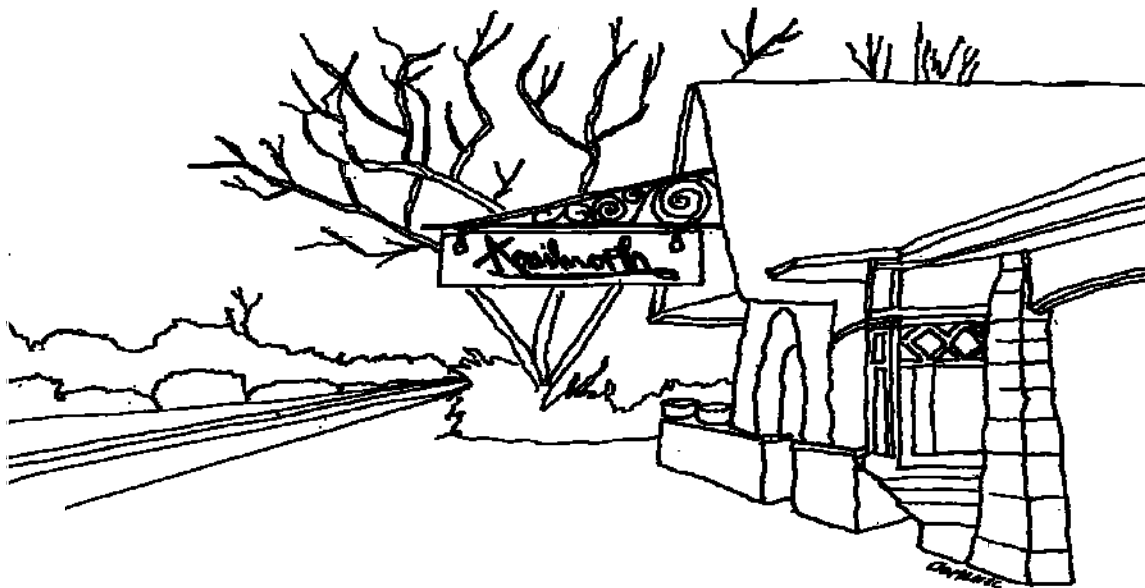


Village of

Kenilworth

Kenilworth, Illinois



ZONING ORDINANCE

WITH AMENDMENTS THROUGH SEPTEMBER 8, 2008

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ARTICLE I

TITLE

1.1 TITLE.

This ordinance, including the zoning map made a part hereof, shall be known and may be cited as the "Kenilworth Zoning Ordinance, 1969."

ARTICLE II
CONSTRUCTION AND DEFINITIONS

2.1 CONSTRUCTION OF ORDINANCE.

In the construction of this ordinance the provisions of this Article II shall be applied, except when the context clearly requires otherwise. The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular; the masculine gender includes the feminine and neuter; the word shall is mandatory and the word may is permissive.

2.2 DEFINITIONS.

Subject to Section 2.1, the following terms shall have the meanings specified:

Administrative Official: The Administrative Official designated by ordinance of the Village to administer and enforce this ordinance.

Accessory Structure or Use: A structure or use on the same lot with and of a nature customarily incidental and subordinate in area, extent or purpose to, the principal structure or principal use.

Alley: A public right of way, not over 20 feet wide, which affords a secondary means of access to abutting properties.

Bay Window: A window or windows cantilevered from the exterior wall of a building above grade or resting on a building foundation and which extends from the primary exterior plane of the exterior wall and forms space with an horizontal area within the building.

Basement: That portion of a building included between the surface of the lowest floor and the surface of the floor next above, any substantial part of which is located below the adjoining grade.

Building: Any structure that provides shelter, including any covered porch, deck, or balcony, or similar structure with a permanent roof; provided, however, that any porte cochere shall not be considered a building for the purposes of maximum building size or building coverage.

Building Height: The vertical distance measured from the curb level to the highest point of all roof surfaces, excluding any ornamentation. For buildings set back from the street line, the height may be measured from the mean elevation of the lot grade along the front of the building (without regard to alterations of natural grade). Where this ordinance specifies the maximum height of a building measured alternatively in feet or number of stories, the maximum building height shall be the lesser of the two specified alternatives.

Covered Entry: An unenclosed entrance area adjacent to an exterior door to a single-family dwelling, with the perimeter determined by the outline of any roof.

Curb level: The mean level of the established curb in front of a building.

Driveway: A private access way that provides direct vehicular access from a street or alley to one or more lots or principal buildings or uses.

Dwelling, Single Family: A detached residential dwelling unit, other than a mobile home, designed for occupancy by one family only.

Dwelling, Single Family Attached: A dwelling unit located in a single building on a single lot containing not more than two dwelling units attached by an unpierced vertical party wall extending from the basement to the roof of the structure and oriented so that all exits open to the outside.

Dwelling, Multiple Family: A building, or portion thereof, containing two or more dwelling units designed for occupancy of two or more families, each living independently of the other family or families.

Dwelling Unit: A group of connected rooms constituting a separate independent housekeeping establishment for a single family, physically separated from any other dwelling unit in the same building and containing independent cooking and sleeping facilities.

Fall-out and Blast Shelter: An accessory building or structure wholly underground, or within or attached to any permitted principal or accessory building or structure with direct access therefrom, in which the fundamentals for fall-out or atomic blast protection designed with shielding mass, ventilation and space to live, are incorporated, and which is constructed of such materials and in such manner as to afford substantial protection to occupants from atomic blast or radioactive fall-out.

Family: One person or two or more persons, each related to the other by blood, legal adoption, or marriage, and not more than one individual not so related who is a permanent guest, companion, or attendant of such person or persons, living together as a single housekeeping unit (in the principal structure or in the principal structure together with accessory structures), together with full-time domestic employees of such person or persons. A "family" does not include roomers or boarders or domestic employees who are part-time employees of others or relatives or guests of domestic employees.

Floor Area: For single-family dwellings constructed or structurally altered prior to June 22, 1990 and any other building, except single-family dwellings, regardless of the date of construction, the sum of the gross horizontal areas, measured in square feet, without deduction for hallways, stairwells, closets, walls, spaces and shafts for mechanical, electrical or plumbing equipment, atria and similar spaces, of:

- (a) the floors of all stories of a building (other than half stories above the first story), measured at floor level from the exterior face of exterior walls or roofs,
- (b) enclosed or covered porches, decks and balconies,
- (c) that portion of any half story that constitutes the second story of a building (other than an accessory structure) in which the vertical distance from the finished floor of such second story to the bottom edge of the roof rafters,

dormer rafters, dormer rafters or ceiling joists above such finished floor equals or exceeds 5 feet; and

- (d) that portion of the basement of any building that is designed and constructed primarily for, or is used primarily for, the storage or parking of automobiles.

Floor area shall exclude the following areas in a single-family dwelling where the dwelling and the feature listed below both existed prior to June 22, 1990, up to a maximum of ten percent (10%) of the maximum floor area otherwise allowed for such dwelling:

- (1) bay windows;
- (2) open porches; and
- (3) covered entries.

Floor Area: For single-family dwellings constructed or structurally altered on and after June 22, 1990, the sum of the gross horizontal areas, measured in square feet, without deduction for hallways, stairwells, closets, walls, spaces and shafts for mechanical, electrical or plumbing equipment, atria and similar spaces, of:

- (a) the floors of all stories of a building (other than half stories above the first story), measured at floor level from the exterior face of exterior walls or roofs,
- (b) enclosed or covered porches, decks and balconies,
- (c) that portion of any half story that constitutes the second story of a building (other than an accessory structure) in which the vertical distance from the finished floor of such second story to the bottom edge of the roof rafters, dormer rafters, dormer rafters or ceiling joists above such finished floor equals or exceeds 5 feet; and
- (d) that portion of the basement of any building that is designed and constructed primarily for, or is used primarily for, the storage or parking of automobiles.

Frontage: All the property fronting on one side of a street, measured along such street, between an intersecting or intercepting street and another intersecting or intercepting street, a right-of-way in excess of 30 feet, an end of a dead-end street, a watercourse or a village boundary.

Garage, Private: A building constructed either as a part of the principal building or detached therefrom which

- (a) has a capacity of not more than the larger of three passenger automobiles or a number of passenger automobiles equal to the largest whole number (disregarding fractions) determined by dividing the total number of square feet of the lot on which the garage is located by 3,500, and

- (b) is intended primarily for and used primarily for storage of the passenger automobiles and other property of the family resident upon the premises, and
- (c) is not used for maintenance or repairing for remuneration of any property of any kind.

Garage, Public: A building other than a private garage used for equipping, repairing, hiring or storing motor driven vehicles, including collision service such as body, frame and fender repairing of such vehicles.

Hard Surface: A concrete, asphalt or macadam or comparable all-weather dustless material surfaced area having a depth thickness of not less than four inches.

Home Occupation: Any combination of any one or more of the following:

- (a) Any gainful activity (including, without limitation any activity from which any of the persons who own or reside in the dwelling unit or its premises derive any direct or indirect benefit in the form of money, property, or services) carried on at or from a dwelling unit or any accessory structure by one who resides in the dwelling unit, provided that, in connection with the conduct of such activity
 - (1) no stock-in-trade or other commodity is displayed or sold on the premises and all storage, repairs, processing, or manufacturing of any stock-in-trade or other commodity is undertaken inside a closed building,
 - (2) no person is employed or otherwise engaged on the premises in such activity other than a member of the immediate family residing on the premises,
 - (3) the premises is not occupied, used, or enjoyed at any one time (excepting temporary and occasional uses for charitable and fund-raising purposes) by more than ten persons who are not members of the immediate family residing on the premises,
 - (4) no equipment is used except such equipment as is customarily used for domestic or household purposes; and
 - (5) no hazardous materials (as hereinafter defined) are used on the premises in connection with such activity, except such materials, and only in such quantities, as are customarily used for domestic or household purposes; and
- (b) any other use of limited duration that the Administrative Official may permit in any specific case, but only for the period of time stated in such permit, upon approval thereof by the Board of Trustees (with such conditions as the Board of Trustees may deem advisable) at the request of a person who owns or resides in such dwelling unit. For purposes of this definition, "hazardous materials" means any substance that is toxic,

corrosive, flammable, explosive, radioactive, infectious, carcinogenic, or mutagenic, or otherwise hazardous or which contain petroleum hydrocarbons, polychlorinated biphenols, mercury, or lead, or which are intended for use as a pesticide or herbicide.

Impervious Surface: Any improvements on a lot, including but not limited to buildings, driveways, sidewalks, patios, decks and similar structures, pavements of any kind, and other structures and materials, that, in the determination of the Administrative Official, prohibit or substantially retard the drainage of storm water directly into the soil below.

Lot: A parcel of land occupied by or intended for occupancy by one principal building or principal use, together with any accessory buildings and such open spaces as are required by this ordinance, as a unit and having frontage on a street or an approved private roadway. A lot may or may not coincide with a lot of record.

Lot Area: The gross area, measured in square feet, of a horizontal plane bounded by the front, side and rear lot lines of the lot, but excluding any area occupied by the waters of Lake Michigan. For purposes of Section 5.4, lot area shall not include any area of a lot subject to a recorded easement, covenant, reservation, or other encumbrance for ingress to and egress from any adjacent separate lot not abutting a public way.

Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot Lines: The lines bounding a lot as defined herein.

Lot Line, Front: The boundary of a lot along a public street or approved private roadway; provided that in the case of a through lot existing as of April 10, 2006, the front lot line existing as of that date shall be the only front lot line; and provided further that in the case of a corner lot the front lot line shall be the shorter lot boundary along a street or approved private roadway.

