

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~
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STATE RECORDS
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Local Law 1 of the year 2010

DEPARTMENT OF STATE

(Insert Title)

A local law to amend certain provisions of Chapter 80, "Zoning," of the Code of the Village of Bayville, with respect to Size, Dimensions, Setbacks and Permitted Uses relating to Lots, Buildings and Structures, and to make other Technical Corrections.

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

~~County~~
~~City~~
~~Town~~ of Bayville
~~Village~~

Section 1. Section 80-3, entitled "Definitions and Word Usage," of Chapter 80, "Zoning," of the Code of the Village of Bayville, is hereby amended by adding the definitions of "Attic," "Alteration," "Building Area," "Building Height," "Building Lot," "Corner Lot," "Detached Garage," "Floor Area Ratio (FAR)," "Garage," "Gross Floor Area (GFA)," "Ground Level," "Habitable Space," "Launderette," "Lot Area," "Lot Coverage," "Mean Ground Level," "Pergola," "Street," "Structure," and "Unimproved Building Lot," each of which shall be deemed inserted in said Section 80-3 in alphabetical order, and each of which, respectively, shall read in its entirety as follows:

"ALTERATION – any modification of a building or structure, including, but not limited to, any change in or rearrangement of the walls, roof, ceilings, floors, supporting beams, columns, headers or girders, or any other structural parts; interior plan or layout; or the

means of ingress or egress to such building or structure, including, for example, the addition of an open porch; or the relocation of any building or structure from one location to another; provided, however, that alteration for purposes hereof does not include any of the foregoing that results in the creation of one or more dwelling units.”

“ATTIC – the space between the top uppermost floor construction and the underside of the roof, to the extent such space is not designed or used for occupancy, or as habitable space.”

“AVERAGE GROUND LEVEL – the average elevation of the ground level measured along any distance or group of distances on a parcel, including, for example, along a property line or portion thereof, or along any wall of a building, accessory building or structure, or along the entire foundation of a building, accessory building or structure. Such average elevation shall be determined based upon measurements at not fewer than four points, equally spaced, along each distance to be measured, such as, for example, each exterior wall of a building. Any application to the Building Department that requires a determination of ground level, average ground level or average pre-existing ground level under this Chapter must be accompanied by a topographical survey map of the Premises, prepared by a surveyor licensed as such in the State of New York containing such data as is reasonably required by the Village Building Official.”

“BUILDING AREA – the area of the maximum horizontal cross-section of all buildings and accessory buildings on a lot, measured from the exterior faces of the exterior walls of such buildings, including cantilevered portions thereof, and the horizontal cross-section of all garage space located in a basement or cellar, but excluding cornices, one-story open porches, eaves and gutters projecting not more than 18 inches, chimneys and bay windows projecting not more than 24 inches, balconies and terraces.”

“BUILDING HEIGHT – the vertical distance measured from the average ground level of the pre-existing grade or the finished grade, whichever is lower, at the perimeter of any building, accessory building or structure, to the highest point of its roof.”

“BUILDING LOT – a lot that conforms to the dimensional requirements of this Chapter, is assessed separately for real property tax purposes and is defined dimensionally with a separate metes and bounds legal description, and is lawfully created through a subdivision satisfying all applicable laws, rules and regulations; a building lot may be comprised of one or more tax lots.”

“CORNER LOT – a lot situated at the intersection or junction of two or more streets.”

“FLOOR AREA RATIO (FAR) – the gross floor area of all buildings, accessory buildings, sheds, pool houses and green-houses on a building lot, divided by the total building lot area.”

“GARAGE – an accessory building or any portion of a primary residence or building used for the storage of one or more automobiles owned and used by the owner or tenant of the lot on which it is erected, and which may be (a) a Detached Garage, which is a stand-alone accessory building, unattached to a primary structure, or an accessory structure that is connected to a primary building or other building or structure by a breezeway or pergola or other similar connecting device, or (b) an Attached Garage, which shares at least one common wall, or portion thereof, with a primary residence or building.”

“GROSS FLOOR AREA (GFA) – the sum of the horizontal areas of all floors including mezzanine levels in all buildings, accessory buildings, sheds, pool houses and green houses on a lot, including garages, measured from the exterior faces of the exterior walls thereof, including cantilevered portions thereof; provided, however, that Gross Floor Area shall include 150% of those horizontal areas where the floor to ceiling height is greater than ten feet. Notwithstanding the foregoing, there shall be excluded from Gross Floor Area (i) all floor area of cellars, whether habitable or non-habitable, (ii) all non-habitable space where the outboard ends of the rafters rest directly on the plate (no knee walls at the exterior plate line) and the vertical distance between the floor joists and the roof rafters above is less than 7 feet 6 inches, and (iii) the first 300 square feet of floor area contained in a detached garage.

“GROUND LEVEL – the level of the pre-existing grade at the point of measurement.”

“HABITABLE SPACE – a space within any dwelling used for living, sleeping, eating, cooking or for a home occupation, provided that the distance between the floor and the ceiling is not less than seven feet six inches.”

“LAUNDERETTE – a self-service laundry establishment that provides powered clothes washing machines and clothes dryers that are operated by the patrons.”

“LOT AREA – The entire area of a lot contained within its property lines, including all open areas and areas containing buildings or structures, but excluding: (i) any area located below (seaward of) the mean high-water mark of any navigable waters or that is regularly underwater; (ii) any area within a street, road, path or right-of-way shown on the Village’s official map; and (iii) any area located in a tidal or freshwater wetland as determined by New York State or federal law, rule or regulation.”

“LOT COVERAGE – The sum of the gross horizontal areas on the ground floor of all buildings, accessory buildings, gazebos, pool houses, sheds and green houses on a lot, measured from the exterior faces of the exterior walls thereof, including cantilevered portions thereof, breezeways, open and covered porches, porticos, balconies and elevated decks, and patios and terraces more than eighteen inches above grade, divided by the lot area expressed as a percentage. Notwithstanding the foregoing, the gross horizontal area of all permitted encroachments pursuant to this Chapter, except for chimneys, shall be excluded from calculation of lot coverage.”

“PERGOLA – an arbor formed of horizontal trelliswork supported on columns or posts over which vines or other plants may be trained.”

“STREET – any street identified as such on the Official Map of the Village, whether or not same has been formally dedicated as a public street.”

“STRUCTURE – anything constructed or erected other than a building or accessory building to form a construction that is safe and stable, including, without limitation, reviewing stands, platforms, stages, radio towers, water tanks, oil and fuel tanks, water towers, sheds, signs, fences, retaining walls, outdoor fire places, pools, pergolas, gazebos, and machinery or equipment that is affixed to the ground or to another structure or building.”

