

~~PROPOSED~~

ZONING LAW

FOR THE

VILLAGE OF CASSADAGA

Adopted July 30, 1974

1974

Amended local law 77-2

77-2

82-1

92-1

92-2

ZONING LAW FOR THE VILLAGE OF CASSADAGA

ARTICLE I. ESTABLISHMENT OF DISTRICTS

Section 100 - Districts created	-----	p. 1
" 101 - Zoning map	-----	p. 1
" 102 - District boundaries	-----	p. 1
" 103 - Purposes	-----	p. 1
" 104 - Scope	-----	p. 2
" 105 - Terms	-----	p. 2

ARTICLE II. DEFINITIONS ----- p. 2

ARTICLE III. RESIDENCE DISTRICT R

Section 300 - Permitted uses and buildings and other structures	-----	p. 10
" 301 - Area, yard and height restrictions	-----	p. 11

ARTICLE IV. BUSINESS DISTRICT

Section 400 - Permitted uses and buildings and other structures	-----	p. 12
" 401 - Uses prohibited	-----	p. 12
" 402 - Yard, area and height restrictions	-----	p. 13
" 403 - Fire resistant construction	-----	p. 13
" 404 - Landscape treatment	-----	p. 13

ARTICLE V. INDUSTRIAL DISTRICT

Section 500 - Prohibited uses	-----	p. 13
" 501 - Yard, area and height restrictions	-----	p. 13

ARTICLE VI. PLANNED DEVELOPMENT DISTRICT P-D

Section 601 - Area provisions	-----	p. 14
" 602 - Procedure for establishment	-----	p. 14

ARTICLE VII. EXCEPTIONS AND SPECIAL PROVISIONS

Section 700 - Uses permitted as special exceptions	-----	p. 14
" 701 - Yard exceptions	-----	p. 15
" 702 - Height exceptions	-----	p. 16
" 703 - Fire escapes	-----	p. 16
" 704 - Shopping centers	-----	p. 16
" 705 - Hotels, motor courts or motels	-----	p. 17
" 706 - Mobile homes	-----	p. 17
" 707 - Mobile home parks	-----	p. 17
" 708 - Public garages and motor vehicle service centers	-----	p. 19
" 709 - Temporary uses and structures	-----	p. 20
" 710 - Nonconforming uses, buildings and structures	-----	p. 20
" 711 - Required off-street parking and automobile storage space	-----	p. 21
" 712 - Required off-street parking for commercial vehicles while loading and unloading	-----	p. 25
" 713 - Frontage on public street or road	-----	p. 26
" 714 - Reduction in lot area prohibited	-----	p. 26
" 716 - Obstruction of vision and fencing	-----	p. 26
" 715 - Flood plain requirements	-----	p. 26

Section 717	- Quarries, sand and gravel pits, topsoil removal and excavating, grading and filling	-----	p. 27	
"	718	- Drive-in business	-----	p. 27
"	719	- Storage of flammable liquids	-----	p. 27
"	720	- Cesspools and septic tanks	-----	p. 28
"	721	- Supplementary regulations relating to private swimming pool as an accessory use	-----	p. 28
"	722	- Fair, carnival and circus	-----	p. 28
"	723	- Supplementary regulations relating to dwellings	-----	p. 29

ARTICLE VIII. SIGNS AND BILLBOARDS

Section 800	- Signs and billboards	-----	p. 29
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ARTICLE IX. ADMINISTRATION AND ENFORCEMENT

Section 901	- Interpretation	-----	p. 31	
"	902	- Enforcement	-----	p. 31
"	903	- Zoning permits and certificate of occupancy	-----	p. 31
"	904	- Board of Appeals - Creation, powers and duties	-----	p. 33
"	905	- Remedies	-----	p. 36
"	906	- Penalties	-----	p. 36
"	907	- Amendments - Referral to Chautauqua County Planning Board	-----	p. 37

ARTICLE X. VALIDITY

ARTICLE XI. REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

Section 1101	- Repeal of conflicting ordinances	-----	p. 37	
"	1102	- Effective date	-----	p. 37

ZONING LAW FOR THE VILLAGE OF CASSADAGA

A law limiting and restricting the specified districts, and regulating therein, buildings and other structures according to their construction and the nature and extent of their use and the nature and extent of the use of land, so as to promote health, safety, morals, and general welfare of the Village of Cassadaga, and providing penalties for the violation thereof.

This law shall be known and may be cited as the Zoning Law of the Village of Cassadaga.

Pursuant to the authority and power granted by Chapter 64 of the Consolidated Laws, Article VI-A, to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of occupancy of lots and parcels of land that may be occupied, the size of yards, courts, and open spaces, the density of population and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and to establish zones or districts in the Village of Cassadaga, the Board of Trustees do ordain:

ARTICLE I. ESTABLISHMENT OF DISTRICTSSection 100. Districts created.

For the purpose of this law the Village of Cassadaga is hereby divided into the following four (4) classes of districts:

Residence District	- R
Business District	- B
Industrial District	- I
Planned Development District	- P-D

Section 101. Zoning Map

The boundaries of the districts are hereby established on a map entitled "Zoning Map of the Village of Cassadaga" which map accompanies and is hereby declared to be a part of this law.

Section 102. District Boundaries.

Where a district boundary line, as appearing on the zoning map, divides a lot or land in single ownership as existing at the time of this enactment, the use authorized on and the district requirements applying to the less restricted portion of the property shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding thirty-five (35) feet. Otherwise, unless shown to the contrary on the zoning map, the boundary lines of the districts are the center lines of streets and alleys, or such lines extended, railroad right-of-way lines, the center lines of creeks and water ways, the Corporate limits line as it existed at the time of the enactment of this law.

Section 103. Purposes.

The zoning regulations and districts herein set forth and as outlined upon said map are made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the community. They have been designed to lessen congestion in the

streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Village of Cassadaga.

Section 104. Scope.

No building, structure or land shall hereafter be used and no building, structure or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

Section 105. Terms.

The present tense shall include the "future", the singular number shall include the "plural" and the plural the "singular". The word "shall" is always mandatory.

ARTICLE II. DEFINITIONS

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

Agriculture. The production of crops or plants or vines and trees, (excluding forestry operations) or the keeping, grazing or feeding of livestock for animal products, (including serums) animal increase or value increase.

Alley. A public way having a right-of-way width of twenty (20) feet or less.

Area, Land. The term "land area", when referring to the required area per dwelling unit, means "net land area", the area exclusive of street and other public space.

Area, Total Floor. The area of all floors of a building including finished attics, finished basements and covered porches.

Automatic Coin Laundry, Dry Cleaner. A business premises equipped with individual clothes washing and/or cleaning machines for the principle use of retail customers.

Automobile Laundry. An establishment for the washing of motor vehicles as a principle use.

Automobile Sales Area. An open area, other than a street or way, used for the display or sale of new or used automobiles.

Automobile Wrecking. The dismantling, wrecking, or burning of used automobiles or the storage, sale or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts.

## ART. II.

Basement. A story partly underground but having at least one-half its height above the average outside ground level.

Block. The length of a street between two street intersections.

Boardinghouse and/or Rooming House. A dwelling, other than a hotel, wherein more than four (4) people are sheltered and/or fed for profit.

Building. Any structure constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, mobile homes, billboards, signs, and similar structures whether stationary or movable.

Building, Accessory. A building the use of which is customarily incidental to that of a dwelling and which is located on the same lot as that occupied by the main building.

Building, Accessory Use of. A use customarily incidental to the use of a building for dwelling purposes, not occupying more than 25% of the total above ground floor area of the main building thereof and including;

1. The office or studio of a physician or surgeon, dentist, artist, musician, lawyer, architect, engineer, teacher, or other such professional person residing on the premises, provided there is no advertising display visible from the street, other than a small professional name plate. The above shall not be interpreted to include the office or place of business of a mortician.

2. Customary home occupations such as millinery and dressmaking, provided (a) there is no display of goods visible from the street, (b) no exterior advertising, other than an unlighted sign not over two (2) square feet in area, and (c) such occupation is conducted in the main building by a person or persons residing therein. Customary home occupations shall not be construed to include those which require the presence of the customer on the premises for the performance of the occupation, or those which require the presence in the home of machinery or equipment normally associated with commercial or industrial activities.

Building, Alteration of. Any change in supporting members of a building except such changes as may be required for its safety, any addition to a building, any change in use from one district classification to another, or removal of a building from one location to another.

Building or Structure, Nonconforming. An established building or structure lawfully existing prior to and at the time of the adoption of this ordinance which, because of its inherent nature or construction, does not conform to and with the provisions of this ordinance for the district in which it is located.

Building, Height of. The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to mean height level between the eaves and ridge of a gable, hip or gambrel roof.

Building, Principal. A building including covered porches, in which is conducted the principal use of the lot on which it is situated. In any residence district any dwelling shall be deemed the principal building on the lot on which the same is situated.

ART. II.

Cabin, Hunting and Fishing. A structure with accommodations for living and sleeping designed for seasonal occupancy and having a floor area of less than 400 square feet.

Carnival. An amusement show, usually traveling from place to place having side shows, ferris wheels, merry-go-rounds, etc.

Cellar. A portion of a building having one-half of its height below the average outside ground level.

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

Center Line of Street or Road. A line midway between and parallel to two street or road property lines or as otherwise defined by the Planning Board.

Church or Other Place of Worship. A building for public worship.

Circus. An exhibition of wild animals, aerobatic feats together with side shows and vending concessions.

Clinic, Dental. A structure designed for the practice of dentistry in which nonresident patients are treated.

Clinic, Medical. A structure designed for the practice of medicine in which non-resident patients are treated.