Lot Line, Rear: (a) In the case of lots that are generally rectangular or trapezoidal in shape, the lot line that is most distant from and most parallel to the front lot line, or

(b) In the case of all other lots, either (i) those lot lines that serve as all or part of the rear lot line for more than one contiguous lot or (ii) where no lot line serves as all or part of the rear lot line for more than one contiguous lot, an imaginary line twenty (20) feet in length, entirely within the lot and parallel to and at the maximum distance from the front lot line.

Lot Line, Side: Any boundary of a lot which is not a front or rear lot line.

Lot of Record: An area of land designated as a lot on a plat of subdivision recorded in the office of the County Recorder or registered in the office of the County Registrar of Titles.

Lot, Through: A lot having lot lines on two non-intersecting streets or on substantially parallel sections of two intersecting streets.

Lot Width: The shortest distance between side lot lines measured by a line passing between the two (2) points at which the required front yard line intersects the side lot lines; provided, however, that where a lot does not have two side lot lines intersecting the front lot line, a rear yard line that intersects the front lot line shall be used in place of a side lot line.

Porch, Open: a one-story covered area attached to the exterior wall of a single-family dwelling, and that: (i) is either enclosed with screens or unscreened, and open to the air on at least one side, and (ii) has no heating, ventilating, or air conditioning system.

Porte Cochere: A one-story covered and unenclosed structure extending from the entrance of a building over an adjacent driveway to shelter those getting in or out of vehicles.

Principal Building Setback Line: In Districts R-1, R-2, R-3, and R-4, the minimum horizontal distance between the front or side of a building and the front lot line or the side lot line abutting a street of the lot on which such building is located, disregarding the structures and other things which by Section 4.4 are permitted as obstructions in such front yard or side yard, as the case may be, and further disregarding any portion of such building that is a covered, unscreened and unenclosed porch not exceeding one story in height.

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 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 of food or beverages for off-premises consumption are permitted in conjunction with the operation of these establishments.

School: A place of pre-school or elementary instruction operated on a non-profit basis.

Setback Line: The minimum horizontal distance between the front or side of a building and the front or nearer side lot line of the lot on which such building is located, disregarding the structures and other things which by Section 4.4(a), (b), and (c) are permitted as obstructions in such front yard or side yard, as the case may be.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- (a) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (b) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (c) Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
- (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;

- (e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign, Election: A temporary sign announcing or supporting political candidates or issues in connection with any national, State, or local election. Election signs include only those signs specifically advocating on behalf of a person, or a position on a question, to be considered by voters on a ballot that has been certified in accordance with the Illinois Election Code.

Sign, Message: A sign other than an election sign expressing a noncommercial message regarding an issue or a person of political or public concern.

Sight Triangle: The triangular area located at the corner of a corner lot as defined in Section 6.1(a) of this Ordinance, to be referred to as a “corner sight triangle,” or the triangular area at the intersection of a driveway and a front lot line, as defined in Section 6.1(b) of this Ordinance, to be referred to as “driveway sight triangle.”

Story: That portion of a building (other than a basement) included between the surface of any floor and the surface of the floor next above, or if there is no floor above, then the space between the floor and the ceiling next above.

Story, Half: A story that has:

- (a) top wall plates which, on at least two opposite exterior walls, are not more than two feet above the finished floor of such story;
- (b) a roof line at or above each such exterior wall plate that shall not be punctuated by dormers or similar structural features of an aggregate dimension exceeding one-half of the length of such exterior wall; and
- (c) a roof that;
 - (1) is a gable, hip or gambrel roof;
 - (2) is not a mansard roof;
 - (3) has a maximum slope of 16 units vertical in 12 units horizontal (16:12); and
 - (4) does not have more than twenty-five (25%) percent of the exterior roof surface at a slope of less than three units vertical in 12 units horizontal (3:12).

Street: A public right of way more than 20 feet wide which affords a primary means of access to abutting property.

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

Structural Alteration: Any change, other than incidental repair, which would prolong the life of, replace or add a supporting member of a building, such as a bearing wall, column, beam, or girder, or any substantial change in the roof or exterior walls.

Substantial Alteration: The demolition, removal, or addition of 50 percent or more of (a) the floor area of any building or buildings on the same lot in any district zoned R-1, R-2, R-3, R-4; 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.

Swimming Pool, Private: An accessory structure consisting of a receptacle for water having a depth at any point of more than 18 inches, and a capacity of more than 2,500 gallons, used or intended to be used for swimming, wading or bathing, and constructed, installed or maintained either temporarily or permanently, and whether portable or in a fixed location, in or above ground and outside of a single family dwelling, and which receptacle is used exclusively by the owner or occupant of the property on which it is located, his family and guests.

Use: The “use” of property is the purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

Use, Principal: The main use of land or buildings as distinguished from a subordinate or accessory use.

Village: The Village of Kenilworth, Cook County, Illinois.

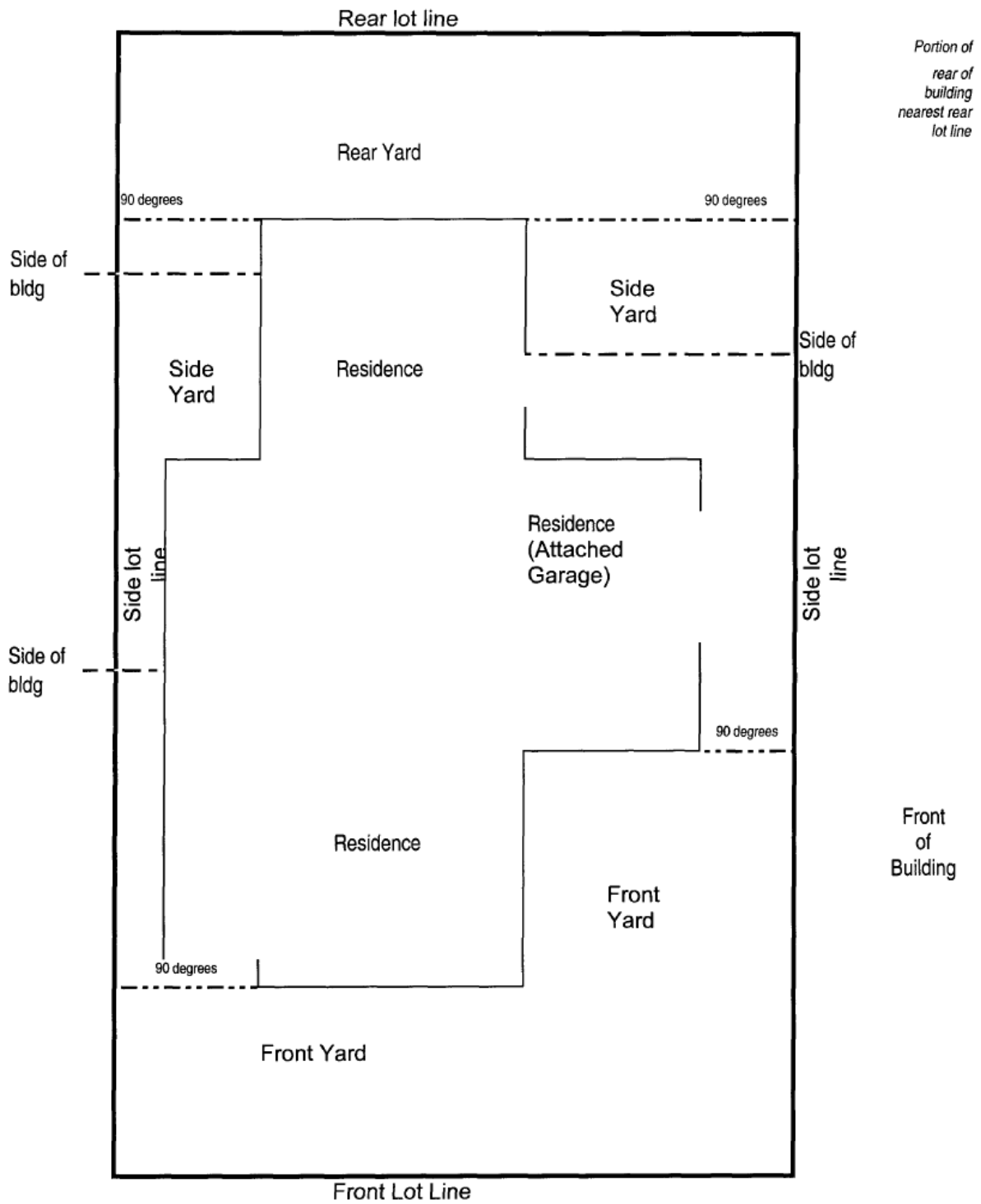
Yard: An open space on a lot which is unoccupied and unobstructed from the ground to the sky except obstructions permitted by this ordinance, including those permitted by Section 4.4.

Yard, Front: A yard on the same lot with a principal building between the front of the building and the front lot line extending along the full length of the front lot line between the side lot lines.

Yard Rear: A yard on the same lot with a principal building between the rear lot line and the portion of rear of the building which is closest to the rear lot line extending along the full length of the rear lot line between the side lot lines.

Yard, Side: A yard on the same lot with a principal building between the side of the building and the nearer side lot line extending along such side lot line from the front yard to the rear yard.

Yard, Typical Plot Plan: The following typical plot plan is illustrative of the foregoing definitions of yards.



ARTICLE III
ZONING DISTRICTS

3.1 ESTABLISHMENT OF DISTRICTS.

The Village of Kenilworth, Illinois, is hereby divided into 12 districts designated as follows:

"R-1" Residence District
"R-2" Residence District
"R-3" Residence District
"R-4" Residence District
"B-1" Business District
"B-2" Business District

"B-3" Business District
"S" School District
"P" Park and Playground District
"M-1" Mahoney Park District
"M-2" Municipal Lands District
"R" Railroad Right of Way and
Automobile Parking District

3.2 MAP.

The location and boundaries of the districts listed in Section 3.1 are as indicated on the attached official zoning map of the Village of Kenilworth, which, together with all explanatory matter thereon, is hereby made a part of this ordinance. The official zoning map shall be identified by the signatures of the President and Clerk of the Village and the seal of the Village shall be affixed thereto, under the statement "This is to certify that this is the official zoning map referred to in Section 3.2 of the Kenilworth Zoning Ordinance adopted [date]".

3.3 CHANGES IN MAP.

No changes in the official zoning map shall be made until it is approved by the Board of Trustees and entered on the official zoning map with an entry signed by the President and Clerk of the Village, under the seal of the Village, stating that "On [date] the following change was made in the official zoning map [brief description of change]".

ARTICLE IV
GENERAL REQUIREMENTS AND PROVISIONS –
ALL DISTRICTS

4.1 CERTAIN GENERAL REQUIREMENTS.

Except as specifically provided otherwise in this ordinance:

- (a) The regulations set by this ordinance for each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land within such district.
- (b) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.
- (c) No building or other structure shall hereafter be erected or altered:
 - (i) to exceed the height herein permitted;
 - (ii) to have a smaller floor area than the minimum herein specified;
 - (iii) to accommodate or house a greater number of families than the number herein permitted;
 - (iv) to occupy a greater portion of lot area than that herein permitted;
 - (v) to have narrower or smaller rear yards, front yards, side yards, or other open spaces than those herein required;

or in any other manner contrary to the provisions of this ordinance.

- (d) No accessory building or other structure shall be constructed or otherwise placed on any lot unless and until a permit for the principal building on such lot has been issued, and no such accessory building or structure shall be permitted to remain on such lot in the event such permit is terminated or permitted to expire prior to the completion of such principal building.
- (e) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open

space, or off-street parking or loading space similarly required for any other building.

- (f) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

4.2 ROOMERS AND BOARDERS PROHIBITED.

The renting of rooms to roomers and the taking in of boarders is prohibited.

4.3 SPECIAL USES.

Special uses in any district may be authorized as provided in Section 17.6.