“UNIMPROVED BUILDING LOT – a separate and distinct building lot, which (i) is assessed as a separate lot for real property tax purposes, (ii) is created pursuant to a lawful subdivision, (iii) is defined dimensionally with a metes and bounds description prepared by a surveyor licensed in the State of New York, (iv) has never been combined with another building lot, nor shall either lot have enhanced the value or utility of the other, (v) contains no buildings, accessory buildings, structures or other man-made improvements, (vi) shall not have had any buildings, structures or other man-made improvements, constructed or otherwise placed thereupon at any time from the creation of such lot pursuant to a lawful subdivision; and (vii) does not abut any building lot that contains any building, accessory building, structure or improvement that fails to comply with any requirement of this Chapter, unless each such item of non-compliance is lawful based upon variances granted under this Chapter with respect thereto, but only to the extent granted prior to the commencement of the construction of same. No lot that has contained any building, structure or other man-made improvement at any time from the date of its creation pursuant to a lawful subdivision may be converted into an unimproved building lot through demolition or removal of any building, structure, or man-made improvement.”

Section 2. Section 80-3, entitled “Definitions and Word Usage,” of Chapter 80 of the Village Code is hereby further amended in order to amend the definition of “Story,” which shall read in its entirety as follows:

“STORY – that portion of a building or accessory building included between the upper surface of any floor and the upper surface of the next floor above it. A basement shall be deemed a story when more than half of its height, measured from floor to ceiling, projects above the average grade. A cellar and a non-habitable attic shall not be deemed a story. An intermediate floor between the floor and ceiling of any story that covers less than one-third of the floor area immediately below the intermediate floor shall be deemed a mezzanine, and shall not constitute a story.”

Section 3. Section 80-4, entitled “Designation of Districts,” is hereby amended to contain the following phrase, immediately after the words “Residence A District”:

“Repealed by Local Law 12-1985, effective November 25, 1985.”

Section 4. Article II, “Districts and Zoning Map,” of Chapter 80 of the Village Code, is hereby amended to include a new § 80-6A, to be inserted immediately after Section 80-6, and to read in its entirety as follows:

“§ 80-6A. **District Zoning Table.**

Zoning District Floor Area Ratio Schedule

District	Minimum Lot Size in Square Feet (ft ²)	Maximum Percentage (%) of Lot Coverage	Maximum Floor Area Ratio
B	5,000	25 of first 5,000 ft ² plus 12.5 of any excess ft ²	0.45
C	7,500	25 of first 7,500 ft ² plus 12.5 of any excess ft ²	0.40
D	15,000	20 of first 15,000 ft ² plus 10 of any excess ft ²	0.35
E	20,000	20 of first 20,000 ft ² plus 10 of any excess ft ²	0.30
F	40,000	20 of first 40,000 ft ² plus 10 of any excess ft ²	0.20

”

Section 5. Section 80-13, “Use Regulations,” of ARTICLE IV, “Residence B District,” is hereby amended to read in its entirety as follows:

“§ 80-13. Use Regulations.

In the Residence B District, a building or structure may be erected, altered or used, and a lot or premises may be used, only for one or more of the purposes set forth below, and for no other:

- A. A one-family dwelling, which may include the office of a physician, lawyer, licensed architect, licensed engineer, surgeon, dentist, real estate broker, artist or musician, when situated in the same building used by such physician, lawyer, surgeon, dentist, real estate broker, artist or musician as his or her private dwelling, and which may also include customary home occupations such as dressmaking and millinery, conducted by resident occupants thereof; provided, however, that any such office or occupation shall not be conducted in a basement or cellar, and shall not occupy more than one-third (33 1/3%) of the gross floor area of said dwelling.
- B. Accessory buildings, as defined and restricted in this Chapter and in the Building Code of the Village.
- C. A church, synagogue or other building used exclusively for religious purposes, but only after issuance of a special use permit therefor, by the Board of Trustees, following a public hearing thereon, subject to such reasonable conditions and safeguards with respect to traffic, parking and related issues as shall be determined by the Board of Trustees.”

Section 6. Section 80-14, “Lot Requirements,” of ARTICLE IV, “Residence B District,” is hereby amended to read in its entirety as follows:

“§ 80-14. Lot Requirements.

- A. No building or structure shall be erected on any lot within the Residence B District of the Village that has less than:
 - 1. 50 feet of street frontage.
 - 2. 50 feet of lot width at any point from the front property line to a depth of 40 feet from the front property line.
 - 3. 5,000 square feet of lot area.

- B. Notwithstanding any contrary provision contained in this Section, a building or structure may be erected on a lot having less than 50 feet of street frontage, provided that:
1. Said lot was in existence on the effective date of adoption of this Chapter, is not in common ownership with any immediately adjacent lot, and has not less than 4,000 square feet of lot area; and
 2. Such building or structure conforms to all other requirements of this Chapter.”

Section 7. Section 80-16, “Bulk Regulations,” of ARTICLE IV, “Residence B District,” is hereby amended to read in its entirety as follows:

“§ 80-16. Bulk Regulations.

- A. Height Restrictions. No building erected in the Residence B District shall exceed two and one-half stories, or 28 feet in height measured from the Average Ground Level at the perimeter of such building.
- B. Lot Coverage. The Building Area shall not exceed 25% of the first 5,000 square feet of Lot Area, and 12.5% of that portion of the Lot Area, if any, in excess of 5,000 square feet.
- C. The Floor Area Ratio shall not exceed 0.45.
- D. Minimum Floor Area. Each dwelling shall have a minimum ground floor area of 900 square feet.”

Section 8. Section 80-17, “Roof Restrictions,” of ARTICLE IV, “Residence B District,” is hereby amended to read in its entirety as follows:

“§ 80-17. (Reserved).”

Section 9. Section 80-18, “Garages and Accessory Buildings,” of ARTICLE IV, “Residence B District,” is hereby amended to read in its entirety as follows:

“§ 80-18. Detached Garages, Accessory Buildings and Structures.

- A. Each detached garage, accessory building and structure, unless expressly provided to the contrary elsewhere in this Chapter, shall be located at least 3 feet from the rear property line and each side property line, and at least 5

feet from the primary building on the lot.

- B. No detached garage, accessory building or structure shall exceed 12 feet in height measured from the Average Ground Level at the perimeter thereof.
- C. No detached garage, accessory building or structure shall occupy more than 500 square feet of lot area.
- D. Each detached garage, accessory building and structure shall be located at least 75 feet from any street line, except to the extent that either of the following exceptions apply:
 - 1. With respect to any corner lot, any accessory building, structure or detached garage shall be located only in the corner of the lot farthest removed from the abutting streets, at least 3 feet from the two nearest property lines, and so that the two nearest property lines do not abut any street; or
 - 2. Where the front property line and the rear property line abut streets, or a street and a waterfront, any accessory building, structure and detached garage thereupon shall be located at least 20 feet from the rear property line and at least 75 feet from the front property line.
- E. No lot may contain more than one detached garage.”

