

**VILLAGE OF KENILWORTH  
COOK COUNTY, ILLINOIS**

**ORDINANCE NO. 1018**

**AN ORDINANCE AMENDING THE  
KENILWORTH ZONING ORDINANCE, 1969, AS AMENDED,  
REGARDING DEFINITIONS, ESTABLISHMENT OF BUSINESS DISTRICT,  
BUSINESS DISTRICT REGULATIONS, ACCESSORY USES AND STRUCTURES,  
TEMPORARY USES, FORMS OF RELIEF AND APPLICATION REQUIREMENTS,  
INTERPRETATIONS, FEES, AND FINES**

Passed by the Board of Trustees this 22nd day of June, 2009

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Village Clerk

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**WHEREAS**, the Village has initiated an application to amend the Kenilworth Zoning Ordinance, 1969, as amended ("**Zoning Ordinance**"), to modify the regulations of the Village's business districts and other procedural provisions of the Zoning Ordinance; and

**WHEREAS**, the Kenilworth Comprehensive Plan, adopted January 14, 2008, sets forth a plan to (i) encourage the development of the Green Bay Road Commercial Corridor into a vibrant and attractive mixed-use pedestrian-oriented district; (ii) provide opportunities for alternative housing options for residents; and (iii) maximize revenue opportunities to diversify and strengthen the Village's tax base; and

**WHEREAS**, in order to advance toward the goals of the Green Bay Road Commercial Corridor found in the Comprehensive Plan, the Plan Commission recommends consolidating the Village's current Zoning Ordinance classifications from three Business Districts (B1, B2, B3) to a single Business District; and

**WHEREAS**, pursuant to public notice published in the *Wilmette Life* on March 19, 2009, the Plan Commission commenced a public hearing on April 6, 2009 and continued the public hearing to May 4, 2009, June 1, 2009 and July 6, 2009, to consider various proposed changes to the Zoning Ordinance; and

**WHEREAS**, on June 1, 2009, the Plan Commission recommended to the Village Board that some of the proposed changes are appropriate for adoption (collectively, "**Proposed Amendments**") at this time, while continuing its review and consideration of other proposed revisions that require further review at the continued public hearing; and

**WHEREAS**, the President and Board of Trustees of the Village of Kenilworth have reviewed the recommendations of the Plan Commission and all of the materials, facts, and circumstances related to the Proposed Amendments included in this Ordinance, and find that it is in the best interests of the Village and the public to amend the Zoning Ordinance in the manner provided in this Ordinance;

**BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF KENILWORTH, COOK COUNTY, ILLINOIS**, as follows:

**SECTION 1. RECITALS.** The recitals listed above are incorporated in this Ordinance as the findings of the President and Board of Trustees.

**SECTION 2. AMENDMENT TO SECTION 2.2.** Section 2.2, entitled “Definitions” of Article II, entitled, “Construction and Definitions” of the Zoning Ordinance is amended as follows:

**A. Modified Definitions.** The following existing definitions are amended to read as shown:

***Restaurant, Full Service:*** A public eating place whose principal business is the sale and service of food or beverages for consumption on the premises, ~~where items are ordered from an individual menu and served by wait staff on non-disposable tableware.~~ This shall not include a limited service restaurant as defined in this section. Only incidental sales of food or beverages for off-premises consumption are permitted in conjunction with the operation of a full service restaurant.

***Restaurant, Limited Service:*** A public eating place whose principal business is the sale of food or beverages where the **majority of the food sold is prepared in advance at a location other than the same place and** food or beverages are: (a) paid for before consumption, (b) ordered from a fixed menu board, or (c) served in paper, plastic, Styrofoam, or other disposable containers for immediate consumption on the premises. Only incidental sales **Sales** of food or beverages for off-premises consumption are permitted in conjunction with the operation of these establishments.

***Substantial Alteration:*** The demolition, removal, or addition of 50 percent or more of (a) the floor ~~are~~**area** of any building or buildings on the same lot in any district zoned R-1, R-2, R-3, R-4 **or B**; or (b) the structural elements of the walls or facade of a building or buildings on the same lot facing a street in any district zoned R-1, R-2, R-3, R-4 **or B**.

**B. New Definitions.** The following new definitions are inserted in alphabetical order:

***Automobile Galleria:* A business for the indoor and outdoor display and retail sales of automobiles and automobile-related art, furniture and memorabilia; including fully enclosed space for display and sales not exceeding 10,000 square feet nor combined enclosed and outdoor display and sales area exceeding 12,500 square feet. Operation of facilities accommodating minor service to, and washing of, and installation of accessories on automobiles is permitted if such facilities are enclosed in a building; provided, however, that the washing or polishing of motor vehicles by any automated, mechanized or other production line method are each prohibited.**

***Bakery:* A retail establishment whose principal business is the service and sale of baked goods, pastries, cakes and a limited selection of food items incidental thereto.**

**Candy Store: A retail establishment whose principal business is the service and sale of candy, confections and a limited selection of food items incidental thereto.**

**Coffee Shop: A retail establishment whose principal business is the service and sale of coffees, teas and a limited selection of food items incidental thereto.**

**Ice Cream Shop: A retail establishment whose principal business is the service and sale of ice cream, frozen novelty desserts, frozen confectionary items and a limited selection of food items incidental thereto.**

**SECTION 3. AMENDMENT TO SECTION 3.1.** Section 3.1, entitled “Establishment of Districts” of Article III, entitled, “Zoning Districts” of the Zoning Ordinance is amended to read as follows:

The Village of Kenilworth, Illinois, is hereby divided into 42 11 districts designated as follows:

"R-1" Residence District	<del>"B-3" Business District</del>
"R-2" Residence District	"S" School District
"R-3" Residence District	"P" Park and Playground District
"R-4" Residence District	"M-1" Mahoney Park District
<del>"B-1" Business District</del>	"M-2" Municipal Lands District
<del>"B-2" Business District</del>	"R" Railroad Right of Way and Automobile Parking District
<u>"B" Business District</u>	

**SECTION 4. AMENDMENT TO ARTICLE IV.** Article IV, entitled “General Requirements and Provisions – All Districts” of the Zoning Ordinance is amended by adding new Sections 4.7, entitled “Accessory Uses and Structures,” and 4.8, entitled “Temporary Uses,” as follows:

**4.7 ACCESSORY USES AND STRUCTURES.**

**(a) Authorization. Subject to the limitations of this Section, accessory uses are permitted in any zoning district, and accessory structures are permitted in any zoning district other than the "B" Business District, in connection with any principal use lawfully existing within such district.**

**(b) Definition. An accessory structure or use is a structure or use that:**

**(i) Is subordinate in extent and purpose to, and**

- ii) serves, a principal structure or use; and  
Is customarily found as an incident to such principal structure or use; and
  - iii) Contributes to the comfort, convenience, or necessity of those occupying, working at, or being served by such principal structure or use; and
  - iv) Except as otherwise expressly authorized by the provisions of this ordinance, is located in its entirety on the same zoning lot as such principal structure or use; and
  - v) Is under the same ownership and control as such principal structure or use.
  
- c) Certificate of Zoning Compliance. When required by Section 16.2 of this ordinance, certificates of compliance evidencing the compliance of the accessory use or structure with the provisions of this ordinance shall be obtained before any such accessory use or structure is established or constructed.
  
- d) Special Regulations Applicable to Particular Accessory Structures and Uses. In addition to the requirements of Subsection E of this Section, the following regulations shall apply to particular accessory structures and uses.
  - i) Storage. Outdoor storage shall not be allowed as an accessory use, except as otherwise expressly permitted by this ordinance and except for the outdoor storage of materials such as firewood, compost, and mulch.
  
  - ii) No Accessory Parking in Single Family Residential Districts. Except when approved as part of a special use permit application, parking lots required for or accessory to any business use shall not be permitted on any lot in any single family residential district.
  
- e) Use, Bulk, Space, and Yard Regulations. Except as expressly provided otherwise in this Section, every accessory structure and use shall comply with the use, bulk, space, and yard requirements made applicable to them by the regulations of the district in which they are located.

#### 4.8 TEMPORARY USES.

- a) Authorization. Subject to the limitations of this Section, temporary uses as hereinafter specified are permitted in

the zoning districts hereinafter specified.

- (b) Definition. A temporary use is a structure or use that:
- (i) Is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time; and
  - (ii) Does not involve the construction or alteration of any permanent structure.
- (c) Certificate of Compliance Required: Special Standards for Issuance and Revocation.
- (i) Certificate Required. Except as provided in Paragraph (d)(i) of this Section, no temporary use shall be established or maintained unless a certificate of compliance evidencing the compliance of such use with the provisions of this ordinance shall have first been issued in accordance with Section 16.2 of this Code.
  - (ii) Bases for Certificate Denial. A certificate of compliance may be denied if the Administrative Official determines that the applicant has failed to comply with the terms or conditions of any previously issued zoning certificate for a temporary use or that the permanent use of the subject property fails to comply in all respects with the provisions of all Village ordinances regulating the development, use, and maintenance of the property. Such a certificate shall be denied if the Administrative Official determines that the public health, safety, or welfare would be, or may reasonably be expected to be, impaired by the issuance thereof.
  - (iii) Conditions on Certificate. A certificate of compliance may be conditioned upon such special requirements as the Administrative Official may determine are necessary to achieve the purposes of this ordinance and to protect the public health, safety, and welfare.
  - (iv) Revocation of Certificate. A certificate of compliance shall be revoked if any of the standards and conditions imposed pursuant to this Section, or such certificate, are violated.

**(d) Permitted Temporary Uses. Subject to the specific regulations and time limits that follow and to the other applicable regulations of the district in which the use is permitted, the following temporary uses and no others are permitted in the zoning districts herein specified:**

**(i) Indoor and Outdoor Art, Craft, Rummage, Plant, and Sidewalk Sales, Shows, and Exhibits. In any business district; provided, however, that any such use shall require the specific prior approval of the Administrative Official on the basis of the adequacy of the parcel size, parking provisions, and traffic access and the absence of undue adverse impact on other properties. No such sale shall exceed a period of three days.**

**(ii) Tents. In any district, in connection with any permitted, accessory, temporary, or special use. No tent shall be allowed to remain for a period of more than fourteen (14) days, except where otherwise provided in the district regulations or approved pursuant to this ordinance. For purposes of this Subsection, the word "tent" shall include awnings or canopies extending more than 72 inches from the exterior wall of a building.**

**(iii) Civic Uses of Public Property. In any district, any civic use of any public building or property when authorized by the governmental agency owning or controlling such property; provided, however, that no certificate of zoning compliance shall be issued for such use unless the Administrative Official finds that such use shall impose no undue adverse effect on neighboring streets or property.**

**(iv) Open Air Markets. In the "B" Business District; provided, however, that any such use shall require the specific prior approval of the Administrative Official on the basis of the adequacy of the parcel size, parking and sanitation provisions, available utilities,**

and traffic access, as well as the absence of undue adverse impacts on other properties; provided further that no such use shall be permitted unless the Administrative Official also finds that such use will contribute directly to the preservation and enhancement of an attractive and active business district. Such uses shall not be permitted at any location more than once in any seven day period or for more than eight consecutive hours; provided, however, that a single certificate of compliance per calendar year may be issued for a recurring open air market. Unless waived in writing by the Administrative Official, open air markets shall comply with the applicable district bulk, space, and yard requirements of this ordinance.