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

Construction, Fire resistant. That type of construction in which the walls, partitions, columns, floor and roof are non-combustible with sufficient fire resistance to withstand the effects of a fire and prevent its spread from story to story.

Court. An unoccupied open space, other than a yard. An outer court is one that extends to the street or to the front or rear yard. An inner court is any other court.

Drive-in Business. A drive-in business includes drive-in outdoor theaters, refreshment stands, banks and the like where patrons enter the premises and are served or entertained in automobiles. Deposit and pick-up services shall not be considered drive-in businesses as defined herein.

Dwelling. A house, apartment building or other building designed or used primarily for human habitation. The word "dwelling" shall not include boarding houses or rooming houses, tourist homes, motels, hotels, or other structures designed for transient residence.

Dwelling, One-Family. A detached building designed for the use of a single household including one or more persons living as a family.

## ART. II.

Dwelling, Two-Family. A building having two side yards and accommodating but two families, with one family living over the other.

Dwelling, Multi-Family. A dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities or both.

Dwelling, Row or Town House. A dwelling accommodating or designed to accommodate but a single family in a single dwelling unit, the walls on two sides of which may be in common with the walls of adjoining dwellings and are party or lot line walls.

Dwelling, Semi-Detached. A detached building containing two dwelling units separated by a party wall, each having one side yard.

Dwelling Unit. Any dwelling or portion thereof used or intended to be used by one family, and providing complete housekeeping facilities therefor.

Educational Institution. A college or university giving general academic instruction. Included within this term are areas or structures used for (a) administration, (b) housing of students and faculty, (c) dining halls, (d) social or athletic activities, when located on the institution's land that is not detached from land where classroom facilities are maintained.

Factory. A building or group of buildings, usually with equipment, where goods are manufactured.

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

Family. One or more persons occupying a premises and living as a single nonprofit housekeeping unit.

Farm. Any parcel of land which is used in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes fur farms, commercial stables and dog kennels.

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

Floor Area Ratio. The floor area of a building divided by the area of the lot which it occupies.

Garage, Private. A garage not conducted as a business or used for the storage space for more than one (1) commercial vehicle which shall be owned by a person residing on the premises.

Garage, Public. A garage conducted as a business. The rental of storage space for more than two (2) passenger cars or for one (1) commercial vehicle not owned by a person residing on the premises shall be deemed a business use.



## ART. II.

Grade, Established. The elevation of the center line of the streets as officially established by the Village Engineer.

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

Home Occupation. An occupation for gain or support conducted only by members of a family residing in the premises and conducted entirely within the dwelling, provided that no article is sold or offered for sale except as such may be produced by members of the immediate family on the premises. Customary home occupation shall not be construed to include those which require the presence of the customer on the premises for the performance of the occupation, or those which require the presence in the home of machinery or equipment normally associated with commercial or industrial activities.

Home, Tourist. A private residence in which overnight accommodations are provided for not more than ten (10) transient paying guests.

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

Hospital, Animal or Veterinary Clinic. An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, and shall exclude the treatment or other care of humans.

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

Industry. The term industry includes the entire range of economic activity and as applied to specifics i.e., manufacturing, wholesale, retail, services, etc., shall have the meaning set forth in the Standard Industrial Classification Manual, published by the Executive office of the President, Bureau of the Budget- 1957.

Junk Yard. A lot, land or structure, or part thereof over 200 square feet in area, used primarily for the collecting, storage and/or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof, except as accessory to a principle industrial use of the lot.

kennel. Any establishment including cages, dog runs and structures wherein more than three dogs which are over six months old are harbored.

Lot. A piece, parcel or plot of land occupied or to be occupied by a principal building and its accessory building or buildings and including the yards and other open spaces required by this ordinance.

Lot, Corner. A lot which has an interior angle of less than one hundred and thirty-five degrees at the intersection of two street lot lines. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its point beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred thirty-five degrees.

Lot, Depth. The horizontal distance from the street line of the lot to its opposite rear line measured along the median between the two side lot lines.

ART. II.

Lot, Interior. A lot other than a corner lot.

Lot, Lines. The lines that bound a lot as defined herein.

Lot of Record. Any lot which has been established as such by plot, survey, record or deed prior to the date of this enactment as shown on the records of the Chautauqua County Clerk's Office.

Lot, Width. The distance between the side lot lines measured along the front building line as determined by the front yard requirement prescribed by this ordinance.

Major Excavation, Grading or Filling. Any operation (other than in connection with foundations for a structure or highway construction) involving:

- (1) A volume of earth movement exceeding the average of one cubic foot per square foot of surface area, or 1000 cubic yards whichever is the lesser; or
- (2) A change in ground elevation from previously existing grade exceeding ten feet.

Mobile Home. A portable structure having a ground area of 720 square feet or less, with or without its own motive power, equipped for or used for living purposes, and mounted on wheels or designed to be so mounted and transported.

Mobile Home Park. Any lot on which two or more mobile homes are located regardless of whether or not a charge is made for such accommodations.

Motel or Motor Court. Motel or motor court shall mean a public inn containing rental units with provisions for but not limited to (a) automobile parking space to accommodate not less than one car per unit, and (b) Separate toilet facilities and hot and cold running water for each rental unit.

Motor Freight Terminal. Any premises used by a motor freight company regulated by the Public Utility Commission of New York and/or the Interstate Commerce Commission as a carrier of goods, which is the origin and/or destination point of goods being transported for the purpose of storing, transferring, loading and unloading such goods.

Motor Vehicle Service Station. Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicles accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work, or the dismantling or replacing of engines.

Non-Conforming. Not in conformity with the terms of this ordinance (see building, structure, use).

Nursery School. A school designed to provide daytime care or instruction for two or more children from two to five years of age inclusive and operated on a regular basis.

Nursing or Convalescent Home. Any establishment where persons are housed or lodged and furnished with meals and nursing care for hire.

## ART. II.

Occupancy. The utilization of a building, structure or land.

Occupancy, Seasonal. Occupancy for a period not exceeding four months.

Open Space. An unoccupied space open to the sky required by the terms of this ordinance.

Parking Space. For the purpose of computing the number of parking spaces available in a given area, the ratio of three hundred square feet per parking space shall be used.

Porch, Open. A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash. A structure having a driveway running to it, under it, or through it shall not be considered to be an open porch.

Public. Owned, operated or controlled by a governmental agency (Federal, State or Local) including a corporation created by law for the performance of certain specialized governmental functions, a public school district, or service district.

Quarry, Sand Pit, Gravel Pit, Top Soil Stripping. A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial operation, and exclusive of the process of grading preparatory to the construction of a building or highway construction.

Riding Academy. Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

Roadside Stand. A stall or booth for business which shall be limited to the sale of farm products.

Sanitarium, Sanitorium. A private hospital whether or not such a facility is operated for profit.

School. Any place of instruction in any branch of knowledge.

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

School, Secondary. Same as elementary school, except secondary education is provided.

School, Vocational. Any school having regular sessions with regularly employed instructors who, as a principal activity, provides training in a trade or vocation, and teaches those subjects that are fundamental and essential in elementary or secondary education, under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body, or a corporation meeting the requirements of the State.

## ART. II.

Sign. Any surface or part thereof, attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation, but not including the flag or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization or the property thereof.

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

Sign, Farm Products. A sign advertising the sale of farm products raised on the premises.

Sign, Identification. A sign used to identify the individual or organization occupying the premises or the name of the building or structure in connection with which the sign is displayed.

Sign, Real Estate. A sign advertising property on which it is located, or a building thereon, for sale, rent or lease.

Sign, Traffic Information. A sign other than one provided by public traffic control authorities, used to provide only directional information relative to entrances, exits and traffic circulation.

Stable, Private. An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

Stable, Public. A building in which horses are kept for remuneration, hire or sale.

Story. Story shall mean that part of a building, included between any floor, other than a basement floor, and the floor or roof next above.

Street. Any public way dedicated to public travel greater than twenty (20) feet in width.

Street Line. A street line is the right-of-way line of a street as indicated by dedication or by deed of record.

Structure. Any facility constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, mobile homes, billboards, signs and similar facilities whether stationary or movable.

Swimming Pool. The term "swimming pool" means any body of water (excluding natural bodies of water fed by rivers, streams or brooks) or receptacle for water having a depth at any point greater than two feet used or intended to be used for swimming or bathing, and constructed, installed or maintained in or on the ground outside any building.

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

Tourist Home. See Home - Tourist.

ART. II.

ART. III. Sec. 300

**Trailer, Boat.** A vehicle designed exclusively for the transportation of one boat of less than ten foot beam and twenty-four foot length.

**Trailer, Camp.** A vehicle or portable structure not over 150 square feet in floor area, equipped, but not regularly used for sleeping, but without sanitary facilities.

**Trailer, Cargo.** A vehicle, not over seventy square feet in floor area, used for the hauling of cargo.

**Use.** The specific purpose for which land or a building is designed, arranged or intended, or for which it is or may be occupied or maintained. The term "permitted use" shall not be deemed to include any nonconforming use.

**Use, Nonconforming.** An established use of a building or structure or use of land lawfully existing prior to and at the time of the adoption or amendment of this ordinance that does not conform with the permitted use provision of this ordinance as they apply to the district in which the building, structure or land is located.

**Yard.** An unoccupied space open to the sky on the same lot with a building or structure.

**Yard, Front.** An open space extending across the entire width of the lot between the building line or front main wall of a building and the front property line, (street or road right-of-way) and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar fixtures.

**Yard, Rear.** An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for open porches.

**Yard, Side.** An open unobstructed space on the same lot with a principal building, between the principal building and the side line of the lot and extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than eaves with an overhang of not more than two (2) feet, rain water leaders, window sills, and other such fixtures and open steps for a distance not exceeding four (4) feet.