4.4 PERMITTED OBSTRUCTIONS IN YARDS.

The following are permitted as obstructions in a "yard", as defined in Section 2.2, when located in the yard or yards indicated:

- (a) In any yard:
 - (i) Eaves, gutters, downspouts, cornices or similar ornamental projections projecting not more than 12 inches into the required minimum yard;
 - (ii) Trees, shrubs, fences, hedges, walls, arbors, trellises, poles, and other accessories, ornaments and furniture customarily used in such yard (that is, front, side or rear, as the case may be), subject to compliance with height limitations and other requirements of this ordinance and of all other applicable ordinances of the Village;
 - (iii) Removable awnings and temporary canopies;
 - (iv) Open terraces without roofs which are not over one foot above the average level of the adjoining ground and open steps not more than four feet above grade; and
 - (v) Private driveways.

- (b) In side yard:
 - (i) Open accessory off-street parking spaces, except, in the case of a corner lot, a side yard abutting a street or an approved private roadway; and
 - (ii) Unscreened unenclosed porches or entry platforms projecting not more than four feet (including eaves, gutters, downspouts, roofs or canopies) into the required minimum yard.
- (c) In rear yard:
 - (i) Detached accessory buildings and structures located in compliance with the provisions of this ordinance, including Sections 6.2, 6.5 and 6.8;
 - (ii) Unscreened unenclosed porches or entry platforms described in and conforming to paragraph (b) (ii) above; and
 - (iii) Open accessory off-street parking spaces, except that in the case of a corner lot, no such parking space shall be located closer to the side lot line abutting a street than the number of feet equal to the minimum depth required for the side yard of such lot abutting a street.
- (d) In front yard and side yard abutting a street:

Covered but otherwise open, unscreened and unenclosed front porches not exceeding one story in height, where a principal building setback line is established.

4.5 FENCES

- (a) Permit Required. No fence shall be constructed, reconstructed, enlarged, or structurally altered upon or within any lot or parcel of ground within the Village unless a permit therefor shall first be obtained from the Administrative Official. Application for a permit to construct, reconstruct, enlarge, or structurally alter a fence shall be filed with the Village Manager on forms provided by the Village and shall show the height of all parts of the fence, the materials to be used and other pertinent information and shall be accompanied by a map or drawing showing the location of the proposed fence and other structures on the lot as well as any existing fence along the same lot line on an adjacent lot. A fee shall be paid for each permit issued, in such amount as the Board of Trustees shall, by resolution, establish from time to time.

- (b) Regulation. No fence shall be constructed, reconstructed, repaired, enlarged, or structurally altered, and no permit therefor shall be issued by the Administrative Official, unless the fence conforms to the requirements of this Section 4.5.
- (c) Materials; Construction. The design and construction of a fence shall be compatible with the appearance and character of the neighboring properties in the Village. High quality materials and installation exhibiting clean lines and structural integrity are required. No fence shall be erected or maintained on any lot within the minimum front yard required for such lot by the Zoning Ordinance, or, in the case of a side yard abutting a street, within the minimum side yard required for such lot by the Zoning Ordinance, or otherwise along the street frontage line or lines of such lot, or along the side lot line or lines between such lot and the lot of another and within the street frontage set-back area required for such lot by the Zoning Ordinance, unless:
 - (i) if constructed of masonry, such fence is constructed with open areas equivalent to at least thirty percent (30%) of each square foot thereof;
 - (ii) if constructed of materials other than masonry, such fence is constructed with open areas equivalent to at least sixty percent (60%) of each square foot thereof (exclusive of parts needed for structural support); or
 - (iii) if such fence is constructed of wire, wire mesh, or similar materials, visibility of such fence from public ways is minimized by a natural screen of sufficient height and density so as to render such fence inconspicuous to an observer from public ways during all seasons of the year.
- (d) Fences in Front Yards. No fence exceeding four feet (4') in height shall be erected or maintained on any lot within the minimum front yard required for such lot by the Zoning Ordinance, or in the case of a side yard abutting a street, within the minimum side yard required for such lot by the Zoning Ordinance, or otherwise along the street frontage line or lines of any lot, or along the side lot line or lines between any lot and the lot of another and within the street frontage set-back area required by the Zoning Ordinance.
- (e) Fences in Side or Rear Yards. No fence exceeding six feet (6') in height shall be erected or maintained on any lot within the minimum side or rear yard required for such lot by the Zoning Ordinance or along the side or rear lot lines between any lot and the lot of another. However, no fence along the side or rear lot line of any lot shall exceed, at any point, the actual highest point (excluding decorative elements permitted under subsection (f) of this Section) of any portion of any existing fence along the same lot line on an adjacent lot unless the owner of such adjacent lot shall have given written consent (in form and substance satisfactory to the Administrative Official) to the construction of such higher fence.

Notwithstanding whether or not the consent of the owner of such adjacent lot has been given, minor deviations by a fence from the actual highest point of any portion of an existing fence along the same lot line shall be disregarded as necessary to allow installation of the fence with a uniform, continuous profile over minor irregularities in the surface of the soil directly beneath the fence, provided that:

- (i) no such deviation shall affect more than ten percent (10%) in linear footage (whether or not continuous) of such fence;
- (ii) no such deviation from the actual highest point of any portion of the existing fence shall exceed three inches (3"); and
- (iii) no such deviation shall be permitted in any case where the natural grade of the surface of the soil has been raised or altered in order to avoid limitations on permitted height that would otherwise be applicable to a fence.

(f) Height Determined. The height of any fence shall be measured from the average of the measurements from ground level on each side of the fence to the tallest point of any structural, decorative, or other element incorporated into the fence (excluding decorative elements permitted under this subsection (f)). Where there is no existing fence along the same side or rear lot line, minor deviations from the maximum permitted height of a fence shall be disregarded as necessary to allow installation of the fence with a uniform, continuous profile over minor irregularities in the surface of the soil directly beneath the fence, provided that:

- (i) no such deviation shall affect more than twenty-five percent (25%) in linear footage (whether or not continuous) of such fence;
- (ii) no such deviation from the maximum permitted height shall exceed six inches (6"); and
- (iii) no such deviation shall be permitted in any case where the natural grade of the surface of the soil has been raised or altered in order to avoid limitations on permitted height that would otherwise be applicable to a fence.

Decorative elements, such as finials, on posts required for structural support may extend to a height of up to six inches (6") in excess of the maximum height or tallest point allowed in this Section 4.5 for the fence or portion thereof supported by such posts.

(g) Installation. The "finished side" of a fence on any part of a lot abutting a street or public way shall face the street. The "finished side" of a fence on any part of a lot abutting an adjoining property shall face the adjoining property unless there is already a fence on such adjoining property. For purposes of this paragraph the "finished side" of a fence shall be deemed

to be the side not showing structural supports or the side designed or intended to be the most attractive in appearance. If revealed structural supports are an integral part of the design of the fence, such structural supports must be centered on the line of the fence or equally visible on each side of the fence.

- (h) Non-Conforming Fences. It is declared to be in the public interest and the intent of this Section to permit any fence lawfully existing as of the effective date of this Section but which fails to conform to this Section to continue to exist until removed or terminated, but not to encourage the survival or the enlargement or expansion thereof. Pending the removal of any such non-conforming fence or the alteration thereof so as to conform to this Section, no such non-conforming fence shall be structurally altered or enlarged so as to increase the extent of any non-conformity. If any such non-conforming fence is damaged, destroyed, or deteriorated by any means, so as to require replacement or substantial restoration, such non-conforming fence shall not be rebuilt or restored unless the fence, as rebuilt or restored, shall conform to the requirements of this Section. Ordinary repairs, maintenance, or replacement of parts of any such non-conforming fence, other than structural supports, may be undertaken.
- (i) Exceptions. It is hereby declared to be in the public interest to encourage the preservation of old wrought iron fences and masonry gate posts and corner posts; any such wrought iron fence and any such masonry gate posts and corner posts may be replaced, reconstructed, or repaired substantially in accordance with the original dimensions and design thereof notwithstanding any contrary provision of this Section. The provisions of this Section shall not apply to property in districts designated M-2, P, or S. The maximum permitted height for any fence located on any lot along a rear or side yard lot line and adjacent to any property in districts designated M-2, P, or S shall be one foot (1') in excess of the maximum height otherwise stipulated in this Section for such fence, notwithstanding any contrary provision of this Section.
- (j) Fence Defined. For purposes of this Section a "fence" shall include any barrier or wall of posts, rails, gates, and/or other members constructed of wood, metal, wire, masonry, and/or other materials, placed or used in whole or in part as a boundary or as an ornamental feature or as means of protection, security, privacy, or confinement, or otherwise serving the functions commonly ascribed to a fence, but shall not include: any wall constructed of timbers, masonry, or other materials for the principal purpose of maintaining a terrace or controlling erosion; or any natural growing hedge, shrub, or other plant life.
- (k) Natural Vegetation in Front Yards. No natural growing hedge, shrub, or other plant life that is placed or used in whole or in part as a boundary or barrier and as a means of protection or confinement with a height in excess of four feet shall be located within eight feet of:

- (i) A. the front lot line,

- B. any side lot line abutting a street,
- C. the interior line of the corner sight triangle on the lot, with any hedge, shrub, or other plant life along such line to be equally allocated to the front lot line and side lot line abutting a street,
- D. the interior line of any driveway sight triangle on the lot, with any hedge shrub, or other plant life along such line to be allocated to the lot line on which the sight triangle is located,

for a distance extending more than thirty percent (30%) of the front lot line or the side lot line, respectively; or

- (ii) the side lot lines not abutting a street for a distance extending more than thirty percent (30%) of the side lot line within the required front yard or required side yard abutting a street.

The distance of eight feet shall be measured from the center line of the hedge, shrub, or other plant life to the applicable lot line or interior line. This limitation shall not apply to the front yards or side yards of lots abutting Ridge Road or Sheridan Road. Any such vegetation existing on the lot as of February 24, 2006 shall be considered legal nonconforming uses and, notwithstanding Article XV of this Ordinance, such vegetation may be replaced only if less than seventy-five percent (75%) of the vegetation boundary or barrier is damaged or destroyed.

4.6 ANTENNAS AND ANTENNA SUPPORT STRUCTURES.

(a) Definitions.

For purposes of this Section 4.6, the following definitions shall be applicable:

- (1) **Antenna.** Any structure or apparatus, including a parabolic dish, mesh work or frame work, used for the purpose of transmitting or receiving microwave, radio or television signals, or any other electromagnetic signals, together with all electrical connections therefor.
- (2) **Antenna Support Structure.** Any structure or apparatus utilized for the principal purpose of supporting an antenna.
- (3) **Building-Mounted Antenna.** Any antenna mounted or affixed to the exterior roof, walls or other exterior part of a building or affixed to an antenna support structure affixed to the exterior roof, walls, or other exterior part of a building.

- (4) **Ground-Mounted Antenna.** Any antenna mounted on the ground or mounted on an antenna support structure mounted on the ground.
- (5) **Licensed Antenna.** Any antenna capable of transmitting and receiving signals, the owner or operator of which is licensed by the Federal Communications Commission for the use for which the antenna is intended.
- (6) **Effective Surface Area.** The area of the largest silhouette (flat plane) of an antenna, measured in square feet; the effective surface area shall be the area of the silhouette (flat plane) of each solid element of the antenna, with the area of each solid element being the product of the length of the element multiplied by the diameter or width of the element, plus the area of any spaces in the silhouette (flat plane) that are bounded by solid elements of the antenna.