Section 10. Section 80-20, “Lot Requirements,” of ARTICLE V, “Residence C District,” is hereby amended to read in its entirety as follows:

“§ 80-20. Lot Requirements.

- A. No building or structure shall be erected on any lot within the Residence C District that has less than:
 - 1. 75 feet of street frontage.
 - 2. 75 feet of lot width at any point from the front property line to a depth of 40 feet from the front property line.
 - 3. 7,500 square feet of lot area.
- B. Notwithstanding any contrary provision contained in this Section, a building or structure may be erected on a lot having not less than 50 feet of

street frontage, provided that said street frontage coincides with the circumference of a turnaround at the extremity of a dead-end street or cul-de-sac.”

Section 11. Section 80-22, “Bulk Regulations,” of ARTICLE V, “Residence C District,” is hereby amended to read in its entirety as follows:

“ § 80-22. Bulk Regulations.

- A. Height Restrictions. No building erected in the Residence C District shall exceed two and one-half stories, or 28 feet in height measured from the Average Ground Level at the perimeter of such building.
- B. Lot Coverage. The Building Area shall not exceed 25% of the first 7,500 square feet of Lot Area, and 12.5% of that portion of the Lot Area, if any, in excess of 7,500 square feet.
- C. The Floor Area Ratio shall not exceed 0.40.
- D. Minimum Floor Area. Each dwelling shall have a minimum ground floor area of 1,000 square feet.”

Section 12. Section 80-24, “Garages and Accessory Buildings,” of ARTICLE V, “Residence C District,” is hereby amended to read in its entirety as follows:

“§ 80-24. Detached Garages, Accessory Buildings and Structures.

- A. Each detached garage, accessory building and structure, unless expressly provided to the contrary elsewhere in this Chapter, shall be located at least 3 feet from the rear property line and each side property line, and at least 5 feet from the primary building on the lot.
- B. No detached garage, accessory building or structure shall exceed 12 feet in height measured from the Average Ground Level at the perimeter thereof.
- C. No detached garage, accessory building or structure shall occupy more than 500 square feet of Lot Area.
- D. Each detached garage, accessory building and structure shall be located at least 70 feet from any street line; provided, however, that with respect to any corner lot, any accessory building, structure or detached garage shall be located only on the corner of the lot farthest removed from the abutting

streets, and at least 3 feet from the two nearest property lines, and so that the two nearest property lines do not abut any street.

- E. No lot may contain more than one detached garage.”

Section 13. Section 80-25, “Use Regulations,” of ARTICLE VI, “Residence D District,” is hereby amended to read in its entirety as follows:

“§ 80-25. Use Regulations.

In the Residence D District, a building or structure may be erected, altered or used, and a lot or premises may be used, only for one or more of the purposes set forth below, and for no other:

- A. Those uses permitted in the Residence B District.”

Section 14. Section 80-26, “Lot Requirements,” of ARTICLE VI, “Residence D District,” is hereby amended to read in its entirety as follows:

“§ 80-26. Lot Requirements.

- A. No building or structure shall be erected on any lot within the Residence D District that has less than:
 - 1. 100 feet of street frontage.
 - 2. 100 feet of lot width at any point from the front property line to a depth of 40 feet from the front property line.
 - 3. 15,000 square feet of lot area,
- B. Notwithstanding any contrary provision contained in this Section, a building or structure may be erected on a lot having not less than 60 feet of street frontage, provided that said street frontage coincides with the circumference of a turnaround at the extremity of a dead-end street or cul-de-sac.”

Section 15. Section 80-28, “Bulk Regulations,” of ARTICLE VI, “Residence D District” is hereby amended to read in its entirety as follows:

“§ 80-28. Bulk Regulations.

- A. Height Restrictions. No building erected in the Residence D District shall exceed two and one half stories, or 28 feet in height measured from the Average Ground Level at the perimeter of such building.
- B. Lot Coverage. The Building Area shall not exceed 20% of the first 15,000 square feet of Lot Area, and 12.5% of that portion of the Lot Area, if any, in excess of 15,000 square feet.
- C. The Floor Area Ratio shall not exceed 0.35.
- D. Minimum Floor Area. Each dwelling shall have a minimum ground floor area of 1,000 square feet.”

Section 16. Section 80-30, “Garages and Accessory Buildings,” of ARTICLE VI, “Residence D District,” is hereby amended to read in its entirety as follows:

“§ 80-30. Detached Garages, Accessory Buildings and Structures.

- A. Each detached garage, accessory building and structure, unless expressly provided to the contrary elsewhere in this Chapter, shall be located at least 3 feet from the rear property line and each side property line, and at least 5 feet from the primary building on the lot.
- B. No detached garage, accessory building or structure shall exceed 12 feet in height measured from the Average Ground Level at the perimeter thereof.
- C. No detached garage, accessory building or structure shall occupy more than 500 square feet of Lot Area.
- D. Each detached garage, accessory building and structure shall be located at least 70 feet from any street line; provided, however, that with respect to any corner lot, any accessory building, structure or detached garage shall be located only in the corner of the lot farthest removed from the abutting streets, at least 3 feet from the two nearest property lines, and so that the two nearest property lines do not abut any street.
- E. No lot may contain more than one detached garage.”

Section 17. Section 80-31, “Use Regulations,” of ARTICLE VII, “Residence E District,” is hereby amended to read in its entirety as follows:

“§ 80-31. Use Regulations.

In the Residence E District, a building or structure may be erected, altered or used, and a lot or premises may be used, only for one or more of the purposes set forth below, and for no other:

- A. Those uses permitted in the Residence B District.”

Section 18. Section 80-32, “Lot Requirements,” of ARTICLE VII, “Residence E District,” is hereby amended to read in its entirety as follows:

“ § 80-32. Lot Requirements.

- A. No building or structure shall be erected on any lot within the Residence E District that has less than:
 - 1. 100 feet of street frontage.
 - 2. 100 feet of lot width at any point from the front property line to a depth of 40 feet from the front property line.
 - 3. 20,000 square feet of lot area.
- B. Notwithstanding any contrary provision contained in this Section, a building or structure may be erected on a lot having not less than 75 feet of street frontage, provided that said street frontage coincides with the circumference of a turnaround at the extremity of a dead-end street or cul-de-sac.”

Section 19. Section 80-34, “Bulk Regulations,” of ARTICLE VII, “Residence E District,” is hereby amended to read in its entirety as follows:

§ 80-34. Bulk Regulations.