(v) Outdoor Storage of Construction Materials. In any district, when accessory to a construction project on the lot for which a valid building permit exists. Such materials shall be kept in a neat, safe and secure condition so as not to constitute a nuisance or offense.

(vi) Outdoor Cafes. In the "B" Business District; provided, however, that any such use shall require the specific prior approval of the Administrative Official on the basis of adequacy of public access provisions, public health safeguards, litter controls, and the absence of undue adverse impact on other businesses in the area. No outdoor café shall be permitted to operate for more than 60 days in any calendar year nor during more than one calendar year in every four years as a temporary use. Such outdoor cafes may be operated upon the Village sidewalks if the Administrative Official determines that there is adequate sidewalk space for the operation of the café and that the use of the public way by pedestrians will not be unduly impeded; provided, however, that appropriate approvals and permits for use of public ways or other property of the village for this

purpose are also obtained pursuant to Chapter 31 of the Kenilworth Village Code.

(e) Bulk, Space, and Yard Regulations. Temporary uses are not required to comply with the bulk, yard, and space requirements applicable in the district in which such temporary use is located.

(f) Use Limitations.

(i) General Limitations. Every temporary use shall comply with the limitations made applicable to specified temporary uses by Subsection (d) of this Section. No temporary use shall be permitted in any district if it would have a significant negative impact, including aesthetic impact, on any adjacent property or on the area, as a whole, in which it is located.

(ii) Hours and Days of Operation. No temporary use shall be operated during any hours or on any days of the week except such as are designated by the Administrative Official in the certificate required by Subsection (c) of this Section, on the basis of the nature of the temporary use and the character of the surrounding area.

(iii) Public Safety. No temporary use shall be permitted that will result in an undue on-site or off-site threat to public safety. No temporary use shall be operated except in accordance with such restrictions and conditions as the Administrative Official may require in connection with such certification.

(iv) Traffic. No temporary use shall be permitted if additional vehicular traffic reasonably expected to be generated by such temporary use would have undue detrimental effects on surrounding streets and uses.

(v) Conflicts with Other Temporary Uses. No temporary use shall be permitted if such use would conflict with another previously

authorized temporary use.

- (vi) Parking. Before approving any temporary use, the Administrative Official shall make an assessment of the total number of off-street parking spaces that will be reasonably required in connection with the proposed temporary use, on the basis of the particular use, its intensity, and the availability of other parking facilities in the area, and shall approve such temporary use only if such off-street parking is provided. No temporary use shall be authorized that would, in the opinion of the Administrative Official, unreasonably reduce the amount of off-street parking spaces available for use in connection with permanent uses located on the zoning lot in question.
- (vii) Sign Limitations. Except as otherwise expressly authorized by this ordinance, signs shall be located only on the same zoning lot as the temporary use, be limited to no more than one per street frontage, be no larger than six square feet in area in any residence district or 12 square feet in area in any other district; be of sturdy construction, and not be detrimental to the character of the area. Such signs shall not be erected sooner than 24 hours before the commencement of the temporary use and shall be removed within 24 hours following the termination of the temporary use.
- (viii) Additional Conditions. Every temporary use shall, in addition, comply with, and the Administrative Official may impose, such other conditions as may reasonably be necessary to achieve the purposes of this ordinance or to protect the public health, safety, and welfare.

**SECTION 5. AMENDMENT TO ARTICLES VII AND VIII: BUSINESS DISTRICTS.** Article VII, entitled “B-1 and B-2 Business District Regulations,” and Article VIII, entitled “B-3 Business District Regulations” of the Zoning Ordinance are repealed in their entirety and replaced with a new Article VII and Article VIII is reserved for future use:

**ARTICLE VII**

**"B" BUSINESS DISTRICT REGULATIONS**

**7.1 PERMITTED AND SPECIAL USES IN "B" BUSINESS DISTRICT.**

**The uses in the following table designated by a “P” are permitted as of right in "B" Business District. Except as specifically limited by this Ordinance, the remaining uses listed in the following table may be permitted in the Business District as a special use, which is designated by an “S,” and subject to the issuance of a special use permit as provided in Section 17.6 of this Ordinance and subject to the additional standards set forth in this Article VII.**

<b><u>DESCRIPTION OF USE</u></b>	<b><u>CATEGORY</u></b>
<b><u>RETAIL TRADE</u></b>	
<b><u>Restaurant, Full Service</u></b>	<b><u>S</u></b>
<b><u>Restaurant, Limited Service</u></b>	<b><u>S</u></b>
<b><u>Coffee Shop</u></b>	<b><u>P</u></b>
<b><u>Bakery</u></b>	<b><u>P</u></b>
<b><u>Ice Cream and/or Candy Store</u></b>	<b><u>P</u></b>
<b><u>Outdoor Dining Accessory to Restaurant, Full Service; Restaurant, Limited Service; Coffee Shop; Bakery; Ice Cream Store; or Candy Store</u></b>	<b><u>S</u></b>
<b><u>Grocery Store</u></b>	<b><u>S</u></b>
<b><u>Meat Market and/or Butcher Shop</u></b>	<b><u>S</u></b>
<b><u>Beer, Wine and Spirits Shop</u></b>	<b><u>S</u></b>
<b><u>Automobile Galleria</u></b>	<b><u>S</u></b>
<b><u>Antique Store, including the sale of antiques and semi-antiques, but not including pawn shops</u></b>	<b><u>P</u></b>
<b><u>Art Gallery and/or Picture Framing Store</u></b>	<b><u>P</u></b>
<b><u>China and/or Glassware Store</u></b>	<b><u>P</u></b>
<b><u>Shoe Store</u></b>	<b><u>P</u></b>
<b><u>Clothing Store</u></b>	<b><u>P</u></b>
<b><u>Appliance Store</u></b>	<b><u>P</u></b>
<b><u>Floor Covering, Carpet and/or Rug Store</u></b>	<b><u>P</u></b>
<b><u>Plumbing and Tile Store</u></b>	<b><u>P</u></b>

