings to be constructed, including floor plans, exterior elevations and sections
 6. The preliminary engineering plans, including street improvements, drainage system, and utility connections showing the method of water, telephone, and electric service, and storm water and sewage disposal
 7. A description of proposed uses, construction sequence and time schedule for completion of each phase of construction
- h. Upon finding that any of the items listed under Section 7.3g is unnecessary for adequate review of any proposal, the Planning Board may waive such requirement. **If** the Planning Board finds that additional information is necessary to insure adequate review, it shall specify such information to the applicant, and such additional information shall be required as if described in Section 7.3g.

Section 7.4 Special Permits

The Planning Board shall have the authority to issue special permits, as provided in the district regulations of this law, upon finding the following:

- a. That the proposed use is authorized under the zoning district regulations as a permitted use subject to issuance of a special permit therefore
- b. That the proposed use will not have an adverse impact upon the area or neighbor hood in which it is proposed to be located
- c. That the proposed use complies with all applicable provisions of this law, or will so comply prior to the issuance of a certificate of occupancy
- d. That the proposed use is consistent with the comprehensive plan of the Village
- e. That the proposed use will not cause excessive traffic, will not detract from the property value of any adjacent property, and can be adequately served by existing or proposed public facilities or utilities

Section 7.5 Penalties for Violation

- a. A violation of this law is hereby declared to be an offense punishable by a fine not exceeding fifty dollars (\$50) or imprisonment for a period not to exceed six (6) months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each weeks' continued violation shall constitute a separate additional violation.
- b. Where any building or structure is erected, constructed, converted, altered, used or maintained or land is used in violation of this law, the Zoning Enforcement Officer, in addition to other remedies, may institute any appropriate action or proceedings to prevent erection, construction, conversion, alteration, use, maintenance, or occupancy; and upon the failure or refusal of the Zoning Enforcement Officer to institute any such appropriate action or proceeding for a period of ten (10) days after a written request by a resident taxpayer of the Village so to proceed, any three (3) taxpayers of the Village residing in the district where such violations exists, who are jointly or severely aggrieved by such violation may institute such appropriate action or proceeding in like manner as the Zoning Enforcement Officer is authorized to do.
- c. A complaint of violation of this law may be made by any resident, property owner, or Village

official including the Zoning Enforcement Officer. Such complaint shall be made on a form prepared by the Zoning Enforcement Officer which shall include the following information:

1. The name, address and telephone number of the complainant
 2. The name, address and telephone number of the alleged violator
 3. A description of the nature of the alleged violation including a reference to the provision of this law allegedly being violated
 4. The dates and time of the alleged violation
- d. Upon receipt of a complaint of violation, the Zoning Enforcement Officer shall investigate to determine the presence of a violation and upon finding of violation shall serve notice upon the owner or occupant thereof. Said notice shall include the items listed under Section 7.5c together with any observations made by the Zoning Enforcement Officer on the basis on this investigation. Such notice shall also specify what action is required by the owner or occupant of the property, and the date by which such action shall be taken. The term violation as used in Section 7.5a shall exist only if after the date of required action, specified in the notice to the owner or occupant, passes without such specified action having taken place.
- e. Notices required by this section shall be issued by the Zoning Enforcement Officer either by personal service to the owner or occupant or by certified mail to the address of same shown on the tax roles of the village or contained in the statement of complaint.

Section 7.6 Fees

The application for any permit, certificate, license or any review by the Village Planning Board or Zoning Board of Appeals shall be accompanied by a fee - an amount specified from time to time by resolution of the Village Board.

ARTICLE 8 BOARD OF APPEALS

Section 8.1 Establishment, Membership, Meetings

- a. A Village Board of Appeals is hereby created, said Board of Appeals to consist of five (5) members appointed for terms of five (5) years, except that the members of the board when first appointed shall serve for terms as specified under Section 7-712 of the Village Law. The chairman and members of the Board of Appeals shall be appointed by resolution of the Village Board, which shall also have the power to remove any member for cause after a public hearing.
- b. All meetings of the Village Board of Appeals shall be open to the public, and said Board shall keep minutes of its proceedings, showing the vote of each member upon every question. Every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Village Clerk and shall be a public record.