- A. Height Restrictions. No building shall exceed two and one half stories, or 28 feet in height measured from the Average Ground Level at the perimeter of such building.
- B. Lot Coverage. The Building Area shall not exceed 20% of the first 20,000 square feet of Lot Area, and 10% of that portion of Lot Area, if any, in excess of 20,000 square feet.

- C. Floor Area Ratio. The Floor Area Ratio shall not exceed 0.30.
- D. Minimum Floor Area. Each dwelling shall have a minimum ground floor area of 1,000 square feet.”

Section 20. Section 80-36, “Garages and Accessory Buildings,” of ARTICLE VII, “Residence E District,” is hereby amended to read in its entirety as follows:

“80-36. Detached Garages, Accessory Buildings and Structures.

- A. Each detached garage, accessory building and structure, unless expressly provided to the contrary elsewhere in this Chapter, shall be located at least 15 feet from the rear property line and each side property line, and at least 5 feet from the primary building on the lot.
- B. No detached one-car or two-car garage, accessory building or structure shall exceed 12 feet in height measured from the Average Ground Level at the perimeter thereof; provided, however, that a detached three-car garage shall not exceed 14 feet in height measured from the Average Ground Level at the perimeter thereof.
- C. No detached one-car or two-car garage, accessory building or structure shall occupy more than 500 square feet of Lot Area; provided, however, that a detached three-car garage shall not occupy more than 750 square feet of Lot Area.
- D. Each detached garage, accessory building and structure shall be located at least 5 feet farther back from the front property line than is the front wall of the dwelling; provided, however, that with respect to any corner lot, any detached garage, accessory building or structure shall be located only in the innermost corner of the lot (that is, the corner farthest removed from the abutting streets), at least 15 feet from the two nearest property lines, and so that the two nearest property lines do not abut any street.
- E. No lot may contain more than one detached garage.”

Section 21. Section 80-37, “Use Regulations,” of ARTICLE VIII, “Residence F District,” is hereby amended to read in its entirety as follows:

“§ 80-37. Use Regulations.

In the Residence F District, a building or structure may be erected, altered or used,

and a lot or premises may be used, only for one or more of the purposes set forth below, and for no other:

- A. Those uses permitted in the Residence B District.
- B. A public school satisfying all requirements for public schools as determined by the New York State Education Commission, or a private school, as defined for purposes of this Chapter, but in either case only after issuance of a special use permit therefor by the Board of Trustees, following a public hearing thereon, and subject to such reasonable conditions and safeguards with respect to traffic, parking and related issues as shall be determined by the Board of Trustees, and subject to the following further conditions:
 - 1. Each accessory building, structure and detached garage shall be located at least 100 feet from all street lines and all other property lines.
 - 2. The Building Area shall not exceed 20% of the Lot Area.
 - 3. There shall be one off-street parking space provided for (i) each teacher and other faculty member, and (ii) every five seats in the auditorium, gymnasium, grandstand or other similar facility located on the premises that has the largest seating capacity.
 - 4. Said premises shall provide outdoor playground and/or playfield facilities deemed adequate by the Board of Trustees in relation to the permitted use of said premises, taking into account the number and ages of the contemplated students.”

Section 22. Section 80-38, “Lot Requirements,” of ARTICLE VIII, “Residence F District,” is hereby amended to read in its entirety as follows:

“§ 80-38. Lot Requirements.

- A. No building or structure shall be erected on any lot within the Residence F District that has less than:
 - 1. 150 feet of street frontage.
 - 2. 150 feet of lot width at any point from the front property line to a depth of 50 feet from the front property line.

3. 40,000 square feet of Lot Area.

- B. Notwithstanding any contrary provision contained in this Section, a building or structure may be erected on a lot having not less than 100 feet of street frontage, provided that said street frontage coincides with the circumference of a turnaround at the extremity of a dead-end street or a cul-de-sac.”

Section 23. Section 80-40, “Bulk Regulations,” of ARTICLE VIII, “Residence F District,” is hereby amended to read in its entirety as follows:

“§ 80-40. Bulk Regulations.

- A. Height Restrictions. No building shall exceed two and one half stories, or 28 feet in height measured from the Average Ground Level at the perimeter of such building.
- B. Lot Coverage. The Building Area shall not exceed 20% of the first 40,000 square feet of Lot Area, and 10% of that portion of Lot Area, if any, in excess of 40,000 square feet.
- C. Floor Area Ratio. The Floor Area Ratio shall not exceed 0.20.
- D. Minimum Floor Area. Each dwelling shall have a minimum ground floor area of at least 1,000 square feet.”

Section 24. Section 80-42, “Garages and Accessory Buildings,” of Article VIII, “Residence F District,” is hereby amended to read in its entirety as follows:

“§ 80-42. Detached Garages, Accessory Buildings and Structures.

- A. Each detached garage, accessory building and structure, unless expressly provided to the contrary elsewhere in this Chapter, shall satisfy each of the provisions of § 80-36, relating to detached garages, accessory buildings and structures in the Residence E District.”

Section 25. Section 80-45, “Use Regulations,” of ARTICLE X, “Business District” is hereby amended to read in its entirety as follows:

“§ 80-45. Use Regulations.

- A. Permitted Uses. In the Business District, a building or structure may be

erected, altered or used, and a lot or premises may be used, only for one or more of the purposes set forth below, and for no other:

1. Residential apartments as permitted pursuant to Section 80-49 of this Chapter.
2. Banks, offices, post offices or art or photography studios;
3. Restaurants, tea rooms and lunch counters;
4. Wholesale sample rooms;
5. Firehouses;
6. Wholesale or retail stores for the sale of personal property; provided, however, that no wholesale or retail store permitted hereunder shall be allowed to sell, during any of the hours between 10:00 p.m. on one day and 6:00 a.m. on the immediately following day, food or beverages for consumption on or off premises;
7. Shops for custom work or for the making or storage of articles to be sold on the premises; Plumbing shops; Tinsmith shops;
8. Theaters and storage rooms;
9. Printing offices;
10. Shoe repair shops, boot black, hat-cleaning shops and Launderettes;
11. Any retail store or station where goods are sold or services rendered only to the retail trade, and where nothing is fabricated or manufactured; provided, however, that no wholesale or retail store permitted hereunder shall be allowed to sell, during any of the hours between 10:00 p.m. on one day and 6:00 a.m. on the immediately following day, food or beverages for consumption on or off premises;
12. Dry-cleaning establishments;
13. The following uses shall be permitted in the Business District only upon issuance of a special permit therefor by the Board of Trustees, after a public hearing thereon, notice of which shall be provided to

adjacent property owners by the applicant for such permit, and published and posted in accordance with applicable law:

- (i) Building trades;
- (ii) Mortuary;
- (iii) Marine basin, shipyard or marine railway;
- (iv) Auto body repair shop;
- (v) A retail store selling, during any of the hours between 10 p.m. on one day and 6:00 a.m. on the immediately following day, food or beverages for consumption on or off the premises.