<u>Wallpaper and Paint Store</u>	<u>P</u>
<u>Hardware Store, including locksmith and small repair services and automotive supply</u>	<u>P</u>
<u>Kitchen, Bath and Cabinet Store</u>	<u>P</u>
<u>Furniture Store</u>	<u>P</u>
<u>Leather Goods and/or Luggage Store</u>	<u>P</u>
<u>Toy Store and/or Hobby Shop</u>	<u>P</u>
<u>Gift Store</u>	<u>P</u>
<u>Sporting Goods Store, including sales, rental and repair of bicycles and other sporting equipment</u>	<u>P</u>
<u>Jewelry Store</u>	<u>P</u>
<u>Florist</u>	<u>P</u>
<u>Book, Music and/or Video Store</u>	<u>P</u>
<u>Pharmacy and/or Drug Store</u>	<u>P</u>
<u>Office Supply Store</u>	<u>P</u>
<u>Art Supply and/or Stationery Store</u>	<u>P</u>
<u>Optical Goods Store</u>	<u>P</u>
<b><u>SERVICES</u></b>	
<u>Dry Cleaner and Laundry Receiving Shop, but not processing or cleaning</u>	<u>P</u>
<u>Barber Shop</u>	<u>P</u>
<u>Hair Salon and/or Day Spa</u>	<u>P</u>
<u>Tailor</u>	<u>P</u>
<u>Shoe Repair</u>	<u>P</u>
<u>Interior Decorating Service</u>	<u>P</u>
<u>Photography Studio</u>	<u>P</u>
<u>One-on-One Personal Training and Fitness Studio</u>	<u>P</u>
<u>Physical Fitness Facilities</u>	<u>S</u>
<u>Performing Arts Theater</u>	<u>S</u>
<u>One-on-One Educational Services</u>	<u>P</u>
<u>Schools, Training and Educational Services</u>	<u>S</u>
<u>Weight Loss Clinic</u>	<u>S</u>
<u>Bank</u>	<u>S</u>
<u>Financial Services Offices</u>	<u>P</u>
<u>Business and Professional Offices</u>	<u>P</u>
<u>United States Post Office</u>	<u>P</u>
<b><u>RESIDENTIAL</u></b>	
<u>Multiple Family Dwellings, but not on the first floor or ground level</u>	<u>P</u>

<u>MISCELLANEOUS</u>	
<u>Principal Buildings with height in excess of the maximum permitted, but not in excess of 40 feet</u>	<u>S</u>
<u>New buildings or structures with a floor area of 10,000 square feet or more</u>	<u>S</u>
<u>Additions to or modifications of buildings or structures resulting in a floor area of 10,000 square feet or more</u>	<u>S</u>
<u>Substantial alterations to buildings or structures resulting in a floor area of 10,000 square feet or more</u>	<u>S</u>

**7.2 MAXIMUM HEIGHT.**

Except as otherwise authorized by this Ordinance, the maximum height of buildings and structures shall be as follows:

<u>Type</u>	<u>Maximum Height</u>
<u>Principal Buildings and Structures</u>	<u>35 feet or 3-1/2 stories</u>

**7.3 MINIMUM YARD REQUIREMENTS.**

- (a) Front Yard. No front yard shall be required, except that no building hereafter erected or structurally altered along the westerly side of Green Bay Road between the north line of Kenilworth Avenue and the south line of Wayland Avenue shall project in an easterly direction beyond a line 70 feet westerly of and parallel to the easterly line of Green Bay Road.
- (b) Side Yard. No side yard shall be required, but if one is provided it shall have a width of not less than five feet.

**7.4 RESTRICTIONS ON PERMITTED AND SPECIAL USES.**

Uses permitted or authorized as special uses in the "B" Business District are subject to the following restrictions:

- (a) All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings, except as otherwise authorized by this Ordinance.
- (b) Establishments of the "drive-in" or "drive-through" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted.

- (c) Dwelling units shall have a minimum 600 square feet per unit.
- (d) Off-street parking facilities for motor vehicles shall be provided in accordance with the regulations set forth in Article XIV hereof.
- (e) No signs shall be maintained on any premises except as permitted in this paragraph (i). Non-flashing, non-moving signs are permitted subject to the following:
  - (i) Whenever an external artificial light source is used for a sign, such source shall be located, shielded and directed so as not to be directly visible from any public street or private residence. Internally illuminated signs are not permitted.
  - (ii) The gross area in square feet of all signs on a building shall not exceed two times the lineal feet of frontage of such building, provided that the gross area of all illuminated signs shall not exceed one times the lineal feet of frontage of such building.
  - (iii) No sign shall project more than two inches across the property line into the public way. Such limitations shall not apply to signs on marquees, canopies or awnings, provided that any sign located on a marquee, canopy or awning shall be affixed flat to the surface thereof.
  - (iv) No sign may be painted on a wall or any other exterior surface of any building.
  - (v) No sign shall project higher than a building or 30 feet above curb level, whichever is lower; provided, however, that no sign shall protrude or extend beyond the edge of the front façade of the building to which it is affixed.
  - (vi) Signs pertaining to the sale or lease of a building or premises shall not be more than 24 square feet in area and must be removed as soon as the building or premises are sold or leased.
  - (vii) Temporary signs in connection with new construction or remodeling shall not exceed 24

square feet in area and must be removed immediately upon completion of the construction or remodeling.