(b) **Installation Requirements.**

Except as otherwise provided in this Section 4.6, no antenna or antenna support structure shall be installed, erected, or maintained upon or within any lot or parcel of ground, or on the exterior of any structure located thereon, except in accordance with the following applicable requirements:

- (1) All antennas and antenna support structures, regardless of size or type, shall conform to the following requirements:
 - A. All parts of the antenna and antenna support structure, including attachments and wires, shall be located within the required setback lines specified in the Zoning Ordinance. No antenna or antenna support structure, including guy or support wires, shall be installed in or extend into a front yard or side yard. No antenna or antenna support structure, including guy or support wires, shall be mounted on, attached to, or supported by a wall, side, or roof of a building which faces the front yard (or, in the case of a corner lot, a side yard abutting a street) of the property. All antenna and antenna support structure installations must comply with all other provisions of the Zoning Ordinance and the Village Code, except that any ground-mounted antenna, including guy or support wires, may be located closer than 10 feet to the principal building and closer than 6 feet to any other building on the same lot.
 - B. No antenna with an effective surface area of greater than 8 square feet nor any antenna or antenna support structure with any single dimension exceeding 8 feet shall be mounted on, attached to, or supported by a chimney or similar building appurtenance.

- C. No more than one antenna support structure with any single dimension exceeding 8 feet may be located on any lot.
- D. All antenna support structures must be grounded or bonded to a grounding rod.
- E. Guy or support wires used in connection with any antenna or antenna support structure shall be shielded to a height of 6 feet above the ground by a plastic covering or other suitable material to prevent injury to persons.
- F. All antennas and antenna support structures and the installation thereof shall be designed to withstand a wind force of 80 miles per hour without the use of supporting guy wires.
- G. All electronic cables leading from a ground-mounted antenna and its antenna support structure to any building shall be underground.
- H. The location and quality of the installation of the antenna and antenna support structure must be amenable to safe maintenance and must not present an attractive nuisance to children.
- I. The antenna and antenna support structure shall be installed in all respects in compliance with the manufacturer's specifications.

(2) In order to maintain the character, heritage, and atmosphere of the Village and minimize the aesthetic effect of antennas and antenna support structures upon adjacent properties, all antennas, other than licensed antennas, with an effective surface area greater than 8 square feet and all antennas and antenna support structures with any single dimension exceeding 8 feet shall conform to the following additional requirements:

- A. The installation of the antenna and antenna support structure shall be compatible with the appearance and character of the neighboring properties in the Village. High quality installation exhibiting clean lines and structural integrity are required.
- B. No antenna or antenna support structure shall be installed so that it is visible to an observer standing at any location on the surface of the front yard (and, in the case of a corner lot, in a side yard abutting a street) of the lot on which the antenna or antenna support structure is installed or the front yard of any property adjacent to the lot on which the antenna or antenna support structure is installed

or the front yard (or in the case of a corner lot, in a side yard abutting the street) of any lot all or any portion of which is located directly across the street from the lot on which the antenna or antenna support structure is installed.

- C. The design and installation of the antenna and antenna support structure shall be such as to minimize its overall visibility from neighboring properties and public ways during all seasons of the year. In order to minimize the visibility of ground-mounted antennas a natural screen or fence shall be erected if not already provided, so as to provide maximum reasonably achievable screening as determined by the Administrative Official. The natural screen should be at least 4 feet tall when planted, with dense plantings spaced no more than 2 feet apart. A fence should also be at least 4 feet tall and shall conform to all provisions of the Zoning Ordinance and the Municipal Code. Building-mounted antennas and antenna support structures shall be colored to blend with their surroundings to the extent reasonably practicable.
 - D. The smallest practicable antenna and antenna support structure size shall be used in all applications.
 - E. The highest point of any building-mounted antenna, including antenna support structure, shall not be higher than the highest point of the building upon which the antenna is to be mounted.
- (3) All ground-mounted antennas, other than licensed antennas, and related antenna support structures shall conform to the following additional requirements:
- A. No ground-mounted antenna, combined with any related antenna support structure, shall have an effective surface area greater than 30 square feet.
 - B. No part of any ground-mounted antenna or related antenna support structure (other than required guy wires) shall be closer to any property line than the height of the antenna, including the antenna support structure, measured at its highest elevation.
 - C. The lowest point of any ground-mounted antenna, exclusive of its antenna support structure, shall not be more than 2 feet above the average elevation of the lot in which such antenna shall be installed or erected or on any ground or surface that has been raised, filled or landscaped for the purpose of circumventing the height restrictions of this Section 4.6.

- (4) Licensed antennas and related antenna support structures shall conform to the following additional requirements:
 - A. No licensed antenna and related antenna support structure shall exceed 70 feet in height, in the case of a ground-mounted antenna, or 20 feet in height above the highest point of the building to which it is attached, in the case of a building-mounted antenna.
 - B. No licensed antenna and related antenna support structure (other than required guy wires) shall be located nearer than one-half of the overall height of the licensed antenna and antenna support structure to an adjacent habitable building on any adjoining lot.
 - C. No licensed antenna shall be installed with an effective surface area of greater than 40 square feet.

(c) **Permits for Certain Large Antennas and Antenna Support Structures and Antennas.**

- (1) No antenna with any single dimension exceeding 8 feet or with an effective surface area exceeding 8 square feet shall be installed, erected, moved, replaced, added to, or structurally altered without a permit therefor issued by the Administrative Official in accordance with Section 16.2.
- (2) No antenna support structure with any single dimension exceeding 15 feet shall be installed, erected, moved, replaced, added to, or structurally altered without a permit therefor issued by the Administrative Official in accordance with Section 16.2.
- (3) All permit applications for the installation, erection, or maintenance of an antenna or antenna support structure shall be on forms provided by the Village and shall be submitted to the Administrative Official accompanied by the following:
 - A. Three sets of plans showing:
 - 1. The proposed location of the antenna and antenna support structure on the subject lot;
 - 2. The configuration of the subject lot, including elevations of the subject lot and the structures and any existing antenna and antenna support structure on the subject lot;
 - 3. All structures on lots contiguous to, and across any street from, the subject lot;

4. All existing and proposed landscaping, fencing, or other screening;
 5. Plans and specifications for the installation, including antenna and antenna support structure and base configuration, mounts, and foundation; and
 6. Details of the structure on which any building-mounted antenna or antenna support structure is to be mounted;
- B. Manufacturer's specifications for the proposed installation;
 - C. Wind loading and effective surface area calculations;
 - D. Dimensions and configuration of the proposed antenna and antenna support structure and the components or elements thereof, including its height from the base and its maximum width and all other dimensions and details required to calculate effective surface area;
 - E. Weight of the proposed antenna and antenna support structure;
 - F. A letter from a registered structural engineer, or other evidence satisfactory to the Administrative Official, to the effect that the roof or other structure or foundation upon which the antenna or antenna support structure will be mounted will withstand torque loading at 80 mile per hour winds;
 - G. A plat of survey for the subject lot showing the location of all improvements thereon; and
 - H. An application fee in such amount as shall be required for an application for a variance under the Zoning Ordinance.
- (4) The granting of any permit may be made subject to such reasonable aesthetic considerations and safety conditions as the Administrative Official shall deem appropriate.

(d) **Variations.**

- (1) In considering whether to grant variances for antennas and antenna support structures that fail to comply with the requirements of this Section 4.6, the Zoning Board of Appeals shall first find the following, among such other requirements as shall be required under Section 17.5 or as the Zoning Board of Appeals shall deem pertinent:

- A. A satisfactory signal cannot be obtained with the antenna and antenna support structure in full compliance with this Section 4.6;
- B. The inability to comply with this Section 4.6 is not due to the presence on the subject lot of any other antenna or antenna support structure;
- C. The antenna and antenna support structure shall be inconspicuous from the view of a ground observer from any viewing direction, during all seasons of the year, because of existing topographical features or landscaping of the lot or structural or architectural features on the structures thereon, or modifications that will be made thereto; and
- D. The antenna and antenna support structure are designed and mounted so as to withstand wind and other stresses to which it may be subjected without any threat to public safety.

- (2) The granting of any variations may be made subject to such reasonable aesthetic considerations and safety conditions as the Zoning Board of Appeals shall deem appropriate.

(e) **Technical Assistance.**

In connection with any application for a variance from the requirements of this section 4.6, the Zoning Board of Appeals shall be authorized, at the expense of the applicant for the variance, to retain or consult with independent experts if the Board shall deem it advisable to do so in connection with the evaluation of technical or engineering data and matters affecting public safety.

(f) **Exceptions.**

The provisions of this Section 4.6 shall not apply to property in districts designated M-2, P, or S.

ARTICLE V
RESIDENTIAL DISTRICT REGULATIONS

5.1 PERMITTED AND SPECIAL USES.

District

- R-1 and R-2 Single-family dwellings
 Home occupations as defined in Section 2.2
 Accessory uses as defined in Section 2.2 that are accessory uses to
 single family dwellings.
- R-3 and R-4 Single-family dwellings
 Home occupations as defined in Section 2.2
 Accessory uses as defined in Section 2.2 that are accessory uses to
 single family dwellings and single-family attached dwellings
 Single-family attached dwellings as a special use in the R-4 District, in
 conformance with Section 17.6(a)

5.2 LOT AREA AND LOT WIDTH.

District	Minimum Number of Square Feet Per Single Family Dwelling (square feet)	Minimum Lot Width (feet)	Maximum Lot Width (feet)
R-1 (corner lots)	17,500	100	} Not greater than the lot width of the widest lot on the frontage
R-1 (interior lots)	15,750	90	
R-2	12,000	75	
R-3	6,000	50	
R-4	6,000	50	

In determining the maximum lot width on a frontage, the existing lot with the greatest lot width shall be excluded.

District**Maximum Number of Square Feet
for Lots Containing Single-Family
Attached Dwellings**

R-4

11,000

5.3 MAXIMUM HEIGHT OF BUILDINGS.

District	Buildings	Maximum Height
R-1	Principal building	35 feet or 2-1/2 stories
R-2 (west of Green Bay Road)	Principal building	31 feet or 2-1/2 stories
R-2 (east of Green Bay Road and south and west of Warwick Lane with frontage on Oxford Road, Woodstock Avenue, Cumnor Road and Richmond Road)	Principal building	32 feet or 2-1/2 stories
R-2 (west of Sheridan Road and north and east of Warwick Lane, with frontage on Oxford Road, Abingdon Avenue, Robsart Road and Tudor Place, and south and west of Warwick Lane with frontage on Abingdon Avenue and Robsart Road)	Principal building	34 feet or 2-1/2 stories
R-3	Principal building	30 feet or 2-1/2 stories
R-4 (east of Ridge Road and south of Park Drive)	Principal building	28 feet or 2-1/2 stories
R-4 (east of Ridge Road, north of Park Drive, and west of the line created by the east lot line of lots with frontages on Brier Street extended south to Park Avenue)	Principal building	30 feet or 2-1/2 stories
R-4 (east of the line created by the east lot line of lots with frontages on Brier Street extended south to Park Avenue, north of Park Drive, and west of Green Bay Road)	Principal building	28 feet or 2-1/2 stories
R-4 (east of Green Bay Road)	Principal building	30 feet or 2-1/2 stories
R-1, R-2, R-3 and R-4	Garage detached from principal building	20 feet or 1-1/2 stories
R-1, R-2, R-3 and R-4	Other accessory buildings	14 feet

The maximum building height for a principal building is subject to the following exception:

- (a) A principal building may exceed the building height provided by this Section 5.3 where the lots adjacent and contiguous to the side lot lines of such lot each contain a principal building that is a non-conforming structure under Section 15.4 of this Ordinance, in which case the maximum building height on the lot shall be equal to the building height of the building with the lowest height among the lots adjacent and contiguous to the side lot lines, but in no event shall the maximum building height exceed 35 feet.