B. Prohibited Uses: Any use not expressly permitted in the preceding clause “A” shall be deemed a prohibited use in the Business District.”

Section 26. Section 80-47, “Setback Line; Yard Requirements,” of ARTICLE X, “Business District,” is hereby amended to read in its entirety as follows:

“§ 80-47. Setback Line; Yard Requirements.

- A. Front Yard. Each parcel shall have a front yard, the depth of which shall be not less than the greater of (i) 20 feet or (ii) the average actual front yard of parcels within 200 feet of such parcel, located on the same block as such parcel, and which has street frontage on the same street as such parcel. A corner lot shall have a front yard on each street on which such corner lot has street frontage.
- B. Side Yard. No side yard shall be required for any interior lots within the Business District, or with respect to the portion of any lot that lies between any wall of a building and an abutting interior property line; provided, however, that if any building or structure in the Business District is constructed with a side yard setback, such side yard setback shall be not less than 3 feet in depth.
- C. Each lot with a building shall have a rear yard. The depth of each rear yard shall be at least 20 feet. No building, accessory building or structure shall be located in any rear yard.
- D. Each rear or side yard of a premises located within the Business District

shall contain, along each property line that abuts any residential district of the Village, and for the entire length thereof, a buffer comprised of fencing, evergreen plantings, or other materials, or combinations thereof, as the Architectural Review Board shall deem appropriate in order to provide to the extent reasonable an opaque buffer shielding such abutting residential properties from such premises in the Business District.”

Section 27. Section 80-49, “Residence Buildings and Apartments,” of ARTICLE X, “Business District,” is hereby amended to read in its entirety as follows:

“§ 80-49. Residential Buildings and Apartments.

- A. Except to the extent expressly permitted in clause B below, residential buildings are prohibited in the Business District.
- B. Residential apartments shall be permitted in the Business District, only in buildings containing businesses permitted either as-of-right or pursuant to special use permits issued by the Board of Trustees, and only on the second story of any such buildings.”

Section 28. Section 80-59, “Subdivision of Lots,” of ARTICLE XIII, “Regulations Applicable to All Districts,” is hereby amended to read in its entirety as follows:

“§ 80-59. Subdivision; Merger of Abutting Lots.

- A. Subdivision of Plots. No plot or parcel of land shall be sold, divided or set off in such a manner that either any portion sold, divided or set off, or any portion remaining, shall fail to comply with the minimum lot area, open space, yard and other requirements of this Chapter applicable to the zoning district in which such land is situated.
- B. Merger of Lots.
 - (i) Wherever two or more abutting lots are under common ownership, and one or more thereof are legally non-conforming with respect to any provision of this Chapter applicable thereto, such lots shall be deemed to have merged into a single lot to the extent required to establish each such lot as a conforming lot, or to reduce the amount of non-conformity with respect to any such abutting lots.
 - (ii) Wherever two or more abutting lots, including any abutting lots that were the subject of Village of Bayville Local Law No. 11-1985, and

Local Law No. 12 of 1985, are used jointly for a single purpose, or otherwise in such manner that any lot materially enhances the value or utility of an abutting lot, or wherever an unimproved lot is used in conjunction with an abutting improved lot, such abutting lots shall be deemed merged to constitute a single lot.

- (iii) Wherever an unimproved building lot abuts an improved building lot, both of which are under common ownership and are legally non-conforming with respect to any provision of this Chapter applicable thereto, such lots shall be deemed to have merged into a single lot.
- (iv) With respect to any unimproved, non-conforming building lots that were the subject of Village of Bayville Local Law No. 11-1985, and which, pursuant thereto and to Local Law No. 12 of 1985, continue to constitute buildable lots by satisfying the conditions contained in said Local Law No. 11-1985 and Local Law No. 12 of 1985, any residence constructed on any such unimproved, non-conforming building lot shall satisfy all of the requirements of this Chapter for the zoning district in which such unimproved, non-conforming building lot is located, as same may be amended from time to time, including, without limitation, regulations pertaining to bulk and to detached garages, accessory buildings and structures; provided, however, that those provisions of this Chapter relating to lot size, street frontage and lot width for the zoning district in which such unimproved, non-conforming lot is located shall not be applicable to such lot except to the extent required under Local Law No. 11-1985 and Local Law No. 12 of 1985.”

Section 29. Section 80-60, “Supplementary Area and Height Provisions,” of ARTICLE XIII, “Regulations Applicable to All Districts,” is hereby amended to read in its entirety as follows:

“§80-60. Supplementary Area and Height Provisions.

- A. **Determination of Maximum Height of Buildings.** For the purpose of determining the maximum height of a building, the distance measured from the average finished grade or existing natural undisturbed grade, whichever is lower, shall be measured at the perimeter of the building to the highest point of the roof, excluding chimneys.
- B. **Minimum Height Requirement.** For the purpose of determining the minimum height requirement of a building, the height of a side wall of a

building shall not be less than 7 feet 6 inches from finished floor to finished ceiling, and the roof shall have a pitch of not less than 4 inches per foot.

- C. Flat roofs are prohibited in all districts.
- D. Permitted Projections or Encroachments. Setbacks of buildings and sizes of yards, wherever required in this Chapter and except as otherwise specifically provided herein, shall be the distance from the lot line to the nearest exterior finished wall of the building, which shall include the foundation wall of any attached garage, open or enclosed porch, and all other projections, except that the following shall be permitted, notwithstanding their encroachment into a minimum required set-back:
 - 1. Window wells extending not more than 4 feet from the main foundation wall, and unenclosed entrance steps extending not more than 4 feet from the main foundation wall.
 - 2. Chimneys that project into required side and rear yards by not more than 24 inches, and that are not more than 6 feet in width.
 - 3. Eaves, gutters or downspouts that project not more than 18 inches into any yard.
 - 4. Bay and bow windows (i) that project not more than 24 inches into any required front or rear yard, (ii) that are installed in a rough opening not more than 10 feet in width, not higher than one story, (iii) that are installed only on the first floor above grade, and (iv) for which window sills shall be a minimum of 18 inches above the finished floor; provided, however, that bay and bow windows, even if they satisfy each such condition, shall not be permitted encroachments into any side yards.
 - 5. To the extent that any building or structure lawfully encroaches into a required minimum yard due to either the grant of a variance with respect thereto granted by the Board of Appeals, or as a pre-existing, non-conforming building or structure, none of the foregoing encroachments shall be permitted in such diminished yard unless a variance is granted therefor by the Board of Appeals.
- E. Maximum Height Requirements. No new structure or building, or modification to any existing structure or building, shall result in a structure or building exceeding two and one-half stories, or 28 feet in height, as

measured from Average Ground Level, measured at the perimeter of such building or structure. The maximum measurement from the top of the foundation to the underside of the eaves shall not exceed 20 feet.