### ARTICLE III. RESIDENCE DISTRICT - R

The Residence District R is established to provide for the development of a residential neighborhood occupied primarily by single family residences. It is contemplated that all residences in these districts shall be served by public water supply and private sewage disposal facilities.

Section 300. Permitted uses and buildings and other structures.

In Residence District R, no building or other structure or land shall be used, and no building or other structure shall be built, altered or erected for any purpose other than of:

1. A one family, two family or semi-detached dwelling including the following accessory uses and buildings :

(a) Keeping of not more than two roomers and boarders.

(b) Outdoor storage for the following: boat, boat trailer, camp trailer, cargo trailer owned for personal use by a resident on the premises.

- (c) Parking garage or open parking for operative passenger vehicles of persons visiting or residing on the premises.
- (d) Playhouse, tool house or garden house.
- (e) Private athletic facility not operated for gain.

2. Primary and athletic or secondary schools.

3. Other uses and other buildings and structures as provided by Sections 700, 701, 709, and 800.

Section 301. Area, yard and height restrictions.

1. Area per dwelling unit and lot dimensions. The minimum land area of lot size per dwelling shall be ten thousand (10,000) square feet and the minimum width of the lot at the front building line shall be seventy-five (75) feet. However, this shall not apply to prevent the construction of a one family, two family or semi detached dwelling on a lot existing prior to the date of enactment and not adjoined at the side by other unoccupied land in the same ownership, having an area of not less than six thousand (6,000) square feet and a width at the front building line of not less than sixty (60) feet.

2. Front yards. No building, or part of a building other than steps, open porches, eaves and cornices and similar fixtures shall extend nearer the front street line (right-of-way) than the average distance of set back of the nearest main building within one hundred (100) feet on each side of said building and fronting the same side of the street. When only one building exists on the same side of the street with the building to be erected and within one hundred (100) thereof, the building setback from the street line shall be not less than the average between the setback of the existing building and thirty (30) feet. When no building exists on the same side of the street with the building to be erected and within one hundred (100) feet thereof, the setback at the front shall be thirty (30) feet from the right-of-way line of the street. However, the above shall not apply to require placing a building more than ten (10) feet back of the front main wall of an existing adjacent building within one hundred (100) feet thereof. Building setbacks specifically established by Section 710 of this ordinance or by any other action of the Village Board shall take precedence over the above.

3. Rear yards. There shall be a rear yard with a depth of not less than twenty-five (25) feet. When a building or property extends through a block from street to street, the front yard requirements shall be observed on both streets.

4. Side yards. There shall be two side yards with a total width of not less than thirty (30) feet, except for each foot a lot existing at the time of this enactment is less than eighty (80) feet wide at the front building line, the total width of the two side yards may be reduced by six (6) inches to a total width of not less than twenty (20) feet. For a non-residential building other than a garage or other accessory building, there shall be two (2) side yards with a total width of not less than sixty (60) feet, and for each foot the height of such building exceeds thirty-five (35) feet, the total width of the two (2) side yards shall be increased by four (4) feet. The width of the narrower of the two side yards shall not be less than one-third (1/3) of the total width of the two side yards.

5. Corner lots. In the case of a corner lot both yards abutting streets shall be determined as provided in Section 301 (2). The minimum width of the lot at the building line parallel to the street considered to be the front street shall be ninety (90) feet.

6. Height. No dwelling shall exceed  $2\frac{1}{2}$  stories or thirty (30) feet in height.

#### ARTICLE IV. BUSINESS DISTRICT B

The Business District B is established to provide a district to accommodate general retail, service, finance and related structures and uses.

#### Section 400. Permitted uses and buildings and other structures.

1. Places of amusement or assembly, offices, restaurants, hotels, motor courts or motels, any retail business or retail service, including the making of articles to be sold at retail on the premises provided that any such manufacturing or processing shall be incidental to a retail business or service and not more than five (5) persons shall be employed in such manufacturing or processing, any accessory use or building customarily incidental to the above permitted uses.

2. Other uses as provided by Sections 700, 701, 709 and 800

#### Section 401 Uses prohibited.

Automobile graveyards or disassembly plants.

Alcohol storage in above ground tanks with a unit capacity of greater than 550 gallons.

Bottling works.

Coal yards

Contractors equipment and storage yard.

Crude oil, gasoline, or any of its volatile products or other highly flammable liquid storage in above ground tanks with a unit capacity of greater than 550 gallons.

Ice plant

Junk yards, secondhand material yards and the storage, baling or treatment of junk, old iron, rags, bottles or scrap paper.

Live animal or poultry sales.

Meat smoking and processing meat for animal foods whether or not incidental to a retail business conducted on the premises.

Rendering lard and other fats.

Repair and machine shops employing more than five (5) persons.

Slaughtering poultry and animals.

Any process of manufacture, assembly or treatment which is not clearly incidental to a retail business conducted on the premises or which normally constitutes a nuisance by reason of odor, noise, glare, dust, or smoke, even if incidental to a retail business conducted on the premises.

All uses, buildings, and other structures prohibited in the industrial districts.

ART. IV. Sec. 402 - 404

ART. V. Sec. 500 - 501

Section 402. Yard, area and height provisions.

1. Lots abutting residential districts. All buildings constructed on lots which abut residential districts either at the side or rear shall be so located as to conform in respect to the abutting yard with the side or rear yard requirements as the case may be for the residential district against which the lot abuts.

Section 403. Fire resistant construction.

All buildings constructed in a Business District shall comply with the Village fire code.

Section 404. Landscape treatment.

All properties shall be appropriately landscaped, particularly at the front. Properties abutting residence districts shall be planted to trees and shrubs for a width of not less than fifteen (15) feet on all property lines abutting residence districts.

ARTICLE V. - INDUSTRIAL DISTRICT

This district is for general and industrial use and development. Uses and buildings and other structures permitted therein include all those permitted in any of the other classes of districts, except dwellings, churches and schools, any use not specifically prohibited by Section 500, and any use not in conflict with any other ordinance of the Village; provided, however, that the provisions of Section 700, 800 and 709 are complied with.

Section 500. Prohibited uses.

1. Any process of assembly, manufacture, or treatment of an unusually hazardous nature including, but not limited to such things as: the manufacture and storage of fireworks and explosives or poisonous gases except as may be necessary and incidental to a permitted industrial process; the manufacture of illuminating gas and the storage of illuminating gas except as provided by Section 700.

2. The storage or processing of scrap metal, automobile wrecking, graveyards or disassembly plants, and the storage of secondhand building materials.

3. The storage, baling or treatment of junk, rags, bottles or scrap paper.

Section 501. Yard, area and height restrictions.

1. Establishments abutting residential districts. All buildings and structures constructed on property which abuts residential districts shall be located so as to provide a minimum side yard of fifty (50) feet on the side adjacent to the residential district. Streets or public rights-of-way thirty (30) feet or more in width may be included as the side yard requirement of this subsection. Rear yards shall not be less than required in the abutting residential district.

2. Height. No building or structure shall exceed seventy-five (75) feet in height.



ART. VI. Sec. 600 - 602

ART. VII. Sec. 700

ARTICLE VI. PLANNED DEVELOPMENT DISTRICTS P-DSection 600. Permitted uses and building and other structures.

Provision for Planned Development Districts is included herein to permit the establishment of areas in which diverse uses may be brought together in a unified plan of development. In Planned Development Districts land and buildings may be used for any lawful purposes as determined by the Village Board subject to the following limitations and procedures.

Section 601. Area provisions.

1. Planned Development Districts shall comprise not less than two (2) acres.

Section 602. Procedure for establishment.

1. Application for establishment of a Planned Development District shall be made to the Village Board. The Village Board shall refer the application to the Planning Board for consideration.

2. The Planning Board may require the applicant to furnish such preliminary plans, drawings, and specifications as may be required for an understanding of the proposed development. In reaching its decision on the proposed development, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

3. The Planning Board shall approve, approve with modifications, or disapprove such application, and shall report its decision to the Village Board.

4. The Village Board shall hold a public hearing on the proposal, with public notice, as provided by law in the case of an amendment to the Zoning Ordinance.

5. The Village Board may then amend the Zoning Ordinance so as to define the boundaries of the Planned Development District, but such action shall have the effect only of granting permission for development of the specific proposal, in accordance with the Zoning Ordinance within the area so designated, with the specifications, plans and elevations submitted.

ARTICLE VII. - EXCEPTIONS AND SPECIAL PROVISIONSSection 700. Uses permitted as special exceptions.

After public notice and hearing and under conditions set forth below, the Board of Appeals may authorize the issuance of a special permit for any of the following buildings and uses:

1. In a Residence District R

Animal hospital  
Cemetery  
Clubhouse

Educational institution  
 Hospital  
 Nursery school  
 Nursing home  
 Dental clinic  
 Medical clinic  
 Church or other place of worship together with its usual accessory buildings including parish houses but not including cemeteries.  
 Electric substation, gas district governor station, telephone exchange, or other public utility building, structure or use, except a business office, storage yard, repair shop, or facilities for the manufacture or storage of illuminating gas.

2. In a Business District B

Offices and retail businesses not specifically mentioned in Section 400 which the Board of Appeals determines to be essential to the proper functioning of the Business District.

3. Conditions.

Such special permits, however, may be authorized by the Board of Appeals only upon satisfaction in each instance of such conditions as to the general character, height and use of structure or structures; as to the provision of surrounding open space and the treatment of the grounds; as to the general fitness of the structure or use of its proposed location, as to the provision for automobile parking or storage; and as to street capacity and use as, in the opinion of the Board, may be necessary to safeguard public health, comfort and convenience, limit air pollution, and as may be required for the preservation of the general character of the neighborhood in which such building is to be placed or such use is to be conducted. To assist the Board of Appeals in its determination, an application for a permit under this section shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant, and such plans and other descriptive matter shall become a part of the record.