Section 8.2 Powers and Duties

- a. Appeals: The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Enforcement Officer. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer. Such appeal may be taken by any person aggrieved, or by any officer, department, board or bureau of the village, by filing with the Zoning Enforcement Officer and the Board of Appeals a notice of appeal, specifying the grounds thereof. The Zoning Enforcement Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shows. The Board may reverse or affirm wholly or partially, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that and shall have all the powers of the Zoning Enforcement Officer.
- b. Variances: The board shall have the authority to vary the requirements of this ordinance subject to the following conditions:
 1. An application for such variance shall be made to the Zoning Enforcement Officer for transmittal to the board, said application to contain the following items:
 - a) the name, address and phone number of the applicant;
 - b) the location and zoning district of the property for which the variance is sought;
 - c) the existing use of said property including a description of any existing buildings;
 - d) a citation to the provision of this ordinance for which variance is sought;
 - e) a justification of the request for variance.
 2. Use Variance - The board may vary the requirements of these regulations upon finding that there exists an unnecessary hardship. Such hardship is shown if each of the three following conditions exist:
 - a) reasonable return - the applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted by the zoning ordinance. There must be a

"dollars and cents" proof of the applicant's inability to realize reasonable return; speculation or qualitative assessment is inadequate. Failure to realize the highest return is not considered a hardship;

- b) uniqueness - the applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone AND that these features make it impossible to earn a reasonable return without some adjustment. If the features or conditions are generally applicable throughout the district, a variance should not be granted. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the zoning ordinance, not a variance;
 - c) character - the applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the "spirit" of the ordinance or local law should be preserved.
3. Area Variance - The board may vary the requirements of these regulations upon finding that there exists a practical difficulty. Such difficulty is shown if each of the three following conditions exist:
- a) significant economic injury - first, the applicant must demonstrate that the application of the zoning ordinance to his property causes significant economic injury;
 - b) related to police power - once the applicant has demonstrated economic injury, then the municipality must show that the regulation in question is reasonably related to a legitimate exercise of the police power;
 - c) reasonable return - third, if the applicant cannot show that the particular restriction isn't related to the public health, safety and general welfare (i.e., where the board finds that it is), the variance should be denied unless the applicant shows that the zoning restriction in question, as applied to his property, deprives him of all reasonable use of his property. If the applicant can show this, he/she should be granted the area variance.
4. In making a determination of practical difficulty, the appeals board may consider:
- a) how substantial the variation is in relation to the requirement;
 - b) the potential effect of increased density on available municipal, county and state facilities and services
 - c) whether the variance will cause a substantial change in the character of the neighborhood;
 - d) whether the difficulty can feasibly be mitigated by some other method; or
 - e) whether the interests of justice will be served in granting the variance.
- c. Applications: Applications for appeals or variances shall be made to the Zoning Enforcement Officer for transmittal to the board, and shall contain the following:
- 1. The name, address and phone number of the applicant;
 - 2. The location and Land Use District of the property for which a variance or special permit is sought, or in reference to which an appeal is made;
 - 3. The existing use of said property, including a description of any existing buildings;
 - 4. Citation to the provision of this ordinance for which a variance is sought, or under which a special permit or appeal is applied for;
 - 5. Justification of the request for variance or special permit or a description of the circumstances resulting in the appeal;
 - 6. A statement of the relief sought.
- d. In the exercise of its power and duties, the Board of Appeals, through its chairman, or in his absence its acting chairman, may compel the attendance of witnesses and may administer oaths prior to taking the testimony of any witness.
- e. In addition to the findings required before the granting of any variance under this section, the Board of Appeals may consider any other evidence necessary to show compliance to the intent

and purpose of this law.

- f. The Board in granting any appeal or variance may attach such conditions to said approval as in its determination are necessary to achieve the intent and purpose of this law.

Section 8.3 Procedures and Referrals

- a. All applications for action by the Village Zoning Board of Appeals shall be made to the Zoning Enforcement Officer on such forms as he may prescribe. Such applications may be made at any time except that an application for appeal under Section *B.2a* above shall be made within thirty (30) days of the action being appealed.
- b. The Zoning Enforcement Officer shall transmit a copy of the application, together with any accompanying documents to the Board of Appeals, who shall schedule a hearing thereon. Public notice of said hearing shall be given by publication in the official paper of a notice of such hearing at least five (5) days prior to the date thereof, and the Board shall at least five (5) days before such hearing, mail notices thereof to the parties, and to any Regional State Park Commission having jurisdiction over any state park or parkway within five hundred (500) ft. of said property. Where any variance or special permit application affects any real property lying within five hundred (500) ft. from the boundary of any city, village or town or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, the Board of Appeals shall notify the Otsego County Planning Board of said application and submit copies of the application and any supporting documents thereto. No action shall be taken upon any matter referred to the Otsego County Planning Board until said Board shall have made a recommendation thereon to the Board of Appeals, or thirty (30) days shall have elapsed since the date of referral.
- c. The hearing of an appeal or application shall take place within ninety (90) days of the filing of the appeal or application.
- d. Upon a motion initiated by any member and adopted by the unanimous vote of the members present, but not less than a majority of all the members, the Board of Appeals shall review at a rehearing, held upon notice given upon an original hearing, any order, decision or determination of the Board not previously reviewed. Upon such rehearing, and provided it shall appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision, or determination reviewed will not be prejudiced thereby, the Board may, upon concurring vote of all the members present, reverse, modify or annul its original order, decision or determination.
- e. The Board of Appeals shall reach a decision on any application or appeal within forty-five (45) days of the final hearing thereon. Such decisions shall be promptly filed in the office of the Village Clerk and shall be a public record. Within seven (7) days of such decision, notice thereof shall be transmitted to the Otsego County Planning Board whenever such decision related to an application referred to said County Planning Board.