- F. No building or structure shall contain fixed or permanent stairs for accessing attic space. Only retractable, pull-down stairs shall be permitted to access attic space in any building or structure.
- G. A greenhouse or utility shed may be erected in a rear yard, provided that such shed or greenhouse does not exceed 120 square feet of Floor Area, does not exceed 9 feet in height, including any exposed portions of the foundation above grade, and shall be located at least 3 feet from any lot line, and at least 10 feet from the primary residence. A shed shall not be used for the storage of any items other than normal household goods and gardening equipment. A greenhouse shall not be used for any use other than the cultivating of plants. No lot shall contain more than 1 shed. No lot shall contain more than 1 greenhouse.
- H. Pergolas attached or detached from any dwelling or accessory building shall not exceed 10 feet in height, measured from the Average Ground Level along the perimeter of such structure.
- I. Calculation of floor area. For the purpose of calculating floor area to meet the minimum floor area requirements of the various zoning districts, with respect only to split level residences, the floor areas of the first two levels above the grade floor shall be considered part of the ground floor.”

Section 30. Section 80-61, “Fences,” of ARTICLE XIII, “Regulations Applicable to All Districts,” is hereby amended to read in its entirety as follows:

“§ 80-61. Fences.

- A. It shall be unlawful to construct or commence the construction of a fence upon or within any lot line on any lot within the Village without first filing a written application for and obtaining from the Village a duly issued fence permit.
- B. Fences may consist only of woven wire, woven board, pickets, board or a cultivated or natural growth of shrubs or trees.
- C. Fence height shall be measured from the natural grade along the base thereof.

- D. Permitted fences serving as a boundary enclosing any rear yard shall not exceed 6 feet in height. Permitted fences serving as a side or front yard boundary shall not exceed 4 feet in height along the side lot line starting at the point that aligns with the rear yard setback line and continues toward, and along, the front lot line.
- E. Any fence or portion thereof erected upon any property line, or in any yard, abutting any road or highway, shall not exceed 2 ½ feet in height at any point within a radius of 30 feet from the corner formed by any intersecting roads or highways.
- F. A fence erected within, or upon any lot line of, a parcel greater than 40,000 square feet, and having not less than 150 feet of street frontage, or a fence separating a business-zoned parcel from a residential-zoned parcel, may exceed the maximum height restrictions set forth in this Section, to the extent permitted by the Board of Trustees, with such conditions as are deemed appropriate by the Board of Trustees, upon application therefor to such Board.
- G. Notwithstanding any contrary provisions contained herein, any sump located in or on any lot within the Village shall be enclosed by a woven wire or chain link fence not less than 8 feet in height.
- H. All fences shall be constructed so that the finished side faces any lot, street, road or public right-of-way abutting the premises upon which such fence is constructed. Without limiting the foregoing, no supports, posts or bracing shall be placed on the side of the fence that faces any abutting lot, street, road or public right-of-way. No fence shall project beyond any property line. No barbed wire, concertina wire or similar or other pointed or sharp-edged wire is permitted without special permit therefor issued by the Board of Trustees, upon application therefor to such Board.
- I. Where there is a question of judgment as to whether the lot line along which a fence is installed, or proposed to be installed, is a side lot line or a rear lot line, there shall be a presumption that same is a side lot line for which the maximum fence height is 4 feet.”

Section 31. A new ARTICLE XIII A, “Retaining Walls,” is hereby added immediately after Section 80-67, and immediately prior to ARTICLE XIV, “Signs and Billboards,” to read in its entirety as follows:

**“ARTICLE XIII
Retaining Walls**

§ 80-67A. Permits Required.

A. It shall be unlawful to construct or commence the construction of any retaining wall with a height greater than 24 inches, without first filing a written application for permit, and obtaining from the Village a duly issued permit therefor. No permit shall be required for any retaining wall equal to or less than 24 inches in height, unless such retaining wall, or any change in grade associated with the construction of such retaining wall, alters the flow of storm or surface water, in which case the permit requirements hereunder shall apply thereto.

B. In addition to the retaining wall permit process required above, any retaining wall to be constructed at a height equal to or greater than 8 feet must be presented to the Planning Board for review and approval. The Planning Board may deny, approve or approve with conditions any such application, taking into account relevant site conditions on and off the premises upon which such retaining wall is proposed.

C. The approval by any village official or board of any site plan, sub-division plot or other plan, or the issuance of any building permit, upon which a retaining wall is reflected, shall not constitute approval of such retaining wall. Such retaining wall shall be approved only upon application for and obtaining a duly issued permit therefor, as required hereunder, and application to and approval by the Planning Board, to the extent required hereunder.

§ 80-67B. Zoning requirements applicable to Retaining Walls.

A. Each retaining wall, any portion of which lies below the grade of an abutting lot or public street or other road or right-of-way, shall be located at least 10 feet from the property line situated between such retaining wall and such abutting lot, street, road or right-of-way.

B. Each retaining wall, any portion of which lies above the grade of an abutting lot or public street or other road or right-of-way, shall be set back from the nearest property line one foot of horizontal distance for each foot of retaining wall height.

C. A retaining wall that has at least 2 feet of the height thereof visible from the public street, road or right-of-way, or any abutting lot, each side thereof that faces such abutting lot, or public street, road or right-of-way, shall be finished with natural materials, such as stone, rock or brick, or decorative wall blocks, or textured concrete and shall not have a smooth or flat concrete finish.

D. Retaining walls over 30 inches in height, the top of which has a width of not less than 12 inches, or which serves to retain soil, earth or other materials, natural or manmade that serve, or can serve, as a walkable surface, must contain a fence or guardrail at least 3 feet in height above the top of said wall. The foregoing shall apply to each portion or tier of a multi-tiered retaining wall.

E. Each retaining wall for which a permit is required hereunder must satisfy each of the following requirements:

1. The retaining wall must be designed by a professional engineer or registered architect duly licensed as such in the State of New York.
2. The retaining wall must be designed to prevent overturning, sliding, excessive foundation pressure and water uplift; without limiting the foregoing, each retaining wall must be designed for a safety factor of 1.5 for lateral sliding and overturning, to be evidenced by calculations signed and sealed by the designing engineer or architect and submitted to the Village Building Department.
3. The designing engineer or architect must certify to the Village that erosion and/or ground stabilization problems threatening public health and safety require use of a retaining wall, and that alternatives such as slope shaping, re-grading and seeding are inadequate to address such problems.
4. All materials and components and the placement thereof, including finishes and fences or guardrails, to the extent required, shall be reflected in all drawings submitted by the design engineer or architect, shall be deemed part of the application, and shall be subject to approval by the Building Department and, to the extent applicable, the Planning Board.
5. Plans must be submitted for review and approval demonstrating that the proposed retaining wall shall not cause erosion, or allow storm water to be re-routed onto adjoining properties, either during construction or after completion of installation.
6. To the extent that the installation or maintenance of any retaining wall requires access to or upon any adjoining property, permission of the adjoining property owner must be obtained, and such adjoining property disturbed in the course of the installation must be restored to its previous condition.