#### 7.5 VISIBILITY AT INTERSECTIONS.

On a corner lot in the "B" Business District, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede the vision between a height of two and a half and ten feet above the center line grades of the intersecting streets in the area bounded by the lot lines of such corner lot, and a line joining points along such lot lines 20 feet from the point of their intersection.

**SECTION 6. AMENDMENT TO ARTICLE XVII.** Article XVII, entitled " Zoning Board of Appeals: Appeals; Variations; Special Uses," is re-titled "Zoning Administration, Applications and Procedures," and is amended as follows:

**A. Modifications to Jurisdiction.** Section 17.3, entitled "Jurisdiction" is amended to read as follows:

#### **17.3 JURISDICTION.**

**(a)** The Board shall have the following jurisdiction and powers:

**(i)a) Appeals from Action of Administrative Official.** To hear and decide appeals from any order, requirement, decision or determination (hereinafter collectively referred to as a "decision") made by the Administrative Official under this ordinance.

**(ii)b) Variances.** To hear and pass upon applications for variances from the terms of this ordinance in the manner and subject to the standards specified in this ordinance.

**(iii)c) Special Uses.** To consider, hold public hearings on, and make findings and recommendations to the Board of Trustees with respect to applications for special uses in all districts other than the "B" Business District in the manner and subject to the standards specified in this ordinance.

**(iv)d) Other Matters.** To hear and decide all other matters which it is required to pass upon under this ordinance.

**(b) The Plan Commission shall have the jurisdiction and power to consider, hold public hearings on, and make**

**findings and recommendations to the Board of Trustees with respect to applications for special uses in the “B” Business District in the manner and subject to the standards specified in this ordinance.**

**B. Modification to Variation Application.** Section 17.5, entitled “Variations” is amended to read as follows:

- (b) **Application for VariationVariance.** An application for a variation shall be filed with the Board ~~and with the Administrative Official~~ **in the manner prescribed in Section 17.8 of this ordinance.** ~~The application shall contain such information as the Board may by rule provide.~~

**C. Modification to Special Uses.** Subsections (a) and (f) through (j) of Section 17.6, entitled “Special Uses” are amended to read as follows:

**17.6 SPECIAL USES.**

- (a) **Classes.** The following types of uses which, because of their unique character, can only be properly authorized in any particular district or districts upon consideration, in each case, of the impact of those uses upon neighboring property and of the public need for the particular use at the particular location, are declared to be special uses unless specifically permitted under this ordinance in the district in which proposed to be located:
- (i) places of religious worship;
  - (ii) schools including pre-schools and day care centers (except where conducted as a home occupation);
  - (iii) libraries (where established as the principal use);
  - (iv) other uses private in character but operated not for profit and of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities;
  - (v) uses operated by a public agency or publicly-regulated utility, or uses traditionally affected with a public interest; and
  - (vi) **uses identified in Section 7.1 of this ordinance as special uses in the “B” Business District**~~full service restaurants and limited service restaurants, but only in the B-1, B-2, and B-3 Business Districts.~~

- (vii) single family attached dwellings where: (a) the lot is located on Ridge Road between Greenwood Avenue and Park Drive in the R-4 District; (b) the single family attached dwellings are located in a pre-existing, multi-family building; and (c) through substantial alteration of the pre-existing building, the number of dwelling units previously existing will be reduced by fifty (50) percent or more.

\* \* \*

- (f) **Application.** An application for special use shall be filed and processed in the manner prescribed in Section 17.8 of this ordinance~~for applications for variations (except that the power to authorize special uses is vested in the Board of Trustees), and shall be in such form, accompanied by such information, as shall be required by the Board of Appeals.~~
  
- (g) **Standards.** No special use shall be recommended by the Board of Appeals or the Plan Commission, as the case may be, or authorized by the Board of Trustees unless the Board of Appeals or the Plan Commission, as the case may be, and the Board of Trustees shall have taken into consideration the following factors to the extent deemed relevant to the proposed special use and the principal structure and each accessory structure used for or associated with such proposed special use:
  - (i) the necessity for the public convenience at the particular proposed location;
  - (ii) the effects of the proposed design, location, and operation on the public health, safety, and welfare;
  - (iii) injury to the value of other property in the neighborhood in which it is proposed to be located;
  - (iv) interference with the use and enjoyment of neighboring properties;
  - (v) compatibility with permitted uses in the district in which it is proposed to be located;
  - (vi) increased traffic congestion on public ways or increased parking required on public ways;
  - (vii) damage to or destruction of natural scenic or historic