Section 701. Yard exceptions.

1. For large scale housing developments.

Upon presentation to the Planning Board of a site plan showing the location of buildings, streets, yards and other open spaces, for the unified residential development of an area bounded on all sides by streets or park or other permanent open space, the Planning Board may waive the heretofore established side and rear yard requirements, and the heretofore established front yard requirements and the heretofore established height requirements except for streets and roads shown on the major thoroughfare plans as main and secondary thoroughfares. After approval of the Planning Board, the Board of Appeals may authorize the Zoning Enforcement Officer to issue permits in accordance therewith, provided, the net land area per dwelling unit contained in the development is not less than that prescribed for the district in which the development is located.

2. For private garages on steep slopes.

where the topography is such that, the slope of the land exceeds fifteen (15) per cent and, therefore, access to a private garage built back of the front building line as required by this ordinance is impracticable, it shall be permissible to place such building, not exceeding twelve (12) in height, within the front

yard space but not closer to the side line of the street or road than eighteen (18) feet.

Section 702. Height exceptions.

Nothing herein contained shall be interpreted to limit or restrict the height of church spires, cupolas and domes not intended for human occupancy, public utility structures, monuments, radio or television transmission towers, observation towers, belfries, clock towers, windmills, water tanks, elevator bulkheads, chimneys, flag poles, stage towers, scenery lofts or similar structures.

Section 703. Fire escapes.

Nothing herein contained shall prevent the projection of an open fireproof escape into a rear or side yard for a distance up to eight (8) feet.

Section 704. Shopping centers.

After reference to and approval thereof by the Planning Board and upon the conditions set forth in Section 700.3 the Board of Appeals may authorize the issuance of a permit or permits for the construction of a shopping center for the conduct of a retail business in a Business District or Industrial District providing such proposed shopping center conforms to the following requirements:

1. Area. The minimum area shall be two (2) acres.
2. Initial construction. Satisfactory assurance shall be given that initial construction will comprise not less than fifty (50) per cent of the planned total construction as measured in terms of bulk of the buildings proposed to be built.
3. Plan. The proposed development shall be in accordance with a unified site plan and architectural scheme. However, it shall not be required that the whole of the development be in a single ownership or built or financed by a single party, if satisfactory evidence is shown that all parties financially or otherwise concerned in the development are legally bound to conform to the above required unified site plan and architectural scheme.
4. Entrance upon streets and highways. All vehicular entrances and exits upon public roads shall be approved by the proper highway authorities.
5. Off-street parking. Automobile parking space shall be provided on the premises with an area not less than three (3) times that of the total floor space to be contained in the development.
6. Off-street loading and unloading space. Off-street loading and unloading space shall be provided in addition to the space required by five above as required by Section 712.
7. Boundary treatment. No building shall be placed closer to any street or road line than one hundred (100) feet or closer to any other property line than two hundred (200) feet. No parking space shall extend nearer to any street or road line than the established building line or closer to any other property line than fifty (50) feet, and the boundaries along all side and rear property lines abutting upon a Residential District shall be appropriately landscaped and maintained for a depth of not less than fifty (50) feet. Where the shopping center is directly adjoined by land in a Business or Industrial District or by a railroad right-of-way, buildings may extend to within fifty (50) feet of the property line and

automobile parking space may extend to the property line.

8. Fire resistant construction. All buildings are to be of fire resistant construction as herein defined and approved by the Village Board.

Section 705. Hotels, motor courts or motels.

Hotels, motor courts or motels, where allowable under this ordinance shall conform to the following requirements:

1. Each rental structure shall contain at least eight (8) rental units.
2. No rental structure or part thereof shall be placed closer to any street or road line than one hundred (100) feet; closer to any other property line than fifty (50) feet; or closer to any other Residence District boundary line than two hundred (200) feet.
3. Automobile parking space to accomodate not less than one (1) car for each rental, sleeping, or dwelling unit plus one (1) additional space for every two (2) persons regularly employed on the premises and no part of such parking space shall be closer to any public street line than twenty-five (25) feet.
4. Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet. All such fixtures shall be properly connected to the Village water system.

Section 706. Mobile homes.

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

1. No mobile home shall be parked and occupied in any district for more than twenty-four hours except upon a special permit issued by the Zoning Enforcement Officer, such permit shall be issued for a period not to exceed thirty (30) days and shall not be renewable within the same calendar year.
2. AS an exception to 1 above, a permit may be issued for parking and occupying a mobile home on land owned by the occupant or occupants, during the construction of a house thereon for a period not exceeding one eighty (180) days and shall be renewable for an additional period not exceeding one hundred eighty (180) days. However, if material progress with house construction is not made within forty-five (45) days from the issuance of permit or if construction work ceases for a consecutive period of forty-five (45) days, such permit shall become void.

Section 707. Mobile home parks.

The following shall apply in addition to all other regulations of Village in respect to mobile home parks:

1. Permit for a mobile home park:

(a) It shall be unlawful within the Village Of Cassadaga for any person or persons to construct or operate a mobile home park without first securing the approval of the Planning Board, a written license from the Village Board of the Village of Cassadaga and complying with the regulations of this ordinance.

## ART. VII. Sec. 707

(b) The application for such annual license or the renewal thereof, shall be filed with the Village Clerk and shall be accompanied by a fee of twenty-five (25) dollars. Thereafter each mobile home shall be assessed on the tax rolls of the Village of Cassadaga against the trailer camp owners in accordance with Section 102 of the New York Real Property Tax Law. No other fees (other than the annual license fee) shall be charged against the mobile home owner provided, however, that each mobile home is assessed and placed on the tax roll and that the school, county, town, village and state taxes have been paid for the current year. In the event that each mobile home is not on the tax rolls and the tax paid for the current year, then in that event the mobile home park owner shall pay a monthly fee for each month or any portion thereof that each mobile home occupied a mobile home space and the monthly fee therefor shall be five (\$5.00) dollars, which shall be paid at the commencement of each month.

The application for a license or renewal thereof shall be made on forms prescribed by the Village of Cassadaga and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant a duly verified statement by that person that the applicant is authorized by him to construct or maintain the mobile home park shall accompany the application). Each license or renewal thereof shall expire on the 31st day of December following the issuance thereof.

2. Application for a mobile home park license:

(a) Any applicant for a mobile home park license shall state that he, as agent or owner, shall be responsible for the proper maintenance and upkeep of the proposed park, and shall furnish the following information:

- i. Boundaries of plot areas.
- ii. Entrances, exits and walkways.
- iii. Trailer sites or lots.
- iv. Number and location of sanitary conveniences, including proposed toilets, washrooms, laundries and drying area.
- v. Method and plan for sewage disposal.
- vi. Method and plan of garbage disposal.
- vii. Water supply.
- viii. Electric lighting.
- ix. Incinerator area.
- x. Owner's and Operator's name and address.

3. Park plan.

(a) No mobile home park or service building shall be closer to a street road or other property line than one hundred (100) feet.

(b) In whatever district located, a mobile home park shall conform to the following additional requirements:

i. The park shall be located on a well drained site suitable for the proposed with an entrance road as defined by the subdivision regulations.

ii. Individual mobile home lots shall have an area of not less than three thousand (3,000) square feet with a minimum width of forty (40) feet and a minimum depth of seventy-five (75) feet.

iii. The total number of mobile home lots shall not exceed twelve (12) per gross acre.

iv. Margins along side and rear property lines shall be densely planted to trees and shrubs for a depth of not less than five (5) feet.

(c) Water supply:

A sufficient supply of water from the Village of Cassadaga Water System shall be provided at each mobile home site. No common drinking vessel shall be provided. Sanitary waste must be emptied into an approved drain.

(d) Garbage receptacles:

One garbage receptacle with tight fitting cover shall be provided for each mobile home. These receptacles shall be kept in sanitary condition and emptied periodically by the licensee or his agent.

(e) Health:

It shall be the duty of the licensee to notify immediately the Chautauqua County Health Department of any communicable disease in the park.

(f) Inspection:

Before the park commences operation, the Zoning Enforcement Officer shall make an inspection of the premises to determine that all requirements of this ordinance have been complied with and shall issue a certificate of occupancy. No use shall be permitted until such a certificate has been issued.

(g) Revocation or suspension of license:

The Village Board shall have the authority to enter and inspect for health and sanitation purposes, any facility licensed hereunder at any reasonable time. If, upon inspection, it shall be found that the licensee has violated any provision of this ordinance, the Village Board shall have the power to revoke or suspend such license and order the mobile home removed or the mobile home park closed after notice and an opportunity to be heard.

Section 708. Public garages and motor vehicle service stations.

1. No public garage or motor vehicle service station, or private garage for more than five (5) cars shall have a vehicular entrance closer than two hundred (200) feet to an entrance to a church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street if the entrances are on the same side of the street or within the same square block.

2. All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed, as to require all servicing on the premises and outside the public way; and no gasoline pump shall be placed closer to any side property line than fifty (50) feet.

3. No inoperative motor vehicles shall be kept on the premises of motor vehicle service stations for longer than two weeks.

4. All waste material will be stored within structure or inclosed within fencing so as not to be visible from off the property.

Section 709. Temporary uses and structures.

Temporary permits may be issued by the Zoning Enforcement Officer for a period not exceeding one (1) year, for nonconforming uses incident to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered for sale, provided such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed yearly upon application to the Zoning Enforcement Officer for an additional period of one (1) year.

Section 710. Nonconforming uses, buildings and structures.

1. Continuation of nonconforming use. Except as provided in subsections 2 and 3 of this section, any use of land, or a building or structure or part thereof, existing at the time that this ordinance or any amendment hereto becomes effective, may be continued, subject to the provisions of subsection 4, 5 and 6 of this section, although such building or structure or use does not conform to the provisions of the district in which it is situated.