7. No retaining wall permit will be issued if the proposed installation and construction will result in the removal of trees, or damage to trees on an abutting property within ten feet from the edge of the excavation required for the installation and construction.

§ 80-67C. Retaining Wall Design.

- A. The height of each retaining wall, and each tier of a multi-tiered retaining wall, shall not exceed four feet. The height of each retaining wall, and each tier thereof, shall be measured from the lowest point on the abutting grade.
- B. The horizontal distance between each tier of a multi-tiered retaining wall shall be at least four feet. The surface area between the tiers of a multi-tiered retaining wall shall be landscaped with natural materials and maintained.
- C. The top of each retaining wall shall be flush with the grade of the earth, soil or other materials supported or retained by it so that no portion of a retaining wall shall be higher than the surface so supported or retained.
- D. Treated landscape tie walls are limited to one four foot high tier, and shall not be permitted for multi-tier retaining walls. Untreated ties shall not be permitted for use in any retaining walls. Retaining walls greater than 4 feet high and multi-tier retaining walls must be constructed of concrete or masonry wall units designed for retaining wall construction. In no event will standard concrete block be permitted.

§ 80-67D. Retaining Wall Repair.

- A. Any repair of an existing retaining wall that requires removal or replacement of any portion thereof, the height of which is greater than three feet, shall require a duly issued permit therefor.
- B. Minor maintenance and repairs of existing retaining walls, involving the patching of cracks in concrete retaining walls, the replacement of rotting landscape or railroad ties not involving the removal or replacement of sections thereof greater than three feet in height, and the correction of settlement in masonry unit retaining walls, will not require permits unless such repairs, even though otherwise satisfying the provisions of this clause B, will disturb geotextile or footings.
- C. All retaining walls shall be maintained to avoid conditions such as tipping, clogged drains, and soil stability. The Village Building Department may require a property owner to conduct repairs deemed necessary to protect the public health, safety and property.

ARTICLE XIII B
Storm Water

§80-67E. Storm Water Retention.

- A. Any construction or alteration upon any lot that results in an increase of impervious surface on such lot equal to or greater than two hundred square feet must include facilities for on-site retention and discharge of storm water runoff from the added area of impervious surface. If the added impervious surface is constructed in separate locations, such that connecting those separate areas of increased impervious surface to a single retention system is impractical, then facilities for the on-site retention and discharge of the additional storm water may be connected to existing areas of impervious surface, rather than to the newly constructed portions.
- B. Any construction or alteration project subject to site plan review pursuant to Article XIII C of this Chapter must include facilities for the on-site retention and discharge of all storm water runoff from all impervious surfaces, both existing and proposed; provided, however, that the Planning Board, in connection with its site plan review, may grant relief from the provisions hereof, in its discretion.
- C. Facilities required hereunder shall be designed for the on-site retention and discharge of 100% of runoff calculated on the basis of three inches of rainfall over a one-hour period.

ARTICLE XIII C
Site Plan Review

§ 80-67F. Site Plan Approval Required.

Approval of an original or amended site plan shall be required with respect to any of the following work or alterations, by the Planning Board, if any such work or alterations occur within any zoning district other than the Business District or the Shopping Center District, and by the Board of Trustees, with respect to any such work or alterations occurring within the Business District or the Shopping Center District:

- A. The erection or expansion of any commercial building or structure.
- B. All construction on any vacant land.

- C. Any change in use or intensity of any commercial use or business use which will affect parking, loading, access, drainage, utilities or other Village services with respect to any parcel.
- D. The erection, enlargement or other alteration of any residential structure which will result in an increase in gross floor area for such lot that exceeds the lesser of (i) 50% of the existing gross floor area, or (ii) 1,000 square feet. For purposes hereof, "existing gross floor area" shall mean the largest amount of gross floor area for such lot existing at any time in the five year period preceding submission of the building permit application for the contemplated erection, enlargement or alteration.
- E. Any alteration resulting in a change of grade equal to or greater than two feet in height.
- F. Any construction or alterations on any lot on which the natural grade exceeds by at least two feet in height the natural grade on any abutting parcels within a one hundred foot radius of the lot upon which the new construction is proposed.
- G. Any other construction or other project requiring site plan approval by the Planning Board or the Board of Trustees under any other provision of this Chapter.

Section 32. Section 80-77, "Size and Location," of ARTICLE XV, "Outdoor Swimming Pools," is hereby amended to delete from the table contained in clause "A." thereof, the following:

"Residence A	6	6"
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Section 33. Section 80-80, "Continuance," of ARTICLE XVI, "Nonconforming Uses and Structures," is hereby amended to read in its entirety as follows:

"§ 80-80. Continuance.

- A. A use of a building, structure, lot or land, or part thereof, that does not conform to the use regulations in the zoning district in which it is situated, which use was lawful at the time of the inception thereof and which use has continued without interruption of greater than ten (10) months at any time since the inception thereof, may be continued but may not be expanded, increased, enlarged or exacerbated.

B. No conforming use in any zoning district which shall have been discontinued for a period exceeding 10 months shall be resumed thereafter or replaced by any other nonconforming use.

C. No nonconforming use that is changed to a permitted use in the zoning district in which such building, structure, lot or land, or part thereof, is located, shall be resumed or continued.”

Section 34. Section 80-81, “Restoration,” of ARTICLE XVI, “Nonconforming Uses and Structures,” is hereby amended to read in its entirety as follows:

“§80-81. Restoration.

A. Any owner of any building or structure comprising or containing a nonconforming use which shall be destroyed by fire, explosion, act of God, act of a public enemy, deterioration or neglect to such an extent as to equal or exceed 50% of the current replacement value or adjusted market value, whichever is greater, of such building or structure, excluding foundation value, may not restore such building or structure to such nonconforming use unless application is made to the Board of Appeals for a special permit pursuant to ARTICLE XVIII, and such special permit is issued therefor.