features of significance to the Village or the immediate neighborhood; and

- (viii) in the case of playground equipment, in addition to the foregoing applicable factors, its proximity to and effect on neighboring properties, its expected intensity of use, and the consistency of such equipment and its expected use with play equipment customarily associated with a residential use.
- (h) **Authorization.** Special uses may be recommended by the Board of Appeals or the Plan Commission, as the case may be, after a public hearing called and held in the manner prescribed in this ordinance and required by law herein for variations.
- (i) **Conditions.** The Board of Appeals or the Plan Commission, as the case may be, may recommend and the Board of Trustees may provide such conditions and restrictions upon the location and operation of a special use and associated structures, including but not limited to provisions for off-street parking and loading, as may be deemed necessary to promote the general objectives of this ordinance.
- (j) **Action by the Board of Trustees.** The findings of the Board of Appeals or the Plan Commission, as the case may be, on an application for a special use, arrived at after public hearing, shall be submitted to the Board of Trustees with a report and recommendations within a reasonable time. The Board of Trustees, upon receipt of such report and recommendations and without further public hearing, by ordinance may grant the application for the special use with such conditions and restrictions as may be deemed necessary by the Board of Trustees, or deny the application, or refer it back to the Board of Appeals or the Plan Commission, as the case may be, for further consideration.

**D. Notice.** Section 17.7, entitled “Notice Requirements” is renumbered as Section 17.10 and the first paragraph of Subsection (a) of the new Section 17.10 is amended to read as follows:

- (a) **Notice by Mail.**  
Notice of the public hearing at which any application for relief under this Ordinance is to be considered shall be provided as required by this Section. The applicant shall notify, in writing, by certified mail, return receipt requested, or hand

delivery, all property owners within 400 ~~500~~ feet of the boundaries of the property that is the subject of the application, excluding measurement of streets and rights-of-way, not less than 15 days or more than 30 days in advance of the scheduled public hearing date.

E. Section 17.7 is reserved for future use.

F. New Sections 17.8, entitled "Application Requirements," and 17.9, entitled "Successive Applications," are added as follows:

### **17.8 APPLICATION REQUIREMENTS.**

**(a) Place of Filing. All applications for relief under this ordinance shall be filed with the Administrative Official or with such other Village official or body as the Administrative Official may designate.**

**(b) Form, Number, Scale. All applications filed pursuant to this ordinance shall be on forms supplied by the Village and shall be filed in such number of duplicate copies as the Administrative Official may designate, including in electronic format, if requested. All plans filed as part of any application shall be at a scale sufficient to permit a clear and precise understanding of the contents of said plan and the proposal being made and shall be folded to a convenient size for handling and filing in standard, legal size file drawers.**

**(c) Filing Deadlines.**

**(i) Applications Requiring Hearings. Applications requiring a public hearing will not be scheduled for such hearing unless and until filed in proper form and number and containing all required information.**

**(ii) Applications Not Requiring Hearing. Applications that do not require a public hearing shall be filed, in proper form and number and containing all required information, at least 35 days prior to the time when action on the application is requested. Applications so filed will be processed on a first-filed, first-processed basis.**

**(iii) Supplemental Data. Whenever supplemental data in connection with a previously filed application is required by the Village or offered by the applicant,**

it shall be submitted at least seven days prior to the date on which it is to be considered at a hearing or a meeting or acted upon in connection with such application. The filing of such data shall, in the discretion of the Administrative Official and of the body hearing the application, be cause to delay a requested or scheduled hearing date.

(d) Minimum Data Requirements.

(i) All Applications. Every application submitted pursuant to this ordinance shall contain at least the following information:

(A) The owner's name and address and the owner's signed consent to the filing of the application.

(B) The applicant's name and address, if different than the owner, and his interest in the subject property.

(C) The names, addresses and telephone numbers of all professional consultants, if any, advising the applicant with respect to the application.

(D) The name and address and the nature and extent of the interest, as defined in the Kenilworth Village Code provisions governing ethics, of any officer or employee of the Village in the owner, the applicant or the subject property.

(E) The address and legal description of the subject property.

(F) A description or graphic representation of the proposal for which approval is being sought and of the existing zoning classification, use and development of the subject property. The scope and detail of such description shall be appropriate to the subject matter of the application, with special emphasis on those matters likely to be affected or impacted by the approval being sought in the application.

(G) In the case of any application being filed less than two years after the denial of an application seeking essentially the same relief, the statement required by Subsection 17.9 of this ordinance.

(H) Proof of control or ownership, in the case of site-specific applications.

(ii) Applications for Ordinance Interpretations. Every application filed pursuant to Section 19.1 of this ordinance shall, in addition to the data and information required pursuant to Paragraph (i) above, provide the following information:

(A) The specific provision or provisions of this ordinance for which an interpretation is sought.

(B) The facts of the specific situation giving rise to the request for an interpretation.

(C) The precise interpretation claimed by the applicant to be correct.

(D) Where a use interpretation is sought, the use permitted pursuant to the present zoning classification of the subject property that is claimed by the applicant to include, or to be most similar to, the proposed use.

(E) Where a use interpretation is sought, documents, statements and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.

(iii) Applications for Appeals. Every application filed pursuant to Section 17.4 of this ordinance shall, in addition to the data and information required pursuant to Paragraph (i) above, provide the following information:

(A) The specific decision from which an appeal is sought.