5.4 MAXIMUM SIZE; MAXIMUM LOT COVERAGE.

- (a) **Maximum Building Size.**

No building or any addition thereto shall be constructed or structurally altered on a lot in any residence district if, as a result thereof, the floor area of all buildings on the lot shall exceed the Maximum Floor Area computed as follows:

- (i) For all buildings constructed, or for which a permit for the initial construction or substantial alteration thereof was issued, on or before October 22, 2005:

- (A) Except as hereinafter provided, the Maximum Floor Area applicable to all lots shall be:

$$1200 + (.24 \times \text{lot area})$$

- (B) Notwithstanding the foregoing, the Maximum Floor Area applicable to all lots shall in no event exceed:

$$.45 \times \text{lot area}$$

- (ii) For all buildings constructed or substantially altered pursuant to a permit issued after October 22, 2005:

- (A) Except as hereinafter provided, the Maximum Floor Area applicable to all such lots shall be:

$$1200 + (0.21 \times \text{lot area})$$

- (B) Notwithstanding the foregoing, the Maximum Floor Area applicable to all such lots shall in no event exceed:

$$0.42 \times \text{lot area}$$

- (iii) Notwithstanding subsections (i) and (ii) above, for single-family attached dwellings authorized by special use, the Maximum Floor Area shall be 0.575 multiplied by the lot area.

(b) **Maximum Building Coverage.**

No building or any addition thereto shall be constructed or structurally altered on a lot in any residence district if, as a result thereof, the aggregate coverage of the lot area by buildings shall exceed the Maximum Building Coverage computed as follows:

- (i) if the lot area is less than or equal to 5,715 square feet, the Maximum Building Coverage shall be:

$$.30 \times \text{lot area}$$

- (ii) if the lot area is greater than 5,715 but less than 20,000 square feet, the Maximum Building Coverage shall be:

$$800 + (.16 \times \text{lot area})$$

- (iii) if the lot area is greater than or equal to 20,000 square feet, the Maximum Building Coverage shall be:

$$.20 \times \text{lot area}$$

- (iv) Notwithstanding the foregoing, the Maximum Building Coverage for a lot, regardless of the lot area thereof, shall be reduced by the amount, if any, by which the aggregate coverage of the lot area by impervious surfaces, other than buildings, exceeds 25% of the lot area.

- (v) Notwithstanding the foregoing provisions of Section (b), for single-family attached dwellings approved by special use, the Maximum Building Coverage shall be:

$$325 + (.30 \times \text{lot area})$$

(c) **Other Impervious Surfaces.**

No sidewalk, driveway, pavement, patio, open porch or deck, or similar structure, or other structure or impervious surface, other than a building, shall be constructed or installed if, as a result thereof, the aggregate coverage of the lot area by all such impervious surfaces shall exceed the lesser of the amount provided in subsections (i) or (ii) below for single-family dwellings, or subsection (iii) below for single-family attached dwellings:

- (i) 25% of the lot area, plus the amount, if any, by which the Maximum Building Coverage for the lot exceeds the actual coverage of the lot area that is attributable to buildings; or

- (ii) 25% of the lot area, less the amount, if any, by which the actual coverage of the lot area that is attributable to buildings exceeds the Maximum Building Coverage.

- (iii) $100 + (.35 \times \text{lot area})$.

5.5 MINIMUM SIZE OF PRINCIPAL BUILDING.

District	Minimum Floor Area of Principal Building
R-1 and R-2	2,000 square feet
R-3 and R-4	1,500 square feet

5.6 MINIMUM YARD REQUIREMENTS.

District	Yard	Minimum Depth or Width, subject to Exceptions Set Forth in This Section
R-1 and R-2	Front	A minimum depth of 40 feet.
	Side in R-1	A minimum width of 10 feet for each side yard, and total side yard width of 30% of the width of the lot. In the case of a side yard abutting a street, the minimum width shall not be less than 40 feet, unless a uniform setback line has been established or observed on the same side of such street between two intersecting streets at April 14, 1969, in which case such uniform setback line shall be maintained, and the total side yard width shall be equal to the greater of 50 feet or 30% of the width of the lot,
	Side in R-2	A minimum width of 8 feet for each side yard; provided, however, that in the case of a side yard abutting a street, the minimum width shall not be less than 40 feet, unless a uniform setback line has been established or observed on the same side of such street between two intersecting streets at April 14, 1969, in which case such uniform setback line shall be maintained.
R-3 and R-4	Rear	A minimum depth equal to the larger of 25 feet or 20% of the depth of the lot.
	Front	A minimum depth of 40 feet in the case of District R-3 and 30 feet in the case of District R-4; provided, however, that the minimum depth shall be seven feet for single-family attached dwellings approved by special use in District R-4.

Side	A minimum width of 6 feet for each side yard; provided, however, that a minimum width of three feet for each side yard, and a total side yard of 10 feet for single-family attached dwellings approved by special use in District R-4.
Rear	A minimum depth equal to the larger of 25 feet or 20% of the depth of the lot.

The minimum yard requirements set forth above in this section are subject to the following exceptions, which shall not apply to single-family attached dwellings in the R-4 District:

(a) **Front yards:**

Average Setback Line and Average Principal Building Setback Line.

Where 30% or more of all property, according to front feet, abutting upon one side of a street between two intersecting streets is built up with buildings having an average setback line of more, or of less, than 40 feet from the front lot line in the case of Districts R-1, R-2 and R-3 or 30 feet from the front lot line in the case of District R-4, said average to exclude corner lots,

- (i) no building erected or structurally altered after April 14, 1969 [except as permitted by Section 15.4 (a)] shall project beyond the average setback line so established; provided, however, that nothing in this subparagraph (i) shall require a setback line of more than the following distance:

In Districts R-1 and R-2	50 feet in a block with street frontage (between intersecting streets) of not more than 400 feet
	or
	60 feet in a block with street frontage (between intersecting streets) of more than 400 feet;
In Districts R-3 and R-4	40 feet.

- (ii) no portion of a building, other than covered but otherwise open, unscreened and unenclosed porches with a height of more than one story, erected or structurally altered [except as permitted in Section 15.4(a)] pursuant to a permit issued on or after October 22, 2005 shall project beyond the average principal building setback line of all property abutting upon one side of a street between two intersecting streets, said average to exclude corner lots.

- (b) **Side Yards:** Nothing in this Section 5.6 shall reduce the buildable width of a corner lot in any residence district legally existing at April 14, 1969 to less than 28 feet. If the principal building on a lot in District R-1 or R-2 maintained a minimum side yard setback of 6 feet or more as of June 1,

1990, but less than the applicable minimum side yard setback set forth in this Section 5.6 for District R-1 or R-2, whichever is applicable, such principal building may be enlarged or structurally altered in such side yard, if and only if the principal building, as so enlarged or structurally altered, shall not project beyond the individual side yard setback line maintained as of June 1, 1990, and, in District R-1, also meets the minimum 30% total side yard width requirement set forth in this Section 5.6.

- (c) **Additional Exceptions:** The permitted obstructions described in Section 4.4 may project into minimum yards required by this Section 5.6 to the extent and subject to the limitations stated in Section 4.4.

ARTICLE VI

SUPPLEMENTAL REGULATIONS APPLICABLE TO ALL RESIDENTIAL DISTRICTS

6.1 VISIBILITY AT INTERSECTIONS.

(a) Corners.

On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede materially 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.

(b) Driveways.

On any lot in any residential district having a driveway for vehicular access to a street, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede materially the vision between a height of two and a half and ten feet above the center line grades of any such driveway and the streets in the areas on each side of such driveway bounded by the lot line of such lot abutting the street, the side lines of the driveway, and a line joining points along such lot line and side line on each side of the driveway 10 feet from the point of their intersection. Any such materials lawfully existing on the lot as of October 22, 2005 shall be considered a legal non-conforming use.

6.2 LOCATION OF ACCESSORY STRUCTURES ON LOT.

Excepting fences subject to Section 4.5 and other accessory structures that are paved surfaces installed at or substantially below the adjoining grade such as driveways, sidewalks, and patios, and except as specifically provided otherwise in this ordinance, in all residential districts all accessory buildings and other accessory structures which are not attached to the principal building on a lot shall be located:

- (a) in the rear yard of the lot on which they are located;
- (b) not less than 10 feet from the principal building on such lot and not less than 6 feet from any other building on the same or any adjoining lot;
- (c) not less than 2 feet from the side or rear lot line of such lot, except that if an alley is located at the rear lot line, such accessory structures may be built up to the alley line if no part of such structures, doors and eaves included, project into such alley; and

- (d) in the case of a corner lot, not more than 6 feet from the inside side lot line of such lot;

provided, however, that accessory structures may have eaves, cornices, gutters and similar appurtenances projecting not more than 12 inches closer to the lot line than the limits above provided in this section.

6.3 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Section 5.3 do not apply to spires, belfries, cupolas, antennas, ventilators, chimneys, or other appurtenances usually required to be placed over the roof level and not intended for human occupancy.

6.4 STRUCTURES TO HAVE ACCESS.

Every structure hereafter erected on or moved to a lot in any residential district shall be on a lot adjacent to a street or with access to an approved private roadway, and all structures shall be so located on such lot as to provide safe and convenient access for utilities, fire protection, and required off-street parking.

6.5 LOCATION OF PRIVATE SWIMMING POOLS.

No private swimming pool shall be constructed or rebuilt within eight feet of any side or rear property line of a lot in a residential district, nor shall any such pool or equipment appurtenant thereto be constructed or rebuilt between the residence and the front street line or the residence and either side yard line of the lot. In the case of the corner lot, no private swimming pool shall be constructed closer to the side lot line abutting a street than the number of feet equal to the minimum depth required for the side yard of such lot abutting a street than the number of feet equal to the minimum depth required for the side yard of such lot abutting a street.

6.6 PARKING AND STORAGE OF VEHICLES.

- (a) Off-Street parking facilities shall be provided in each residential district in accordance with both this Section 6.6 and the provisions of Article XIV.
- (b) Motor vehicles of any kind or type without current license plates shall not be parked or stored on any residential district property other than in an attached or detached garage.
- (c) The maximum number of parking spaces permitted on a lot in a residential district (including spaces in an attached or a detached garage) shall be the larger of three or the largest whole number (disregarding fractions) determined by dividing the total number of square feet of the lot

by 3,500; provided, however, that single-family attached dwellings shall be permitted to have a maximum of two parking spaces per dwelling unit regardless of lot area. No such parking space may be rented to or set aside for use by any person not a resident on the premises, except that space for not more than one vehicle in a private garage may be rented or set aside for use by any person not a resident on the premises.

- (d) Within the maximum number of spaces allowed, off-street parking spaces on lots in residence districts may be located in rear yards or side yards(except a side yard abutting a street in the case of a corner lot), but in no case shall they be located in a front yard nor, in the case of a corner lot, shall they be located in a rear yard closer to the side lot line abutting the street than the number of feet equal to the minimum depth required by the Zoning Ordinance for the side yard of such lot abutting the street. Nothing in this paragraph shall prohibit temporary parking (without payment for the privilege) in driveways in any yard.
- (e) No garage shall be located in a manner that allows any part of said garage to be closer to the front lot line of the lot on which it is located than the principal building setback line.
- (f) No garage shall have door openings facing the lot line abutting any adjacent street where the sum of such garage door openings exceeds twenty feet.

6.7 PARKING OR STORAGE OF COMMERCIAL AND RECREATIONAL EQUIPMENT.

- (a) For purposes of this Section 6.7: major commercial equipment is defined as including trucks, vans, and other motor vehicles designed, used, or maintained for the transportation of property and used primarily in a trade or business, commercial enterprise, or other gainful activity, and trailers, mobile equipment, and similar equipment used primarily in furtherance of a trade or business, commercial enterprise, or other gainful activity; and major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on motor vehicles), motorized dwellings and similar recreational vehicles, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.
- (b) No major commercial equipment shall be parked or stored on any lot in a residence district except in an enclosed building; provided, however, that major commercial equipment may be temporarily parked or stored on the premises in any residence district to the extent reasonably necessary in connection with construction, repair, or maintenance work on the premises.