B. Any building destroyed by fire, explosion, act of God, act of a public enemy, deterioration or neglect to an extent that does not exceed 50% of the current replacement valuation thereof, or adjusted market value, whichever is greater, of such building, excluding foundation value, may continue to be used for the nonconforming use lawfully able to be continued at the time of such destruction, provided that such building is restored within 6 months after such destruction; provided, however, that such building and such use may not be enlarged or altered except as provided below in this ARTICLE XVI.”

Section 35. Section 80-82, “Alterations,” of ARTICLE XVI, “Nonconforming Uses and Structures,” is hereby amended to read in its entirety as follows:

“§ 80-82. Alterations. Any alteration to a nonconforming use, building or structure that would change the building’s or structure’s front setback, side yard or rear yard, shall not be permitted hereunder unless an application for variance is made to the Board of Appeals such application is granted by the Board of Appeals. In any such application, the applicant shall demonstrate to the satisfaction of the Board of Appeals that the cost of all alterations proposed to be made to such building or structure, in the aggregate, will not exceed 50% of the adjusted market value of the affected parcel, as reflected in the then-current assessment role for the Village. Nothing herein is intended or shall be deemed to preclude the maintenance and good repair of any nonconforming use or building.”

Section 36. Clause “B” of Section 80-87, “Organization,” of ARTICLE XVII, “Board of Appeals,” is hereby amended to read in its entirety as follows:

“B. This Clause is intended to establish powers of the Board of Trustees that are in addition to powers granted to the Board of Trustees pursuant to Article 7 of the New York State Village Law, and § 80-87A of this Village Code, with respect to the establishment of a Zoning Board of Appeals. In addition to such powers, the Board of Trustees is and shall be authorized to appoint not more than four (4) alternate members to the Zoning Board of Appeals, who shall serve, at the call of the Chairperson of the Zoning Board of Appeals, in the event that any member or members are unavailable due to disqualification, absence, conflict of interest or other reason deemed appropriate by the Chairperson, and such absence or unavailability prevents a quorum of members of the Zoning Board of Appeals to be present to conduct the business of said Board. In the event that the Chairperson calls any alternate member to serve on said Board, the Chairperson shall so state for the record at the meeting at which such alternate member shall serve, prior to the commencement of any proceedings with respect to which such alternate member is serving. Not more than two alternate members may attend and serve at the same meeting of the Zoning Board of Appeals. The powers granted to the Board of Trustees hereunder shall be in addition to all powers of the Board of Trustees contained in Article 7 of the New York State Village Law, which powers shall not be diminished, reduced or revoked by the Section.”

Section 37. Clause “A.” of Section 80-88, “Powers and Duties,” of ARTICLE XVIII, “Board of Appeals,” is hereby amended by adding a new subclause (6), to be inserted immediately after existing subclause (5) of Section 80-88, which new subclause (6) shall to read in its entirety as follows:

“(6) No certificate of use, certificate of compliance or certificate of occupancy shall be issued with respect to any land use project that has been authorized pursuant to grant of a variance by the Zoning Board of Appeals unless and until each condition to the grant of such variance imposed by the Zoning Board of Appeals has been satisfied.”

Section 38. Clause “B” of Section 80-90, “Establishment; Powers and Duties,” of ARTICLE XIX, “Planning Board,” is hereby amended to read in its entirety as follows:

“B. This Clause is intended to establish powers of the Board of Trustees that are in addition to powers granted to the Board of Trustees pursuant to Article 7 of that New York State Village Law, and § 80-90A of this Village Code with respect to the establishment of a Planning Board. In addition to such powers, the Board of Trustees is and shall be authorized to appoint not more than four (4) alternate members to the Planning Board, who shall serve, at the call of the Chairperson of the Planning Board, in the event that any member or members are unavailable due to disqualification, absence, conflict of

interest or other reason deemed appropriate by the Chairperson, and such absence or unavailability prevents a quorum of members of the Planning Board to be present to conduct the business of said Board. In the event that the Chairperson calls any alternate member to serve on said Board, the Chairperson shall so state for the record at the meeting at which such alternate member shall serve, prior to the commencement of any proceedings with respect to which such alternate member is serving. Not more than two alternate members may attend and serve at the same meeting of the Planning Board. The powers granted to the Board of Trustees hereunder shall be in addition to all powers of the Board of Trustees contained in Article 7 of the New York State Village Law, which powers shall not be diminished, reduced or revoked by the Section. ”

Section 39. Section 80-89, “Approval and Compliance Required,” of ARTICLE XVII, “Site Development Plan Approval,” is hereby amended to read in its entirety as follows:

“§ 80-99. Approval and Compliance Required.

No building permit, certificate of completion, certificate of occupancy or certificate of use shall be issued by the Building Department, or any village personnel authorized to issue same, with respect to any project as to which site development plan approval is required pursuant to the terms of this Chapter, unless and until such approval has been granted by the Planning Board or the Board of Trustees, as applicable. Furthermore, no certificate of use, occupancy or completion shall be issued with respect to any premises unless and until all requirements and conditions imposed by the Planning Board or the Board of Trustees, as applicable, with respect to such approval, have been satisfied. Any and all such requirements and conditions shall be continually satisfied, as a continuing condition of the validity and enforceability of any certificate of use, occupancy or completion with respect to any property for which site development plan approval is required. Any amendments, modifications or revisions to plans that have been the subject of site development plan approval must be approved in the same manner and to the same extent as the original plans were subject to site development plan approval.”

Section 40. Effective Date.

This local law shall take effect immediately.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2010 of the ~~(County)(City)(Town)(Village)~~ of Bayville was duly passed by the Board of Trustees on MAY 20, 2010, in accordance with the applicable provisions of law.
(Name of Legislative body)

~~**2. (Passage by local legislative body with approval, no disapproval or re passage after disapproval by the Elective Chief Executive Officer¹.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) (Name of Legislative body) (re-passed after disapproval) by the _____ and was deemed duly (Elective Chief Executive Officer¹) adopted on _____ 20____, in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____ (Name of Legislative Body) and was (approved)(not approved) (re-passed after disapproval) by the _____ (Elective Chief Executive Officer¹) on _____ 20__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (Name of Legislative Body) (approved)(not approved) (re-passed after disapproval) by the _____ (Elective Chief Executive Officer¹) on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

¹ Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the ~~superior of a town where such officer is vested with the power to approve or veto local laws or ordinances.~~

~~6. (County local law concerning adoption of Charter)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, ~~became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Maria Alfano-Hardy
Clerk of the county legislative body, City,
Town or Village Clerk or officer designated
by local legislative body
MARIA ALFANO-HARDY, VILLAGE CLERK

(Seal)

Date: May 25, 2010

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF New York)
COUNTY OF Nassau): ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Christopher J. Prior
Signature CHRISTOPHER J. PRIOR

Title VILLAGE ATTORNEY

County

City of

Town

Village of Bayville

Date: 5/25/2010