- (B) The facts of the specific situation giving rise to the original decision and to the appeal therefrom.**
- (C) The precise relief sought.**
- (D) A statement of the applicant's position as to alleged errors in the decision being appealed and as to why the relief sought is justified and proper.**

**(iv) Applications for Variations. Every application filed pursuant to Section 17.5 of this ordinance shall, in addition to the data and information required pursuant to Paragraph (i) above, provide the following information:**

- (A) The specific feature or features of the proposed use, construction or development that require a variation.**
- (B) The specific provision of this ordinance from which a variation is sought and the precise variation therefrom being sought.**
- (C) A statement of the characteristics of the subject property that prevent compliance with the said provisions of this ordinance.**
- (D) A statement of the minimum variation of the provisions of this ordinance that would be necessary to permit the proposed use, construction or development.**
- (E) A statement of how the variation sought would satisfy the standards set forth in Subsection 17.5(e) of this ordinance.**
- (F) The names and addresses of all owners of property within 500 lineal feet, excluding street rights-of-way, in all directions from the subject property as shown in the records of the Office of the Assessor of Cook County.**
- (G) A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all**

easements, all public and private rights-of-way and all streets across and adjacent to the subject property.

(H) A statement concerning the conformity or lack of conformity of the approval being requested to the Kenilworth Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Kenilworth Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.

(v) Applications for Zoning Ordinance Text Amendments. Every application filed pursuant to Section 21.1 of this ordinance requesting an amendment to the text of this ordinance shall, in addition to the data and information required pursuant to Paragraph (i) above, provide the following information:

(A) The exact wording of the proposed text amendment.

(B) A statement of the need and justification for the proposed text amendment.

(C) The names and addresses of all owners of property within 500 lineal feet, excluding street rights-of-way, in all directions from the subject property, as shown in the records of the Office of the Assessor of Cook County.

(D) A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.

(E) A statement concerning the conformity or lack of conformity of the approval being requested to the Official Map. Where the approval being requested does not conform to the Official Map, reasons justifying the approval despite such lack of conformity

shall be stated.

(vi) Applications for Special Uses. Every application filed pursuant to Section 17.6 of this ordinance shall, in addition to the data and information required pursuant to Paragraph (i) above, provide the following information:

(A) A written statement of the need for the special use.

(B) The names and addresses of all owners of property within 500 lineal feet, excluding street rights-of-way, in all directions from the subject property, as shown in the records of the Office of the Assessor of Cook County.

(C) A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.

(D) A statement concerning the conformity or lack of conformity of the approval being requested to the Kenilworth Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Kenilworth Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.

(vii) Applications for Zoning Map Amendments. Every application filed pursuant to Section 21.1 of this ordinance requesting an amendment to the Zoning Map shall, in addition to the data and information required pursuant to Paragraph (i) above, provide a statement of the need and justification for the proposed Zoning Map amendment. Said statement shall address at least the following factors:

(A) The existing uses and zoning classifications of properties in the vicinity of the subject property.

- (B) The trend of development in the vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present zoning classification.
- (C) The extent to which the value of the subject property is diminished by the existing zoning classification applicable to it.
- (D) The extent to which such diminution in value is offset by an increase in the public health, safety and welfare.
- (E) The extent, if any, to which the use and enjoyment of adjacent properties would be affected by the proposed amendment.
- (F) The extent, if any, to which the value of adjacent properties would be affected by the proposed amendment.
- (G) The extent, if any, to which the future orderly development of adjacent properties would be affected by the proposed amendment.
- (H) The suitability of the subject property for uses permitted or permissible under its present zoning classification.
- (I) The availability of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.
- (J) The availability of adequate utilities and essential public services to the subject property to accommodate the uses permitted or permissible under its present zoning classification.
- (K) The length of time, if any, that the subject property has been vacant, considered in the context of the pace of development in the

vicinity of the subject property.

(L) The community need for the proposed map amendment and for the uses and development it would allow.

(M) The names and addresses of all owners of property within 500 lineal feet, excluding street rights-of-way, in all directions from the subject property, as shown in the records of the Office of the Assessor of Cook County.

(e) Special Data Requests. In addition to the data and information required pursuant to Subsection (d) of this Section, every applicant shall submit such other and additional data, information or documentation as the Administrative Official or any Board or Commission before which its application is pending may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

(f) Concurrent Applications. Where a proposed use or development requires more than one approval pursuant to this ordinance, applications for all such approvals may be filed concurrently notwithstanding the fact that approval of one application may be a precondition to approval of other applications. Such applications may, in the discretion of the official, officials, body or bodies charged with review of such applications be processed together; provided, however, that no application shall be approved unless all applications that are a precondition to its approval have first been approved.

(g) Withdrawal of Application. An applicant may withdraw an application at any time prior to a final decision having been rendered with respect thereto; provided that the applicant shall have paid all applicable application fees pursuant to Article XX. Such withdrawal shall be without prejudice to the applicant's right to refile such application, but any such refiling shall be treated as an entirely new filing and shall be subject to the procedures and fees of this ordinance in the same manner as any other new application.

## 17.9 SUCCESSIVE APPLICATIONS.

- (a) Second Applications Without New Grounds Barred. Whenever any application filed pursuant to this ordinance has been finally denied on its merits, a second application, seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought unless, in the opinion of the officer, Board or Commission before which it is brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.
- (b) New Grounds to be Stated. Any such second application shall include a detailed statement of the grounds justifying consideration of such application.
- (c) Exception. Whether or not new grounds are stated, any such second application filed more than two years after the final denial of a prior application shall be heard on the merits as though no prior application had been filed. The applicant shall, however, be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. In the absence of such evidence it shall be presumed that no new facts exist to support the new petition that did not exist at the time of the denial of the first application.