- (c) No major recreational equipment shall be parked or stored on any lot in a residence district except in a car port or enclosed building, or in the portion of the rear yard on which detached accessory buildings may be located under the provisions of the Zoning Ordinance; provided, however, that any such equipment parked or stored other than in an enclosed building shall be effectively screened from view from the street and from adjoining properties, and provided, further, that major recreational equipment may be temporarily parked anywhere on residential premises for a period not to exceed 24 consecutive hours during loading or unloading.
- (d) No major commercial equipment or major recreational equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on any lot in any residence district.

6.8 AIR CONDITIONING EQUIPMENT AND APPURTENANCES.

Air-cooled condensing units used in connection with central air-conditioning systems and placed outside of the principal building shall be located in either a side yard (except a side yard abutting a street in the case of a corner lot) or the rear yard and shall not be closer than 15 feet to either side lot line.

6.9 SIGNS PERMITTED; ADVERTISING PROHIBITED.

- (a) In all residence districts, the following limitations shall apply:
 - (i) No name plate indicating the name of the resident occupying the premises or a permitted home occupation conducted on the premises shall exceed one square foot in area.
 - (ii) No sign pertaining to security protection shall exceed one square foot in area.
 - (iii) No sign pertaining to the sale or lease of a building or premises shall exceed six square feet in area or five feet in height. Not more than one such sign shall be permitted on each lot.
 - (iv) No advertising of any other character (including, without limitation, temporary signs maintained in connection with construction, remodeling, or maintenance work) shall be permitted.

- (b) Notwithstanding the foregoing, election signs and message signs shall be permitted as follows:
 - (i) Election signs and message signs of less than six square feet and four feet in height per sign may be located within the lot lines of any lot pursuant to the consent of the lot's owner.
 - (ii) Unless an election sign or message sign includes on the sign face the name of the person responsible for the sign, the owner of the lot on which the sign is located shall be deemed responsible for the sign.
 - (iii) Election signs and message signs shall not be illuminated.
 - (iv) Message signs are permitted at all times.
 - (v) Not more than one (1) election sign shall be permitted on any lot per candidate or referendum position in an election contest. There shall be no limit on the number of message signs, but no lot may display more than 30 square feet of message signs.
 - (vi) Message signs and election signs are permitted in a required yard, but not in the public right-of-way.
 - (vii) An election sign must be removed immediately, but in no event later than seven days, following the election to which it applies.

6.10 SOLAR PANELS.

Solar panels shall be mounted only on the roof and shall not extend above the highest point of the roof upon which they are to be mounted. If roof pitch or other factors make such installation of solar panels impossible or renders them non-functional, the Administrative Official shall meet with the property owner to determine an appropriate location on the roof for the solar panels. If the property owner and the Administrative Official cannot agree upon a location for the installation of the solar panels, the property owner may then seek a determination of the location of these appendages from the Zoning Board of Appeals.

6.11 TENTS, AIR-SUPPORTED AND SIMILAR STRUCTURES.

Tents, air-supported and other similar structures may be erected for a period not exceeding 7 days for religious, educational, recreational, or similar purposes and shall otherwise be constructed as required by all applicable building ordinances adopted by the Village of Kenilworth from time to time.

6.12 ELECTRICAL AND TELEPHONE EQUIPMENT.

- (a) Except as otherwise permitted in this paragraph, all outdoor cables, wiring and connections, transformers, switching equipment, switching cubicles,

meters, and other outdoor equipment used in the distribution of electric power or telephonic communications shall be buried beneath the surface of the soil. Subject to the conditions set forth in this Section 6.12, transformers and switching equipment, switching cubicles, meters, and similar equipment, other than wires and cables, used in the distribution of electrical power or telephonic communications and which by design are required to be placed above ground:

- (i) shall be located in either a side yard (except a side yard abutting a street in the case of a corner lot) or the rear yard and, in the case of equipment used in the distribution of electric power, shall not be closer than 2 feet to any side or rear lot line;
 - (ii) may be located in a front yard or in a side yard abutting a street in the case of a corner lot and shall not be closer than 7 feet to any lot line abutting a street nor closer than 2 feet to any other lot line; and
 - (iii) with the irrevocable written consent of the owner or owners of the immediately adjacent property or properties, the form of which consent shall be satisfactory to the Building Commissioner, may be located closer than 2 feet to any side or rear lot line (excepting a side lot line in a side yard abutting a street in the case of a corner lot) if otherwise in compliance with the requirements of the preceding clauses (i) or (ii), whichever is applicable. The foregoing restrictions and conditions shall not apply to any above-ground electrical distribution or telephonic communications equipment placed on property in any district zoned M-1 or M-2 or on public ways pursuant to and in accordance with specific authorization by the Village Board of Trustees.
- (b) All above-ground electrical or telephonic communication equipment, to the extent not otherwise screened by a fence or other structure so as to minimize the visibility of such equipment from neighboring properties and public ways during all seasons of the year, shall be screened by a natural screen comprised of dense evergreen plantings of sufficient height and closely spaced to make the equipment inconspicuous to an observer from neighboring properties and public ways during all seasons of the year. The expense of installation, maintenance and, if necessary, replacement of any natural screen required by this paragraph shall be borne by the transmitting utility that installed or is otherwise responsible for such equipment. The owner or owners of property upon which above-ground electrical or telephonic equipment is placed may enter into a written agreement with the transmitting utility to undertake all or any portion of the transmitting utility's responsibility under this paragraph for the installation, maintenance, and replacement of any natural screen required on such property, but any such agreement shall not relieve the transmitting utility from its responsibilities under the Zoning Ordinance. All above-ground electrical distribution and telephonic communication

equipment shall be colored to blend with its surroundings and shall be installed and maintained at the expense of the transmitting utility so as to demonstrate clean, straight lines, level placement, and structural integrity.

6.13 ELECTRIC GENERATORS.

All electric generators shall be sound attenuated and rated by the manufacturer for sound emissions not exceeding 68 decibels at a distance of 7 meters. All electric generators placed outside of the principal building shall be installed and maintained in accordance with the manufacturer's specifications (including specifications for sound attenuation) and shall be located in either a side yard (other than a side yard abutting a street in the case of a corner lot) or the rear yard and shall not be closer than 15 feet to either side lot line or the rear lot line. Sound emissions from an electric generator shall not exceed 70 decibels measured at any lot line at an elevation of 5 feet above grade. An electric generator placed in an integrated weather-resistant housing shall not be considered an accessory structure subject to the requirements of Section 6.2.

ARTICLE VII

B-1 AND B-2 BUSINESS DISTRICT REGULATIONS

7.1 PERMITTED USES IN B-1 BUSINESS DISTRICT.

(a) The following businesses:

Antique store	Hobby shop
Appliance store	
Art gallery	Interior decorating establishment
	Jewelry shop
Bank, savings and loan or similar financial institution	Leather goods and luggage store
Barber shop	Library
Beauty parlor	Locksmith shop
Book and stationery store	
	Meat market
Camera and photographic supply store	Messenger or telegraphic service station
Candy store	Millinery shop
	Municipal offices, police and fire station
Clothes pressing shop	
Dressmaking establishment	Offices, business and professional
Drug store	
Dry cleaning and laundry receiving station, processing to be done elsewhere	Paint and wallpaper shop including accessories, awnings and shades
Dwelling, multiple family, but not a single-family dwelling	Photography studio
Dwelling unit or units above the ground floor of a building	Post office
Florist shop and conservatory	Shoe store
Furrier shop	Shoe and hat repair shop
	Sporting goods store
Gift shop	
Grocery store	Tailor shop
	Toy Shop
	Travel bureau
	Wearing apparel store

- (b) Any other retail or personal service business which is compatible in size and character with any of the uses specified in paragraph (a) above, specifically excluding, however, the uses specified in paragraph (b) of Section 7.2 and paragraph (b) of Section 8.1. For the purpose of this paragraph (b), a particular business will not be deemed compatible if its conduct will be detrimental to the adjacent residential areas to a greater extent than the uses specified in paragraph (a), or will create traffic, fire or other safety hazards, excessive noise, noxious odors, unsightliness, or other pedestrian-inhibiting qualities to a greater extent than the uses specified in paragraph (a).
- (c) Accessory uses as defined in Section 2.2.

7.2 PERMITTED USES IN B-2 BUSINESS DISTRICT.

- (a) Any of the uses permitted in the B-1 Business District.
- (b) Reserved.
- (c) Any other retail or personal service business which is compatible in size and character with any of the uses specified in paragraphs (a) and (b) above, specifically excluding, however, the uses specified in paragraph (b) of Section 8.1. For the purpose of this paragraph (c), a particular business will be detrimental to the adjacent residential areas to a greater extent than the uses specified in paragraphs (a) and (b), or will create traffic, fire or other safety hazards, excessive noise, noxious odors, unsightliness, or other pedestrian-inhibiting qualities to a greater extent than the uses specified in paragraphs (a) and (b).
- (d) Accessory uses as defined in Section 2.2.

7.3 MAXIMUM HEIGHT OF BUILDINGS.

Building	Maximum Height
Principal building	35 feet or 2-1/2 stories
Garage detached from principal building	25 feet or 1-1/2 stories
Other accessory buildings	14 feet

7.4 MINIMUM YARD REQUIREMENTS.

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.

Side Yard. No side yard shall be required, but if one is provided it shall have a width of not less than five feet.

7.5 RESTRICTIONS ON PERMITTED USES.

Uses permitted in the B-1 and B-2 Business District are subject to the following restrictions:

- (a) Dwelling units are not permitted below the second floor of any principal building used in part for a purpose other than a dwelling unit; and business uses, other than offices and art galleries, are not permitted on any floor above the ground floor of any building. Any business permitted on the first floor in the B-1 or B-2 district may also be located in the basement, but this area shall be included for determining the off-street parking requirements contained in Article XIV.
- (b) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- (c) Business establishments are restricted to a maximum gross floor area of 6,250 square feet each, exclusive of any floor area devoted to off-street parking or loading facilities.
- (d) All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
- (e) Establishments of the "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted.
- (f) Buildings or parts of buildings hereafter erected or structurally altered for residential purposes shall provide a lot area of not less than 2,500 square feet per family. Dwelling units shall have a minimum 600 square feet per unit.
- (g) Off-street parking facilities for motor vehicles shall be provided in accordance with the regulations set forth in Article XIV hereof.
- (h) Any building used primarily for any of the principal business uses permitted in Section 7.1 or Section 7.2 may have not more than 40% of the floor area devoted to industry or storage purposes incidental to such principal use; provided that not more than five employees shall be engaged at any time on the premises in any such incidental use.
- (i) 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) When a sign is illuminated, rays of light shall not beam into a residence district or into a street.
- (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.
- (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.

ARTICLE VIII

B-3 BUSINESS DISTRICT REGULATIONS

8.1 PERMITTED USES.

- (a) Any use permitted in the B-1 and B-2 Business Districts.
- (b) The following additional uses:

Automobile galleria, 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.

Automobile service stations for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories and supplies, including installation and minor services and minor repairs customarily incidental to such sales. Operation of facilities for lubrication of motor vehicles and for washing not more than two motor vehicles is permitted if such facilities are enclosed in a building, provided, however, that the washing, polishing and testing of motor vehicles by any automated, mechanized or other production line method are each prohibited.

Automotive supplies store

Bicycle sales, rental and repair store

Dry cleaning establishment employing not more than five persons in addition to one owner or manager

Electric repair shop

Furniture store

Garage, public, provided, however, that the washing, polishing and testing of motor vehicles by any automated, mechanized or other production line method are each prohibited

Hardware store

Laundry employing not more than five persons in addition to one owner or manager

Plumbing shop

Telephone Exchange

(c) Any other retail or service business which is compatible in size and character with any of the uses specified in paragraph (b) above. For the purpose of this paragraph (c), a particular business will not be deemed compatible if its conduct will be detrimental to adjacent residential areas to a greater extent than the uses specified in paragraph (b), or will create traffic, fire or other safety hazards, excessive noise, noxious odors, unsightliness, or other pedestrian-inhibiting qualities to a greater extent than the uses specified in paragraph (b).