2. Discontinuance of use. When a nonconforming use has been discontinued for a period of not less than one (1) year, it shall not therefore be re-established, and the future use shall be in conformity with the provisions of this ordinance.

3. Automobile wrecking and junk yards. Notwithstanding any other provision of this ordinance, any nonconforming automobile wrecking yard or other junk yard, in existence at the time of the adoption of this ordinance or an amendment thereto shall be discontinued within three (3) years from the date of such adoption or amendment.

4. Change of nonconforming use. No nonconforming use shall be changed to other than a conforming use for the district in which it is situated.

5. Maintenance of a nonconforming use. A nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public. Alterations and extensions of the nonconforming use, in order to comply with the provisions of this section, are permitted, provided that such alterations or extension shall not tend to increase the inherent nuisance, nor shall such alteration or extension violate any provisions of this ordinance regarding yards, lot area or lot coverage for the district in which it is situated, or to increase any existing violation of such provision.

6. Any building or structure containing a nonconforming use or any structure consisting of a nonconforming use, which is damaged by fire, flood, wind or other act of God or man to the extent of fifty (50) per cent or more of its fair sales value immediately prior to damage, shall not be reoccupied, reused and/or reconstructed except in conformity with the provisions of this ordinance. In the event that the Zoning Enforcement Officer's estimate of the extent of damage or fair sales value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the extent of damage or fair sales value shall be determined by a board of three (3) arbitrators, one of whom shall be named by the Planning Board, one by the applicant for the building permit, and one by the first two (2) arbitrators named.

In the event the first two arbitrators cannot agree upon a third member within five (5) days, the third arbitrator shall be named by the Village Board. A decision in which at least two of the arbitrators concur shall be deemed the official decision of this board.

7. Any nonconforming building or structure which is damaged by fire, flood, wind or other act of God or man to the extent of fifty (50) per cent or more of its fair sales value immediately prior to damage, shall not be repaired or reconstructed except in conformity with the provisions of this ordinance. In the event of dispute, the extent of damage or fair sales value shall be determined in the same manner set forth in Section 710, subsection 6, above.

8. Any building or structure containing a nonconforming use, or any structure constituting a nonconforming use, which is damaged by fire, flood, wind or other act of God or man to an extent of more than twenty-five (25) per cent but less than fifty (50) per cent of its fair value immediately prior to damage, shall not be repaired or reconstructed except in conformity with this ordinance unless such reconstruction is completed within twelve (12) months of the damage. In the event of a dispute, the extent of damage or the fair sales value shall be determined in the manner as set forth in Section 710, subsection 6.

9. No building or structure designed for or intended to be utilized for a nonconforming use shall be constructed, reconstructed or altered unless construction, reconstruction or alteration is already underway at the time of the enactment or subsequent amendment of this ordinance and is being diligently prosecuted so that such building or structure will be completed within eighteen (18) months from the time of the enactment or subsequent amendment of this ordinance. All outstanding building permits for construction, reconstruction or alteration which do not meet these requirements shall be rendered null and void by the enactment or subsequent amendment of this ordinance.

10. The above limitations shall not apply to a building or other structure utilized as a dwelling which is nonconforming only in respect to yard space or area dwelling and nonconforming to the district in which located except: No building shall be altered, added to, or reconstructed to the extent further into an already-deficient yard space or to reduce an already-deficient amount of land area per dwelling.

Section 711. Required off-street parking and automobile storage space.

1. General provisions.

(a) Permanent off-street automobile storage, parking or standing space shall be provided as set forth below at the time of the erection of any building or structure, at the time any building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one zoning use or occupancy to another. Such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. No required front yard or portion thereof in any residential district shall be utilized to provide parking space required in this ordinance.

(b) If the vehicle storage space or standing space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle parking shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.



## ART. VII. Sec. 711.

(c) Vehicle parking or storage space maintained in connection with an existing and continuing principal building, structure or land use on the effective date of this ordinance shall be continued and may not be counted as serving a new building, structure, addition or land use; nor shall any required parking space be substituted for an off-street loading and unloading space, nor any required loading and unloading space be substituted for a parking space.

(d) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that one-half ( $\frac{1}{2}$ ) of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sunday may be assigned to a use which will be closed at night or on Sunday.

(e) No off-street automobile parking or storage space shall be used or designed, arranged, or constructed to be used in a manner that will obstruct or interfere with the free use of any street, alley or adjoining property.

(f) The parking spaces provided along with their necessary driveways and passageways shall be paved in a manner adequate to eliminate dust and mud problems. Plans for such parking spaces are to be included with the plans for the construction of buildings and other structures and are to be presented to the Zoning Enforcement Officer at the time application for building permits are to be filed. Such parking areas are to be kept free of obstructions and unsightly objects. Intersections of parking areas with sidewalks or street pavements must be made in an approved manner. Provision must be made for the adequate drainage of parking areas.

(g) For the purpose of computing the number of parking spaces available in a given area, a parking space as herein defined is three hundred (300) square feet.

2. Amusement facilities. One (1) parking space for every five (5) customers computed on the basis of maximum servicing capacity at any one time plus one (1) additional space for every two (2) persons regularly employed on the premises.

3. Apartment houses. One and one-half (1.5) parking spaces for each apartment

4. Auditorium. One (1) parking space for every five (5) seats occupied at maximum capacity.

5. Boarding houses. One (1) parking space for each sleeping room occupied by roomers or boarders plus one (1) parking space for each dwelling unit on the premises, and plus one (1) additional space for every two (2) persons regularly employed on the premises.

6. Bowling alleys. As in subsection 2.

7. Churches. As in subsection 4.

8. Civic centers. Parking or storage space for all vehicles used directly in the operation of such establishment plus four (4) parking spaces for the first one thousand (1,000) square feet of total floor area and one (1) additional space for every additional one hundred fifty (150) square feet of floor area.

## ART. VII. Sec. 711.

9. Clubhouses and permanent meeting places of veterans, business, civic, fraternal labor and other similar organizations. One (1) parking space for every fifty (50) square feet of aggregate floor area in the auditorium, assembly hall, and dining room of such building plus one (1) additional space for every two (2) persons regularly employed on the premises.
10. Dental clinics. Three parking spaces for each doctor or dentist plus one (1) additional space for every two (2) regular employees.
11. Eating establishments. One (1) parking space for every one hundred (100) square feet of total floor area.
12. Electrical shops. Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for each two (2) persons regularly employed on the premises.
13. Freight terminals. Parking or storage space for all vehicles used directly in the business plus one (1) parking space for each two (2) persons regularly employed on the premises.
14. Funeral homes. Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for every two (2) persons regularly employed on the premises and one (1) space for every six (6) seats in the auditorium or chapel of such establishment. If the establishment does not have a chapel or auditorium, the additional parking to be required of funerals visitors shall be determined by the Board of Appeals based on the number of funerals that can be handled at one time, the size of the facilities and other relevant factors.
15. Hospitals. One (1) parking space for every two (2) beds intended for patients, excluding bassinets.
16. Hotels. One (1) parking space for each sleeping room offered for tourist accommodation plus one (1) for each dwelling unit on the premises and plus one (1) additional space for every two (2) persons regularly employed on the premises.
17. Indoor retail business. As in subsection 8.
18. Industrial plants and facilities. Parking or storage space for all vehicles used directly in the conduct of such industrial use plus one (1) parking space for every three (3) employees on the premises at the maximum employment on a single shift.
19. Junior high schools (secondary). One (1) parking space for every five (5) seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium or gymnasium, one (1) parking space shall be provided for each regularly employed at such school plus two (2) additional spaces for each classroom.
20. Libraries. As in subsection 8.
21. Medical clinics As in subsection 10.
22. Mobile homes. One (1) parking space for each mobile home.
23. Mobile home parks. As in subsection 22.

## ART. VII. Sec. 711

24. Motels. As in Section 705.
25. Museums. As in subsection 8.
26. Nurses home One (1) parking space for every two (2) beds computed on the basis of the maximum capacity of the structure. This requirement is in addition to the parking space requirements for hospitals set forth in subsection 18.
27. Offices. One (1) parking space for every two hundred (200) square feet of office space.
- 27A. Offices (professional). As in subsection 10.
28. Outdoor retail business. Parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for every two (2) persons employed on the premises on maximum seasonal employment and such additional space as may be required by the Board of Appeals based on the nature of the business and other relevant factors.
29. Plumbing shops. As in subsection 12.
30. Post offices. As in subsection 8.
31. Private schools. One (1) parking space for each person regularly employed at such school plus one (1) additional space for each classroom.
32. Public assembly. As in subsection 4.
33. Public elementary school (elementary). As in subsection 31.
34. Public garages. Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business plus three (3) parking spaces for each person regularly employed on the premises.
35. Recreational centers and facilities. As in subsection 2.
36. Repair shops. As in subsection 12.
37. Residences. One (1) parking space for each dwelling unit.
38. Restaurants. As in subsection 11.
39. Roofing shops. As in subsection 12.
40. Rooming houses. As in subsection 5.
41. Self-service laundries and dry cleaning self-service plants. One (1) parking space for every two (2) washing machines and/or two (2) dry cleaning machines.
42. Senior high schools (secondary). As in subsection 19.
43. Service establishment. As in subsection 12.
44. Service station - motor vehicle. Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for each gas pump, three (3) spaces for each grease rack, and one (1) space for every two (2) persons employed on the premises at maximum employment on a single shift.