**SECTION 7. AMENDMENT TO ARTICLE XIX.** Section 19.1, entitled “Procedures As To Questions of Interpretation and Enforcement” of Article XIX, entitled “Duties of Administrative Official, and Board of Appeals and Board of Trustees on Matters of Appeals” is amended in its entirety to read as follows:

### 19.1 PROCEDURE AS TO QUESTIONS OF INTERPRETATION AND ENFORCEMENT.

- (a) Authority. The Administrative Official, subject to the procedures, standards, and limitations of this Section, may render interpretations, including use interpretations, of the provisions of this ordinance and of any rule or regulation issued pursuant to it.
- (b) Purpose. The interpretation authority established by this Section is intended to recognize that the provisions of this ordinance, though detailed and lengthy, cannot possibly address every specific situation to which they may have to be

applied. Many such situations, however, can be readily addressed by an interpretation of the specific provisions of this ordinance in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority herein established is an administrative rather than a legislative authority, it is not intended to add to or change the essential content of this ordinance but rather is intended only to allow authoritative application of that content to specific cases.

(c) Parties Entitled to Seek Interpretations. Applications for interpretations may be filed by any person having an interest in the circumstances giving rise to the need for an interpretation; provided, however, that interpretations shall not be sought by any person based solely on hypothetical facts or where the interpretation would have no effect other than as an advisory opinion.

(d) Procedure.

(i) Application. Applications for interpretations of this ordinance shall be filed in accordance with the requirements of Section 17.8 of this ordinance.

(ii) Action on Application. Within 30 days following the receipt of a properly completed application for interpretation, the Administrative Official shall inform the applicant in writing of his or her interpretation, stating the specific precedent, reasons, and analysis upon which the determination is based. The failure of the Administrative Official to act within 30 days, or such further time to which the applicant may agree, shall be deemed to be a contrary interpretation rendered on the day following such 30-day period thereby allowing the applicant to pursue an appeal pursuant to Section 17.4 of this ordinance.

(iii) Appeal. Appeals from interpretations rendered by the Administrative Official may be taken to the Zoning Board of Appeals as provided in Section 17.4 of this ordinance.

(e) Standards for Use Interpretations. The following standards shall govern the Administrative Official and the Zoning Board of Appeals on appeals from the Administrative Official, in

issuing use interpretations:

- (i) Any use defined in Section 2.2 of this ordinance shall be interpreted as therein defined.
- (ii) No use interpretation shall permit a use listed as a permitted use or a special use in a district to be established in any district in which such use is not so listed.
- (iii) No use interpretation shall permit any use in any district unless evidence shall be presented that demonstrates that it will comply with each use limitation established for that particular district.
- (iv) No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses than to uses permitted or specially permitted in a less restrictive district.
- (v) If the proposed use is most similar to a use permitted only as a special use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a special use permit for such use pursuant to Section 17.6 of this ordinance.
- (f) Effect of Favorable Use Interpretation. No use interpretation finding a particular use to be permitted or specially permitted in a particular district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes and ordinances of the Village including, but not limited to, a special use permit, a certificate of zoning compliance, a temporary use permit, a building permit, a certificate of occupancy, and subdivision approval.
- (g) Limitations on Favorable Use Interpretations. Subject to an extension of time granted by the Administrative Official, no use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be valid for a period longer than six months from the date of issue unless a building permit is issued and construction is actually begun

within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is obtained and a use commenced within that period.

A use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be deemed to authorize only the particular use for which it was issued, and such permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued. Such permit shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of six consecutive months or more.

**SECTION 8. AMENDMENT TO SECTION 20.1.** Section 20.1(a), entitled “Fee Established” of Article XX, entitled “Schedule of Fees, Charges, and Expenses,” of the Zoning Ordinance is amended to read as follows:

**20.1 ESTABLISHMENT OF SCHEDULE OF FEES; PAYMENT REQUIRED.**

- (a) **Fee Established.** Every application filed pursuant to this Ordinance shall be subject to a non-refundable application and filing fee in the amount established by ordinance or resolution adopted from time to time by the Board of Trustees. A schedule including the applicable fee shall be posted on file in the office of the Administrative Official. In addition, the following applications under this ordinance shall be subject to recovery by the Village of the actual cost, as defined in this Article XX, incurred by the Village in processing such application:
- (i) Applications to amend the regulations imposed by this ordinance;
  - (ii) Applications to change the official zoning map and districts established by this ordinance;
  - (iii) Applications for special uses pursuant to Section 47.5 17.6 of this ordinance.
- (b) **Payment; Liens.** The owner of the property which is the subject of the application and, if different, the applicant, shall be jointly and severally liable for the payment of the fees required by this Article. By signing the application, owner shall be deemed to have agreed to pay such fee and to consent to the filing and foreclosure of a lien on the subject property to ensure collection of any such fee, plus the cost of

collection, which has not been paid within thirty (30) days following the mailing of a written demand for such payment to the owner at the address shown on the application. Any lien filed pursuant to this Section may be foreclosed in the manner provided by statute for mortgages or mechanics liens.

**SECTION 9. AMENDMENT TO SECTION 24.1.** Section 24.1, entitled “Violation of Ordinance a Misdemeanor; Penalties,” of Article XXIV, entitled “Penalties for Violation,” is amended to read as follows:

**24.1 VIOLATION OF ORDINANCE A MISDEMEANOR; PENALTIES.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with authorization of variances or special uses) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$400 \$750 or imprisoned for not more than 30 days or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

**SECTION 10. EFFECTIVE DATE.** This Ordinance shall be in full force and effect ten days following its passage, approval, and publication in the manner provided by law.

PASSED this 22nd day of June, 2009.

AYES: (6) Trustees Hastings, Terrill, Hughes, Nahrwold, Smietana and Thomas

NAYS: (0)

ABSENT: (0)

ABSTAIN: (0)

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

# 6379087\_v3.