(d) Accessory uses as defined in Section 2.2.

8.2 MAXIMUM HEIGHT OF BUILDINGS.

Building	Maximum Height
Principal building	35 feet or 2-1/2 stories
Garage detached from principal building	20 feet or 2-1/2 stories
Other buildings	14 feet

8.3 MINIMUM YARD REQUIREMENTS.

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 Wayland Avenue and the north limits of the Village of Kenilworth shall project in an easterly direction beyond a line 70 feet westerly of and parallel to the easterly line of Green Bay Road.

Side Yard. No side yard shall be required, but if one is provided, it shall have a width of not less than five feet.

8.4 RESTRICTIONS ON PERMITTED USES.

Uses permitted in the B-3 Business District are subject to the following restrictions:

(a) The same restrictions as those set forth in paragraphs (a), (d), (e), (f), (g) and (i) of Section 7.5, with the exception that the sale and dispensing of fuel, lubricants, tires, batteries, accessories and supplies, including installation and minor services and minor repairs incidental to such sales,

and the display and retail sales of automobiles and automobile-related art, furniture and memorabilia in conjunction with an automobile galleria, need not be conducted in completely enclosed buildings as provided in paragraph (d) of Section 7.5.

- (b) All business establishments shall be retail or service establishments dealing directly with consumers, except for wholesale establishments where storage of merchandise is limited to samples only. All goods produced on the premises shall be sold at retail on the premises where produced.
- (c) Business establishments are restricted to a maximum gross floor area of 12,500 square feet each, exclusive of any floor area devoted to off-street parking or loading facilities.
- (d) Any building used primarily for any of the principal business uses permitted in Section 8.1 may have not more than 40% of the floor area devoted to industry or storage purposes incidental to such principal use; provided that in the case of any use permitted by paragraph (a) of Section 8.1, not more than five employees shall be engaged at any time in the premises in any such incidental uses, and in the case of any additional use permitted by paragraph (b) or (c) of Section 8.1, not more than 10 employees shall be engaged at any time in the premises in any such incidental uses.

ARTICLE IX

"S" SCHOOL DISTRICT REGULATIONS

9.1 PERMITTED USES.

Schools

Accessory uses as defined in Section 2.2.

9.2 MAXIMUM HEIGHT OF BUILDINGS.

35 feet or 2 1/2 stories

9.3 MINIMUM YARD REQUIREMENTS.

Yard	Minimum Depth or Width
Front	A minimum depth of 25 feet
Side	A minimum width of six feet on each side of a building
Rear	A minimum depth equal to the larger of 25 feet or 20% of the depth of the lot.

ARTICLE X

"P" PARK AND PLAYGROUND DISTRICT

10.1 PERMITTED USES.

Public park or playground

Village hall

Village recreation center

Accessory uses as defined in Section 2.2.

ARTICLE XI

"M-1" MAHONEY PARK DISTRICT

11.1 PERMITTED USES.

Public park in accordance with the conditions upon which the Mahoney Park District premises are owned and possessed by the Village of Kenilworth.

Accessory uses as defined in Section 2.2 to the extent permitted by such conditions.

ARTICLE XII

"M-2" MUNICIPAL LANDS DISTRICT

12.1 PERMITTED USES.

Municipal and park district uses existing at the time of passage of this ordinance

Accessory uses as defined in Section 2.2.

12.2 EXTENSIONS OF USES; NEW USES.

Extensions of existing uses to new locations in this district and new uses in this district will constitute special uses, and the authorization thereof shall be subject to the provisions of Section 17.6.

ARTICLE XIII

"R" RAILWAY RIGHT OF WAY, PARKWAY AND AUTOMOBILE PARKING DISTRICT

13.1 PERMITTED USES.

Railroad station

Right of way for transportation by rail

Parkway

Parking of passenger automobiles

Accessory uses as defined in Section 2.2.

ARTICLE XIV

OFF-STREET AUTOMOBILE PARKING REQUIREMENTS

14.1 GENERAL STATEMENT OF REQUIREMENTS.

In all districts off-street automobile parking facilities, both those permitted under the provisions of this ordinance and those required herein, shall conform to the requirements set forth in this section.

14.2 RESTRICTIONS

(a) Restrictions as to Use.

Except as may otherwise be provided in the Zoning Ordinance, off-street parking spaces accessory to principal uses permitted by the Zoning Ordinance shall be solely for the parking of automobiles of occupants, patrons, visitors or employees.

(b) Time for Complying with Parking Requirements.

In order to provide for off-street automobile parking facilities in accordance with the conditions specified herein, a private garage constructed on the lot or parcel of land occupied by the principal building or use, or an off-street automobile parking area, shall be provided at the time of the erection of any of the principal buildings or structures on such lot or parcel of land, or, except in the case of a church or public school on an existing site, at the time such principal buildings or structures are enlarged, converted or increased in capacity by adding dwelling units, floor area, seating capacity or any other unit of measurement specified in this Article XIV, or are increased in the intensity of use or in occupancy content, regardless of structural change.

14.3 PARKING AREAS AND DRIVEWAYS:

(a) Location.

Parking spaces required for single-family dwellings, single-family attached dwellings, or multiple-family dwellings shall be located on the same lot as the dwelling or dwellings served. Parking spaces required for all other buildings may be located on the same lot or within 500 feet of the lot on which the building is located. All parking spaces, parking areas, and garages shall be so located and designed as to provide vehicular access to adjacent streets and alleys with the least interference with through traffic movements.

(b) Parking Areas Separate from Principal Building.

Only parking areas open to the sky may be used to satisfy the off-street facilities parking requirements when the parking facilities are to be constructed on a separate lot or parcel of land which is removed from the site of the principal building which requires the parking facilities. This provision shall not apply in a business district or other district where a public garage for the storage of private automobiles and vehicles is a permitted use.

(c) Plot Plan Showing Location of Parking Area:

No application for a building permit for a new, enlarged or altered structure or improvement or use shall be approved unless there is included with the plan for such structure or improvement or use a plot plan drawn to scale, showing the required off-street automobile parking facilities in accordance with the conditions specified herein; nor shall a permit be issued for the improvement of a parking area to serve as an accessory use to an existing building or buildings until a plot plan, drawn to scale, has been submitted in accordance with the provisions contained herein.

(d) Location of Off-Street Parking and Driveways in Yards.

Within the maximum number of spaces allowed, off-street parking spaces may be located in rear yards and side yards, subject, in the case of lots in residence districts, to the restrictions stated in Section 6.6, but in no case shall they be located in any front yard; provided, however, that driveways serving single-family dwellings and single-family attached dwellings and driveways providing direct access from a garage or parking area to a street or alley (and not serving as a circulation aisle in connection with any parking space) may traverse any required yard. Permanent off-street parking shall not be located in the portion of a driveway that traverses the front yard.

(e) Private Garages; Driveways Located Below Grade.

No building or part of a building shall be constructed or structurally altered to create any private garage or other place for the storage or parking of automobiles if any part of an automobile stored or parked in such space would be below the natural, unaltered adjoining grade of the lot on which such building is situated. No part of any driveway or other impervious surface leading to a private garage shall be constructed so the surface thereof is below the natural, unaltered adjoining grade of the lot on which it is situated, except to the extent that the Administrative Official shall have determined that the topography of the lot requires all or any part of the driveway to be below the natural, unaltered adjoining grade of the lot and such driveway would not present undue risks to public safety or create excessive additional burdens upon village sewer systems for drainage of storm water.

14.4 COLLECTIVE PROVISIONS; CONTROL.

(a) Collective Provisions.

Parking spaces required for separate uses in non-residence districts may be provided collectively if the total number of spaces so provided is not less than the sum of the

separate requirements for each such use; and if all regulations governing the location of accessory parking space in relation to the uses served are observed. But no parking space, or portion thereof, shall serve as the required space for more than one use.

(b) **Control of Parking Areas.**

Where required parking facilities are provided off the site of the principal building or structure generating the need for parking facilities in accordance with the provisions of this section, the land upon which the parking facilities are located, or to be located, shall be in the same possession, either by deed or long term lease, as the property occupied by the use to which the parking facilities are auxiliary, in which case the owner of the land shall be bound by covenants filed of record in the office of the Recorder of Deeds or the Registrar of Titles of Cook County, requiring the owner, his or her heirs or assigns, to maintain the required number of parking facilities throughout the existence of the principal use.

14.5 SIZE; IMPROVEMENTS; SCREENING; SIGNS.

- (a) A required parking space shall be at least 8-1/2 feet in width and at least 20 feet in length, exclusive of access drives, aisles, ramps and columns.
- (b) All required parking spaces shall be surfaced with all weather hard surface materials, as herein defined.
- (c) All open automobile parking areas containing more than three parking spaces shall be effectively screened on each side, adjoining or fronting on any property located in a residence district, by a densely planted compact hedge.
- (d) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on any parking areas.

14.6 REPAIR WORK.

No motor vehicle repair work shall be permitted in required parking spaces except of an emergency nature.

14.7 REQUIREMENTS OF SIZE, ACCESS AND MARKING OF SPACES.

For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening its doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designated, maintained and regulated that no parking or maneuvering incidental to parking

shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

14.8 SCHEDULE OF PARKING REQUIREMENTS.

The following minimum off-street parking facilities shall be provided:

Single Family Dwelling and Single Family Attached Dwelling. At least one parking space.

Multiple-Family Dwelling. At least three parking spaces for each two dwelling units.

Church on a New Site. At least one parking space for each ten seating spaces in the main auditorium.

School on a New Site. At least three parking spaces for each two rooms in which classes are conducted.

Business or Professional Offices, Building Containing Multiple Offices, and Public Administration Building. At least one parking space for each 350 square feet of floor area.

Automobile Service Station. At least one parking space for each two employees, plus one additional space for each service motor vehicle kept on or used in the operation of the premises.

Library or Art Gallery. At least one parking space for each 1,000 square feet of floor area open to the public.

Retail Store. At least one parking space for each 250 square feet of floor area.

Restaurants. At least one parking space for each 100 square feet of floor area in the entire restaurant, including service and storage areas, but excluding basement storage areas.

ARTICLE XV

NON-CONFORMING LOTS, STRUCTURES AND USES

15.1 INTENT.

- (a) Within the districts established by this ordinance or by future amendment hereof, there may exist lots, structures, and uses of land and structures which are lawfully existing at the time of passage of this ordinance or such amendment, but which are or would be prohibited, regulated, or restricted by this ordinance or such amendment. It is the intent of this ordinance to permit these lawfully existing non-conformities (herein referred to as “non-conformities”) to continue until they are removed or terminated, but not to encourage their survival. It is further the intent of this ordinance that said non-conformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district. Any structure or use which is not lawfully existing at the time of passage of this ordinance or any future amendment hereto and which is in conflict with the requirements of this ordinance or such amendment shall remain unlawful under this ordinance or such amendment.

- (b) Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, of land, or of structure and land in combination shall not be extended or enlarged after passage of this ordinance by the addition of other uses of a nature which would be prohibited generally in the district involved.