45. Swimming pools. As in subsection 2.
46. Tavern AS in subsection 11.
47. Theaters. As in subsection 4.
48. Tourist courts. AS in subsection 24.
49. Tourist homes. AS in subsection 16.
50. Trailer parks (house). AS in subsection 22.
51. Transportation terminals. One (1) parking space for every one hundred (100) square feet of waiting room space plus one (1) additional space for every two (2) persons regularly employed on the premises.
52. Trucking terminals. AS in subsection 13.
53. Undertaking establishments. AS in subsection 14.
54. Warehouses. AS in subsection 13.
55. Wholesale business. Parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for each two (2) persons employed on the premises based on maximum seasonal employment.

Section 712. Required off-street parking for commercial vehicles while loading and unloading.

1. On the same premises, with every building or structure or part thereof hereafter erected and occupied for the purpose of business, trade or industry, there shall be provided and maintained adequate space for the parking of commercial vehicles while loading and unloading off the street or alley way. Such space shall have access to a public alley, or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property. Off-street loading and unloading space shall be provided as set forth below at the time of the erection of any building or structure and/or at the time any building or structure is enlarged or increased in capacity.

2. Freight terminals. One (1) off-street loading and unloading space at least twelve (12) feet by fifty-five (55) feet by fourteen (14) feet high for every five thousand (5,000) square feet of total floor area.

3. Hotels. Off-street loading and unloading space at least twelve (12) feet by thirty-five (35) feet by fourteen (14) feet high.

4. Hospitals. AS in subsection 3.

5. Indoor markets. One (1) off-street loading and unloading space at least twelve (12) feet by fifty (55) feet by fourteen (14) feet high for every seven thousand five hundred (7,500) square feet or less of total floor area.

6. Industrial plants. One (1) off-street loading and unloading space at least twelve (12) feet by fifty-five (55) feet by fourteen (14) feet high for every ten thousand (10,000) square feet of total floor area, or as required by the Planning Board.

7. Retail Businesses. As in subsection 3.

8. Service establishments. As in subsection 3.

9. Trucking terminals. As in subsection 2.

10. Warehouses. As in subsection 5.

11. Wholesale storage facilities. As in subsection 5.

Section 713. Frontage on public street or road.

1. No dwelling shall be erected on a lot which does not abut on at least one street for a distance of not less than forty (40) feet.

2. No dwelling may be built or erected directly behind another dwelling having access on the same street and within two hundred (200) feet thereof. "Directly behind another dwelling" means with more than one-half ( $\frac{1}{2}$ ) the width of the structure so placed.

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

4. No building nor portion thereof shall be erected closer than 50 feet from the centerline of N.Y. Route 60 as measured at right angles thereto. In the event this requirement conflicts with any other section of this Zoning Law this requirement shall be controlling.

Section 714. Reductions in lot area prohibited.

1. No lot, although it may consist of one or more adjacent lots of record, shall be reduced in area to the extent that yards, lot area per family, lot width, building area, or other requirements of this ordinance, are not maintained. This subsection shall not apply when a portion of a lot is required for a public purpose.

2. No space applied or necessary under this ordinance to satisfy the yard or other open space requirements in relation to any building or area, whether now or subsequently built or occupied, shall be counted as part of a required open space in relation to any other building.

Section 715. Flood plain requirement.

1. The entire first floor of any building erected shall be not less than 1307 feet above sea level.

Section 716. Obstruction of vision and fencing.

1. In all districts, on a corner lot, within the triangular area formed by the centerlines of streets from the intersection, as shown on the schedule below, there shall be no obstruction to vision between the height of three and one-half ( $3\frac{1}{2}$ ) feet and the height of ten (10) feet above the average grade of each street on the center line thereof. The requirements of this section shall not be deemed to prohibit the construction of any necessary retaining wall.

SIGHT DISTANCE FOR VARIOUS STREET WIDTHS

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

2. Except as provided in Section 716 (1) above the requirements of this ordinance shall not be deemed to prohibit any otherwise lawful fence or wall, except that in any residential district no fence or wall shall exceed six (6) feet in height.

Section 717. Quarries, sand and gravel pits, topsoil removal and major excavating, grading and filling.

1. Rock and stone crushing, and mixing stone or gravel with asphaltic oils or other binders shall be permitted only upon authorization by the Board of Appeals as a special exception under the conditions set forth under Section 700. However, the above shall not prevent issuance by the Board of Appeals of a temporary permit, under Section 709 for a mixing plant in connection with a particular construction project for the period of its construction.

2. A quarry for the removal of stone in bulk without crushing, a sand or gravel pit, and topsoil removal may be authorized by the Board of Appeals, in a Residential District R, as a special exception under the conditions as set forth in Section 700 provided:

(a) No excavation, blasting or stock piling of materials shall be located within three hundred (300) feet of any public road or other property line.

(b) No power-activated sorting machinery or equipment shall be located within six hundred (600) feet of any public road or other property line and all such machinery shall be equipped with satisfactory dust elimination devices.

(c) All excavation slopes in excess on one (1) to two (2) shall be adequately fenced as determined by the Building and Sanitation Inspector.

(d) Extension of an existing nonconforming quarrying operation shall not be permitted.

3. Major excavating, grading or filling as defined herein shall not be permitted in any district except when done by a duly constituted public body or as provided in Section 717 (2) above.

Section 718. Drive-in business.

1. Plans for the erection or structural alteration of drive-in establishments as herein defined shall be submitted to the Planning Board for approval. The Planning Board may require such changes therein in relation to yards, driveways, driveway entrances and exits, and the location and height of buildings and enclosures as it may deem best suited to insure safety, to minimize traffic hazards or difficulties, and to safeguard adjacent properties.

Section 719. Storage of flammable liquids.

The storage of alcohol, gasoline, crude oil, liquified petroleum gas or any other highly flammable liquid in above ground tanks with unit capacity greater than five hundred fifty (550) gallons shall be prohibited in all districts unless such tanks up to and including ten thousand (10,000) gallon capacity are placed not less than fifty (50) feet from all property lines and unless all such tanks of more than ten thousand (10,000) gallon capacity are placed not less than one hundred (100) feet from all property lines. All tanks having a capacity greater than five hundred fifty (550) gallons shall be properly dyked with earthen dykes having a capacity not less than one and one-half (1½) times the capacity of the tank or tanks surrounded.

Section 720. Cesspools and septic tanks.

1. No cesspools or drilled sink shall be permitted.
2. Where a public sanitary sewer main is not reasonably accessible in the opinion of the Planning Board, other proper provisions approved by the Planning Board shall be made for the disposal of sanitary waste. Individual septic tanks may be permitted.

(a) No such septic tank shall be permitted in low swampy areas with a high water table (permanent, fluctuating, or seasonal), areas with ledge rock, or areas that are subject to flooding.

(b) All septic tank installations shall otherwise conform to the requirements of the Chautauqua County Health Department.

Section 721. Supplementary regulations relating to private swimming pool as an accessory use.

1. A private swimming pool installed or maintained as an accessory use in a residential district shall meet the following requirements:

(a) It shall be used only as an accessory use to a dwelling or to a special permit use in a Residence District for the private use of the owner or occupant of such dwelling or building and his or her family, guests, or employees.

(b) Any such pool which is installed less than one hundred (100) feet from any property line shall be completely enclosed by a security fence not less than four (4) feet in height, with all gates or doors opening through such enclosure equipped with self-closing and self-latching devices designed to keep and capable of keeping such gates or doors securely closed at all times when not in actual use, of a type approved by the Zoning Enforcement Officer.

(c) Such pool shall be maintained in a manner sufficient to meet the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.

(d) Such pools shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and constructed as not to interfere with the peace, comfort, and repose of the occupant of any adjoining property.

(e) No permission shall be granted for the installation of any swimming pool, until the owner has filed with the Zoning Enforcement Officer a statement by a professional engineer, licensed by the State of New York, that provisions for the drainage of such pool are adequate and will not interfere with the public water supply system, or existing sanitary facilities.

Section 722. Fair, carnival, and circus.

In a Residence District R or on the premises of a building occupied by a church, civic organization or similar nonprofit group in any district, a permit may be issued under the terms of Section 700 for a fair, carnival or circus for a period not to exceed three (3) days in any calendar year.



ART. VII. Sec. 723

ART. VIII. Sec. 800

Section 723. Supplementary regulations relating to dwellings.

1. Minimum floor area. No single-family dwelling shall henceforth be constructed, nor shall any existing single dwelling be reduced in area, so as to contain less than seven hundred fifty square feet of floor area useable for living purposes. No dwelling unit in a two-family or multiple-family dwelling shall henceforth be constructed, nor shall an existing dwelling unit in such building be reduced in area, so as to contain less than six hundred (600) square feet of floor area useable for living purposes.

2. Basement occupancy. Any basement area used for living purposes shall have not less than two means of egress, at least one of which shall be a door giving access to an open area whose service is at least eight (8) inches below the level of the basement floor.

3. Slope of yards. No building containing dwelling units shall henceforth be constructed, nor shall any existing building be altered so as to contain dwelling units unless the surface grade of the front yard at the front wall of such building be more than one (1) foot above the established grade of the sidewalk. Where a sidewalk grade has not been established the surface grade of the front at the front wall of the dwelling shall be not less than one (1) foot above the center line of the street measured at the midpoint between the side lot lines of the lot. Where there is unusual difficulty in meeting this provision, the Zoning Enforcement Officer may accept a substitute gradient providing that no minus gradient is established within fifteen (15) feet of the front wall or within six (6) feet of either side of the rear wall of the dwelling.

ARTICLE VIII. SIGNS AND BILLBOARDSSection 800. Signs and billboards.

1. General provisions. Signs are an accessory use only. Signs are not permitted as a principal use. Whenever located and whatever their nature, signs and billboards shall conform to the following:

(a) No attached sign shall extend within a street or road property line unless said line is the building line, in which case signs may extend over the street or road property line for a distance not exceeding four (4) feet.