Section 8.4 Judicial Review

- a. Any person or person, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board of bureau of the Village, may apply to the Supreme Court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the office of the Village Clerk. The court may take evidence or appoint a referee to take evidence as it may direct and report the same with his findings of fact and conclusions of laws if it shall appear that testimony is necessary for the proper disposition of the matter. The court, at a special term, shall itself dispose of the case on the merits, determining all questions which may be presented for determination.
- b. Costs shall not be allowed against the Board of Appeals unless it shall appear to the court that it

acted with gross negligence or in bad faith or with malice in making the decision appealed from.

- c. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.
- d. If, upon the hearing at a special term of the Supreme Court, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

ARTICLE 9 MISCELLANEOUS PROVISIONS

Section 9.1 Amendments

- a. These regulations or the boundaries shown on the zoning district map, from time to time, may be amended, supplemented, changed, modified or repealed by law adopted by the Village Board. In case, however, of a protest against such change signed by the owners of twenty per centum or more, either of the area of land included in such proposed change, or of that immediately adjacent extending one hundred (100) ft. therefrom or of that directly opposite thereto, extending one hundred (100) ft. from the street frontage of such opposite land, such amendment shall not become effective except by vote of at least three-fourths (3/4) of the members of the Village Board.
- b. No amendment, supplement, change or modification of these regulations or the boundaries shown on the zoning district map shall become effective until after a public hearing in relation hereto, at which parties in interest and citizens shall have an opportunity to be heard.
- c. At least ten (10) days notice of such public hearing shall be published in a paper of general circulation within the village and written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the public housing law, as such area is shown on the official zoning map of the village, or within five hundred (500) ft. of the boundaries of any city, village, town, county, state park or parkways, shall be given, in the case of a housing project to the housing authority erecting or owning the project and to the government providing financial aid or assistance thereto, in the case of any state park or parkway, to the Regional State Park Commission, in the case of a city, village or town to the clerk of the legislative board of said county, at least ten (10) days prior to the date of such public hearing. Such city, village, town or county shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right to review by a court.
- d. Any zoning regulation or amendment thereof, which would change the district classification of or the regulations applying to real property lying within distance of five hundred (500) ft. from the boundary of any city, village, or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, shall, before the Village Board takes final action on such matters, be referred to the Otsego County Planning Board. Within seven (7) days of final action by the Village Board on any recommendations by said County Planning Board, the Village Board shall file a report of the final action it had taken with said County Planning Board. If the County Planning Board disapproves any such proposal, or recommends modification thereof, the Village Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of *all* the members thereof and after adopting a resolution fully setting forth the reasons for such contrary action.
- e. Every amendment to this zoning law, excluding any map incorporated therein, adopted pursuant to this section shall be entered in the minutes of the Village Board; such minutes shall describe and refer to any map adopted in connection with such amendment. A copy thereof, exclusive of any map incorporated therein, shall be published once in a newspaper having general circulation in the Village and affidavits of the publication thereof shall be filed with the Village Clerk. Such amendment shall take effect ten (10) days after such publication, except that where a certified copy of such amendment is personally served on any person, the effective date shall be the date of such service, with respect to the serviced person.

Section 9.2 Referrals to Village Planning Board

- a. All proposed amendments to this law shall be referred to the Village Planning Board, which shall recommend action thereon to the Village Board based upon its consideration of the Village Comprehensive Plan. The Village Planning Board shall report its recommendations on such referral to the Village Board within thirty (30) days of such referral.
- b. Any application for variance or special permit shall be referred to the Village Planning Board whenever said application relates to any site plan under review by said Board. The Village Planning Board may recommend action thereon to the Zoning Board of Appeals based upon its review of such site plan, and may make any approval of such site plan conditional upon approval by the Zoning Board of Appeals of all related variances or special permits.

Section 9.3 Interpretation and Conflict With Other Laws

In their interpretation and application, the provisions of this law shall be held to be minimum requirements, adopted for the promotion of public health, morals, safety or general welfare. Whenever the requirements of this law are at variance with the requirements of any other lawfully adopted rules, regulations or laws, the most restrictive, or that imposing the higher standards, shall govern.

Section 9.4 Separability

Should any section or provision of this law be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this law as a whole, or any provision thereof other than the part so decided to be unconstitutional or invalid.

Section 9.5 Adoption and Effective Date

This law and accompanying map was adopted by the Milford Village Board on the 5th day of July, 2007 as shown in the minutes of that date, and the effective date thereof is July 5, 2007.