(b) No freestanding sign larger than eight (8) square feet shall have less than three (3) feet of open space at the bottom, extending its entire length.

(c) No sign shall exceed twenty-five (25) feet in height or extend above the facade of the building to which it is attached.

(d) In matters of setback from the street or road, required yards and other such respects, freestanding signs larger than eight (8) square feet shall be regarded as buildings within the meaning of this ordinance.

(e) Advertising display upon a building or other surface shall be regarded as coming within the above regulations.

(f) Vehicles bearing signs more than two (2) square feet in area shall not be permitted to park as a customary operation in a residential area so as to be visible from the street.

2. Rules for measuring signs.

(a) Back to back signs, identical signs arranged back to back or diverging by less than thirty (30) degrees from a common line or point may be counted as one sign.

(b) The area of a sign consisting of insignia or other device, but without background, shall be calculated as the smallest polygon or circle possible of enclosing the insignia.

3. Design and lighting of signs.

(a) The use of moving signs, self-illuminating signs (other than those with bulbs concealed behind translucent glass, plates or similar material) or the use of flashing or intermittent lighting in connection with signs shall not be permitted.

(b) Flood lights for the illumination of signs shall be so located and/or shielded so as not to interfere with the enjoyment of residential use or detract from the safety of motorists.

4. Nonconforming signs to be removed.

(a) Nonstructural signs.

i. Any nonconforming sign which is portable in nature (e.g. banners, pennants, spinners, portable signs, etc.) shall be removed within ninety (90) days of the effective date of this ordinance.

ii. Any nonconforming sign painted, pasted or otherwise applied to a fence, wall or facade of a building shall not be repainted, restored or replaced.

5. Permitted signs.

(a) In a Residence District.

i. A sign of an appropriate nature but not larger than twenty (20) square feet identifying any building or use permitted under this ordinance.

ii. A real estate sign not larger than twelve (12) square feet only when placed on property for sale or rent.

iii. Sign necessary for the identification, operation or protection of a public utility installation.

iv. Signs incident to a legal process or necessary to the public welfare.

v. One bulletin board not exceeding twenty (20) square feet in area for a church or other institutional use.

vi. One home occupation sign per dwelling unit not exceeding eight (8) square feet in area.

vii. Temporary special event signs on the premises of a special event sponsored by a church or other non-profit institution not exceeding twenty (20) square feet in combined area.

(b) In Business District.

i. Signs not larger than sixty (60) square feet and not more than one (1) per establishment advertising a place of business (not a product).

(c) In Industrial District.

i. There is no limit on either the size other than height or the advertising purpose of signs and billboards located in the Industrial Districts.

(d) Planned Development Districts.

i. Signs permitted in Planned Development Districts shall be limited to those which relate as determined by Section 732 to specific uses authorized in established Planned Development Districts.

ARTICLE IX. ADMINISTRATION AND ENFORCEMENT

Section 901. Interpretation.

In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements for the promotion of the public safety, convenience, prosperity and general welfare for the Village of Cassadaga.

Section 902. Enforcement.

1. Enforcing officer. The provisions of this ordinance shall be administered and enforced by the Zoning Enforcement Officer appointed by the Board of Trustees who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

2. Duties. It shall be the duty of the Zoning Enforcement Officer to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted and the same shall form a part of the records of his office and be available for use of the Board of Trustees and other officials. The Zoning Enforcement Officer shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all other ordinances of the Village of Cassadaga.

Section 903. Zoning permits and Certificate of occupancy.

1. Zoning permit.

(a) Requirements. It shall be unlawful to commence the excavation for or the construction of any building or structure, including accessory buildings,

## ART. IX, Sec. 903

or to commence the moving or alteration of any building or structure, including accessory buildings, until the Zoning Enforcement Officer has issued a permit for such work.

(b) Issuance. In applying to the Zoning Enforcement Officer for a Zoning permit, the applicant shall submit specifications and a dimensional plan to scale indicating the shape, size, height and location in exact relation to all property lines and to street or road lines of all buildings or structures to be erected, altered or moved, and of any building or structure already on the lot. (This plan shall be accompanied by (a written statement from a qualified engineer or other) satisfactory evidence, to the effect that the line of the bounding street or road has been accurately located and staked on the ground.) The applicant shall also state the existing or intended occupancy and use of all such buildings and land and supply other information as may be required by the Zoning Enforcement Officer to ensure that the provisions of this ordinance are being observed. If the proposed excavations, or construction, or alterations or moving as set forth in the application are in conformity with the provisions of this ordinance, and other ordinances of the Village of Cassadaga, then in force, the Zoning Enforcement Officer shall issue a permit for such excavation, alteration or moving.

(c) Refusal. If a Zoning permit is refused, the Zoning Enforcement Officer shall state such refusal in writing, with the cause, and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.

(d) Fees. Fees to be charged for the issuance of a Zoning permit shall be based on the floor area of the building or structure to be erected, altered or moved and shall be determined as follows:

(1) Residential construction. Twenty-five (25) dollars or two (2) dollars for each one hundred (100) square feet of floor area or portion thereof whichever is less.

(2) Other than residential construction. Two (2) dollars for each one hundred (100) square feet of floor area, or portion thereof.

(e) Effect. The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.

(f) Terms. A Zoning permit shall become void six (6) months from the date of issuance unless substantial progress has been made that date on the project described therein provided however, that the building permit may be renewed for an additional six (6) months upon application therefor without the payment of an additional fee.

## 2. Certificate of occupancy.

(a) Requirement. No land or building or other structure or part thereof, hereafter erected or altered in its use or structure, shall be used or occupied until the Zoning Enforcement Officer shall have issued a certificate of occupancy stating that such land, building, structure, or part thereof, and the proposed occupancy or use thereof are found to be in conformity with the provisions of this ordinance.

(b) Issuance. Within five (5) days after notification that a building or structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Zoning Enforcement Officer to make a final inspection thereof and

issue a certificate of occupancy if the land, building, structure or part thereof is found to conform with the provisions of this ordinance.

(c) Refusal. If the Zoning Enforcement Officer, after such final inspection, refuses to issue a certificate of occupancy, he shall state such refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the application.

Section 904 Board of Appeals - Creation, powers and duties.

1. Creation, composition and appointment.

(a) Creation. A Board of Appeals is hereby established in accordance with Section 179-b of the Village Law.

(b) Composition. The Board of Appeals shall consist of three (3) or five (5) members.

(c) Appointment. The Board of Trustees of the Village shall appoint the members of the Board of Appeals, each to be appointed for three (3) years. No person who is a member of the Village Board of Trustees or a Police Justice, or a member of the Village Planning Board shall be eligible for membership on such Board of Appeals.

(d) Removal. The Board of Trustees shall have the power to remove any member of the Board for cause and after public hearing.

(e) Vacancies. Vacancies shall be filled for the unexpired term of the member whose place has become vacant.

2. General Procedures.

(a) Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. All meetings of such Board shall be open to the public.

(b) Oaths. The Chairman or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.

(c) Minutes. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record.

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

(a) Administrative Review. To hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Enforcement Officer or other administrative officer in the carrying out or enforcement of any provision of this ordinance. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance.

(b) Special exceptions. To hear and decide applications for special exceptions as specified in this ordinance and to authorize the issuance of special permits as specifically provided herein. The concurring vote of the majority of the Board of Appeals present shall be necessary to grant a special exception.

(c) Variance. To hear applications for variance from the terms of this ordinance, as will not be contrary to public interest where owing to unique conditions, a literal enforcement of this provision of this ordinance will result in unnecessary hardship while adhering to the spirit of this ordinance and doing substantial justice. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning. Hardship must be unique and must arise from either a natural or man-made condition of the land upon which a use not in conformance with the literal terms of this ordinance is proposed. Specifically, no variance shall be granted by the Board of Appeals unless it finds:

i. That the strict application of the provisions of this Ordinance would deprive ~~the applicant~~ the applicant of the reasonable use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property, and that the variance granted by the Board is the minimum variance that will accomplish this purpose; and

ii. That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or building in the vicinity or neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of this ordinance; and

iii. That the granting of the variance will be in harmony with the general purpose of this ordinance, will not be injurious to the neighborhood, and will not alter the essential character of the locality. In granting a variance, the Board of Appeals may prescribe appropriate conditions or safeguards that are necessary or desirable to carry out the requirements of this subsection.

iv. The concurring vote of the majority of the Board of Appeals present shall be necessary to grant a variance.

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

(a) Who may appeal. An appeal to the Board of Appeals for Administrative Review, Variance or application for a special permit may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department board or bureau affected by any decision of the Zoning Enforcement Officer based in whole or in part upon the provision of this ordinance. Such appeal shall be taken by filing with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Enforcement Officer shall forthwith transmit all papers constituting the record upon which the action appealed from was taken, to the Board of Appeals.

(b) Time of appeal. Said notice of appeal shall be filed within sixty (60) days from the date upon which the notice of refusal of building permit or refusal of certificate of occupancy is mailed by the Zoning Enforcement Officer; and failure to file notice of appeal within (60) days shall constitute a waiver of the right to appeal.

(c) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall

## ART. IX. Sec. 904

have been filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Enforcement Officer and on due cause shown.

5. Hearing, notice, public notice, notice to property owner, and costs.

(a) Hearing. The Board of Appeals shall fix a reasonable time for the hearing of any application for variance, the hearing of an appeal for administrative review, or the hearing of any application for a special permit.

(b) Notice. The Board of Appeals shall give due notice of the hearing to the parties. Notice of such application for special exceptions or variance shall be given by registered mail at least five (5) days prior to the date of hearing to all persons, firms or corporations owning property or residing within two hundred (200) feet of the location of the property upon which the use is proposed to be established.

(c) Reference to Chautauqua County Planning Board. In accordance with the policy and procedures provided for by Chapter 24, Article 12B, Section 239 1 and Section 289 m of the General Municipal Law any proposed special permit or variance affecting land or building within five hundred (500) feet of the boundary of the Village of Cassadaga or from the boundary of any county or state park or other recreational area, or from the right-of-way of any county or state parkway, thruway, expressway or other controlled access highway or from the right-of-way of any stream, or drainage channel owned by the county for which the county has established channel lines, or from the boundary of any state owned land on which a public building or institution is situated shall be referred to the Chautauqua County Planning Board. If the Chautauqua County Planning Board fails to report within thirty (30) days after receipt of a full statement of such referred material, the Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a majority vote of all the members thereof and after the adoption of a resolution setting forth the reason for such contrary action.

(d) Decision and Costs. Upon the hearing any party may appear in person or by agent, or by attorney, and the Board of Appeals shall decide the application for variance, or appeal for administrative review or the application for a special permit within a reasonable time. All costs of such notice shall be paid by the applicant.

6. Provisions of approval. If the variance is granted or the issuance of a permit is finally approved, or other action by the appellant or applicant is authorized, the necessary permits shall be subject to the terms of Section 903 (1) (f). Should the appellant or applicant fail to comply with these provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn and abandoned his appeal or his application, and such permissions, variances and permits to him granted shall be deemed automatically rescinded by the Board of Appeals.

7. Scope.

(a) In exercising the above-mentioned powers, Such Board of Appeals may, in conformity with the provisions of this article, reverse or affirm, wholly, or partly, or may modify the order, requirement, decision or determination appealed

from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that and shall have all the powers of the officer from whom the appeal is taken. Notice of such decision shall be given forthwith to all parties in interest.

(b) The Board of Appeals does not have the power to permit a use prohibited by this ordinance.

8. Recourse.

(a) Any persons or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Village, may apply to the Supreme Court for relief by a proceeding under article seventy-eight (78) of the civil practice law and rules and:

i. It must be instituted within thirty (30) days after the filing of a decision in the office of the Village Clerk.

ii. The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact, and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter, and:

iii. The court at special term shall itself dispose of the cause or the merits, determining questions which may be presented for determination.

(b) Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Section 905. Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure of land is used in violation of this ordinance, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alterations, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Section 906 Penalties.

The owner or general agent of a building or premises in or upon which any violation of the provisions of this ordinance has been committed or shall exist, and the lessee or tenant of an entire building or entire premises in or upon which such violation has been committed or shall exist, and the owner, general agent, lessee or tenant of any part of a building or premises in or upon which part such violation has been committed, or shall exist, and the general agent, architect, builder, contractor, or any other person who knowingly commits, takes part or assists in any such violation or who maintains any building or premises in or upon which any such violation shall exist, shall be guilty of a violation of the provisions of this ordinance, and shall be liable on conviction thereof to a fine or penalty not exceeding fifty (50) dollars for each offense, and whenever such person shall have been notified by the Board of Trustees of the Village of Cassadaga, New York, or its duly authorized official, the Zoning Enforcement Officer, or by service



ART. IX. Sec. 906 - 907

ART. X.

ART. XI. Sec. 1101 - 1102

or summons in a prosecution, or in any other way, that he is committing such violation of this ordinance, each day that he shall continue such violation after such notification shall constitute a separate offense punishable by a like fine or penalty. Such fines or penalties shall be collected as like fines or penalties are now by law collected.

In addition to the fines or penalties aforesaid, each and every violation as aforesaid of the provisions of this ordinance shall constitute disorderly conduct, and the person violating the same as aforesaid shall be a disorderly person.

#### Section 907. Amendments - Referral to Chautauqua County Planning Board.

The regulations, restrictions and boundaries established by this ordinance may from time to time be amended, supplemented, changed or modified or repealed by ordinance in accordance with the procedure provided by Section 178 and 179 of the Village Law. However, all amendments to this ordinance which would change the district classification of or the regulations applying to real property lying within a distance of five hundred (500) feet from the boundary of the Village of Cassadaga, or the boundary of any county or state park or other recreational area, or from the right-of-way of any county or state parkway, thruway, expressway, or other controlled access highway, or from the right-of-way of any street or drainage channel owned by the county for which the county has established channel lines or from the boundary of any county or state owned land on which a public building or institution is situated; shall be referred to the Chautauqua County Planning Board as required by Section 239 m of the General Municipal Law. If the Chautauqua County Planning Board fails to report within thirty (30) days after receipt of a full statement of such referred matter, the Village of Cassadaga may act without such report. If the Chautauqua County Planning Board disapproves of the proposed amendment, supplement, change or modification, or recommends modification of the proposal of the Village of Cassadaga, the Village Board shall not act contrary to such disapproval or recommendation except by a majority vote of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary act.

#### ARTICLE X. VALIDITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect its remaining portions. The Board of Trustees hereby declares it would have passed this Ordinance and each section and subsection there irrespective of the fact that any one or more of its sections, subsections, clauses or phrases may be found by court action to be unconstitutional or otherwise invalid.

#### ARTICLE XI. REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

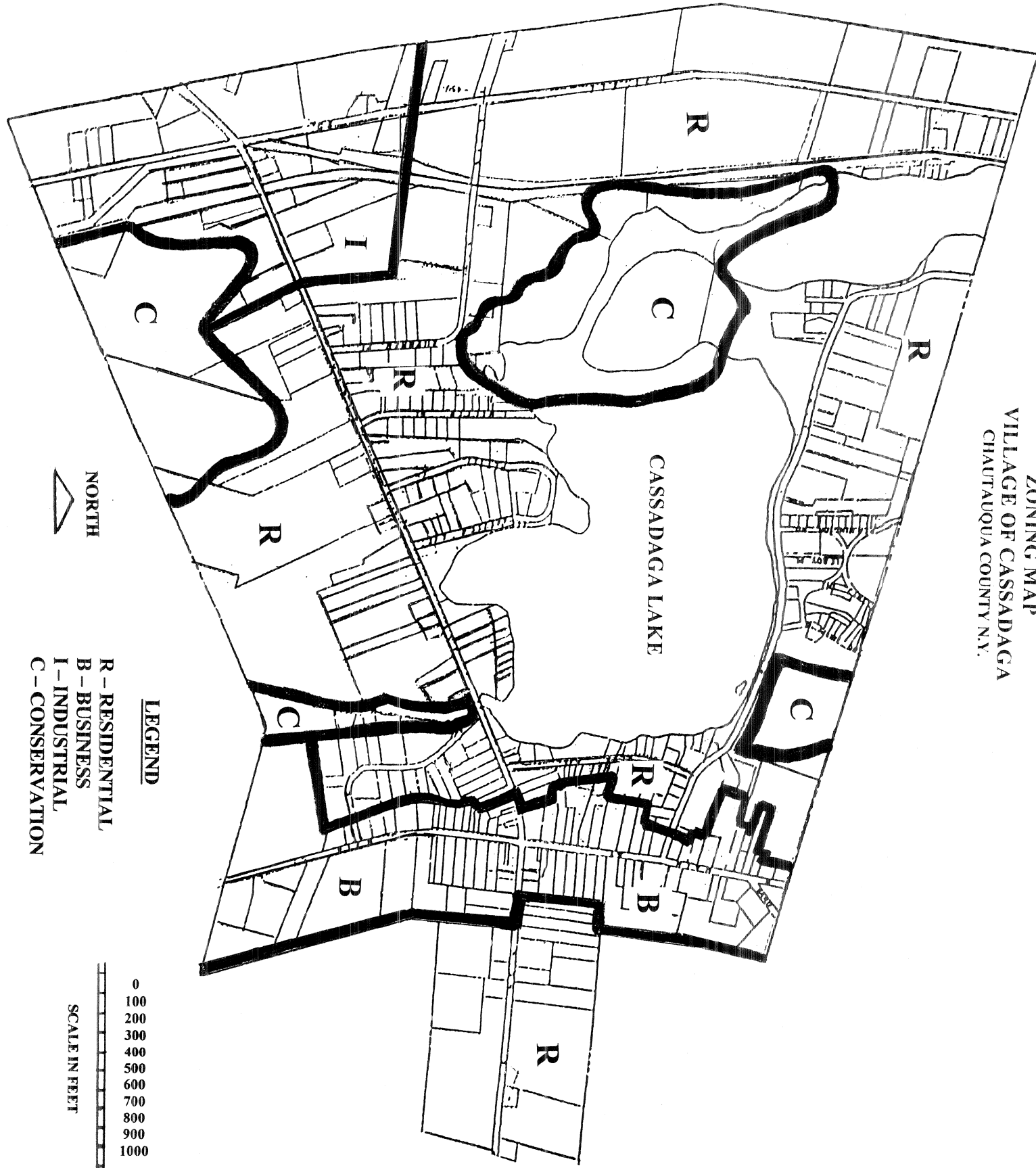
##### Section 1101. Repeal of conflicting ordinances.

All Ordinances and parts of Ordinances of the Village of Cassadaga, inconsistent herewith, are hereby expressly repealed.

##### Section 1102. Effective date.

This ordinance shall be in full force and effect from and after its passage, publication and posting as provided by Section 178 of the Village Law.

ZONING MAP  
VILLAGE OF CASSADAGA  
CHAUTAUQUA COUNTY N.Y.

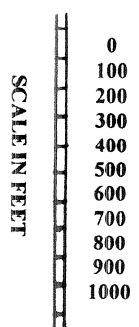


**LEGEND**

- R - RESIDENTIAL
- B - BUSINESS
- I - INDUSTRIAL
- C - CONSERVATION



NORTH



PLANNING BOARD