15.2 NON-CONFORMING LOT IN RESIDENCE DISTRICTS.

- (a) In any residence district, notwithstanding regulations imposed by other provisions of this ordinance, a single-family dwelling or an addition thereto and customary accessory buildings, all of which comply with paragraph (b) of this section, may be constructed on a lot consisting entirely of a tract of land that
 - (i) has less than the prescribed minimum lot size, and
 - (ii) is shown by a recorded or registered plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size at the same location would not have been prohibited by any zoning ordinance, and

- (iii) has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning ordinance.
- (b) Construction permitted by paragraph (a) of this section shall comply with all regulations (except minimum lot area) that are generally applicable in the district in which the lot is located, subject only to such variances, if any, as shall be obtained only through action of the Board of Appeals.
- (c) If two or more lots of record or combinations of lots of record and portions of lots of record, with continuous frontage, are in single ownership at April 14, 1969 or at any time thereafter, and if all or part of the lots do not meet the requirements established for lot area in the residence district in which they are located, the lands involved shall be considered to be an undivided parcel for purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot area requirements established for such district by this ordinance, nor shall any division of any parcel be made which creates a lot with an area below the requirements stated in this ordinance for such district.

15.3 NON-CONFORMING USES OF LAND.

Where at the time of passage or amendment of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance or such amendment, the use may be continued so long as it remains otherwise lawful, provided:

- (a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the date of passage or amendment of this ordinance;
- (b) No such non-conforming use shall be moved in whole or in part to any portion of the land other than that occupied by such use at the date of passage or amendment of this ordinance;
- (c) If any such non-conforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- (d) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

15.4 NON-CONFORMING STRUCTURES USED FOR A PERMITTED USE.

Where a lawful structure exists at the time of passage or amendment of this ordinance that could not be built under the terms of this ordinance or such amendment by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) Such structure may be enlarged, repaired or structurally altered, provided that no such enlargement, repair or alteration shall either create an additional non-conformity or increase the extent of any existing non-conformity;
- (b) If such non-conforming structure is located in any district other than Districts R-1, R-2, R-3 and R-4 and is damaged or destroyed by any means to an extent of more than 75% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the regulations for the district in which it is located.
- (c) If such non-conforming structure is located in Districts R-1, R-2, R-3 or R-4 and is damaged or destroyed to an extent of more than 75% of its replacement cost at the time of its destruction, by any means not within the control of the owner thereof, such as fire, flood, earthquake, tornado, or other acts of God, it may be reconstructed to the same size and location as was existing prior to such damage or destruction; provided, however, that the structure was lawfully existing at the time of its construction and no repair, restoration or reconstruction shall be made that would create an additional non-conformity or increase the extent of any non-conformity existing at the time of destruction.

15.5 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION.

If lawful use of structures or of structures and land in combination exists at the date of passage or amendment of this ordinance, that would not be allowed in the district in which located under the terms of this ordinance or such amendment, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

- (a) No such structure shall be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- (b) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of passage or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;
- (c) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter

conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;

- (d) When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;
- (e) Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. For this purpose, destruction is defined as damage to an extent of more than 75% of the replacement cost at time of destruction.

15.6 REPAIRS AND MAINTENANCE

- (a) On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when such structure became non-conforming shall not be increased.
- (b) If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.
- (c) Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

15.7 USES PERMITTED AS SPECIAL USES NOT NON-CONFORMING USES.

Any use which is permitted as a special use in any district under the terms of this ordinance shall not be deemed a non-conforming use in such district but shall without further action be considered a conforming use.

ARTICLE XVI

ADMINISTRATION AND ENFORCEMENT: BUILDING PERMITS AND CERTIFICATES OF COMPLIANCE

16.1 ADMINISTRATION AND ENFORCEMENT.

- (a) An Administrative Official designated by ordinance of the Village shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as may be directed by such an ordinance.
- (b) If the Administrative Official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or other structures; removal of illegal buildings or other structures or of illegal additions, alterations, or structural changes; and discontinuance of any illegal work being done. He shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

16.2 CERTIFICATE OF COMPLIANCE.

- (a) No change in the use of land or of an existing building shall be made, no building constructed, structurally altered or moved after the date of passage of this ordinance shall be occupied, and no land vacant on the date of passage of this ordinance shall be used for any purpose, until a certificate of compliance has been issued by the Administrative Official stating that the building and the proposed use thereof, or the proposed use of vacant land, as the case may be, conforms to applicable building and health laws and ordinances and to this ordinance; provided, however, that a temporary certificate of compliance may be issued by the Administrative Official for a period of not more than six months during alterations or partial occupancy of a building pending completion, which temporary certificate may contain such conditions and safeguards as will protect the safety of the occupants and the public.
- (b) Every application for a building permit shall be deemed to be an application for a certificate of compliance. Every application for a certificate of compliance for a new use of land where no building permit is required shall be made directly to the Administrative Official. An application for a certificate of compliance shall be issued or denied, as may be appropriate, within 15 days after receipt by the Administrative

Official of written notice of completion of the construction, alteration or moving of the building to which such application relates, or within 10 days after his receipt of such application if it relates to a new use of land where no building permit is required.

- (c) No non-conforming structure or use shall be renewed, changed, or extended until a certificate of compliance shall have been issued by the Administrative Official; provided that within one year from the date of passage of this ordinance (or of any amendment hereto which causes a structure or use to become non-conforming) owners or occupants of any premises with respect to which any non-conforming structure or use exists may apply for a certificate of compliance. The certificate of compliance shall state specifically that the structure or use is non-conforming and the particulars in which the non-conforming structure or use differs from the requirements of this ordinance. Failure to make such application within one year shall be presumptive evidence that no non-conformity as to structure or use existed with respect to the property at the time of passage of this ordinance or such amendment and that any non-compliance of such structure or use with the requirements of this ordinance occurred after the time of such passage.
- (d) The Administrative Official shall maintain a record of all certificates of compliance, and a copy shall be furnished upon request to any person.
- (e) Failure to obtain a certificate of compliance in connection with any renewal, extension or change of a non-conforming structure or use shall be deemed a violation of this ordinance and punishable as provided by Article XXIV hereof.

16.3 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF COMPLIANCE.

Certificates of compliance issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable as provided by Article XXIV hereof.

ARTICLE XVII

ZONING BOARD OF APPEALS: APPEALS; VARIATIONS; SPECIAL USES

17.1 ESTABLISHMENT AND MEMBERSHIP OF BOARD OF APPEALS.

A Zoning Board of Appeals (herein sometimes referred to as the "Board") is hereby established, which shall consist of seven members who shall be residents of the Village of Kenilworth. The members of the Board in office on the date of passage of this ordinance shall continue in office for the balance of their respective terms. The term of successors appointed to the Board to succeed incumbents, as their terms expire by lapse of time, shall be for five years. Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant. Members of the Board, whether appointed for a full term or to fill a vacancy, shall be appointed by the President and Board of Trustees of the Village voting jointly. One of the members shall be appointed by the President and the Board of Trustees as Chairman of the Board, and shall hold such office until his successor is appointed. Members of the Board may be removed from office by the President and Board of Trustees voting jointly, for cause upon written charges and after public hearing. All members of the Board shall serve without compensation.

17.2 PROCEEDINGS OF THE BOARD

- (a) The Board shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (b) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

17.3 JURISDICTION.

The Board shall have the following jurisdiction and powers:

(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.

(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.

(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 the manner and subject to the standards specified in this ordinance.

(d) **Other Matters.**

To hear and decide all other matters which it is required to pass upon under this ordinance.

17.4 APPEALS.

(a) **Scope and Commencement.**

An appeal may be taken from any decision of the Administrative Official by any person aggrieved or by any official, department or bureau of the Village affected by such decision. Such appeal shall be taken within such time as shall be provided by the rules of the Board, by filing with the Administrative Official and with the Board a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the decision appealed from was taken.

(b) **Stay of Proceedings.**

An appeal shall stay all proceedings in furtherance of the decision appealed from unless the Administrative Official certifies to the Board after the notice of appeal has been filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Administrative Official and on due cause shown.

(c) **Hearing, Notice and Decision.**

The Board shall fix a reasonable time and place for the hearing for appeal, give public notice thereof as well as due notice to the parties in interest, and decide the appeal within a reasonable time. Any party may appear at the hearing in person or by agent or attorney. With the concurring vote of four members, the Board may, as long as its action is in conformity with this ordinance, reverse or affirm in whole or in part or modify the decision from which the appeal was taken, and to that end the Board shall have all the powers of the Administrative Official with respect to such decision.

(d) **Maintenance of Records.**

The Administrative Official shall maintain complete records of all actions of the Board relative to appeals, and shall cause the Board of Trustees to be kept informed on a current basis of the disposition of each appeal.

17.5 VARIATIONS.

(a) **Purpose.**

The Board shall grant variances from the regulations of this ordinance in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board makes a finding of fact based upon the standards hereinafter presented, that there are practical difficulties or particular hardships in the way of carrying out the strict letter of such regulations.

(b) **Application for Variance.**

An application for a variation shall be filed with the Board and with the Administrative Official. The application shall contain such information as the Board may by rule provide.

(c) **Hearing, Notice and Decision.**

The Board shall fix a reasonable time and place for the hearing of an application for a variation, give public notice thereof as well as due notice to parties in interest, and decide the application within a reasonable time. Any party may appear at the hearing in person or by agent or attorney. The concurring vote of four members of the Board shall be necessary to grant a variation. No order granting a variation shall be effective for a period longer than six months unless a building permit is obtained and the construction, alteration or moving of the building covered by the order is started within such period.

(d) **Authorized Variations.**

Variations from the terms of this ordinance may be granted only in the following instances and in no other:

- (i) to vary any of the requirements of this ordinance with respect to minimum sizes of lots, maximum height of

buildings and other structures, maximum and minimum size of buildings, maximum lot coverage by structures and other impervious surfaces, and minimum depth and width of yards;

- (ii) to vary any of the regulations contained in Article VI (Supplemental Regulations Applicable to all Residential Districts);
- (iii) to vary any of the regulations contained in Article XIV (Off-Street Automobile Parking Requirements).

(e) **Standards for Variations.**

The Board shall not grant a variance from any of the regulations of this ordinance, as authorized by paragraph (d) of this section, unless it shall make a finding of fact, based upon the evidence presented to it in a particular case, that:

- (i) in the case of property the principal use of which is for business purposes, the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations applicable to the district in which it is located;
- (ii) the plight of the owner is due to unique circumstances; and
- (iii) the variation, if granted, will not alter the essential character of the locality.

For the purpose of supplementing the above standards, the Board, in making its determination whether the plight of the owner is due to unique circumstances and whether the variation, if granted, may alter the essential character of the locality, shall take into consideration the following factors to the extent they are established by the evidence and deemed relevant by the Board:

- (i) the particular physical surroundings, shape, or topographical condition of the property in question would result in a practical difficulty or particular hardship upon the applicant for the variation, as distinguished from a mere inconvenience, if the strict letter of the regulation were enforced;
- (ii) the conditions upon which the application for variation is based would not be applicable generally to other property in the same district;
- (iii) the request for the variation is not based exclusively upon the desire to make more money out of the property;

- (iv) the alleged difficulty or hardship has not been created by any person presently having an interest in the property; and
- (v) the variation will not impair an adequate supply of light and air to adjacent properties or substantially increase the runoff of storm water onto adjacent properties or public streets, or substantially increase congestion in the public streets or increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

For the purpose of further supplementing the above standards and factors in connection with requests for variations from the requirements of Section 5.4 of this ordinance, the Board, in making its determination, may also take into consideration the following factors, among other factors deemed relevant by the Board, to the extent they are established by the evidence and deemed relevant by the Board:

- (i) the effects of the proposed construction on the overall appearance of the size and bulk of the existing structures on the property when viewed from streets abutting the property and from adjacent properties;
- (ii) the proximity of the proposed construction to streets abutting the property and to adjacent properties;
- (iii) the relative proximity of the proposed construction to streets abutting the property and to adjacent properties in comparison with the relative proximity of existing structures on other properties in the same vicinity;
- (iv) the magnitude of the variation requested in absolute terms and in proportion to the floor area and/or impervious surfaces allowed if the strict letter of the regulation were enforced;
- (v) the need for other variations in connection with the proposed construction and the nature and extent of those other variations;
- (vi) the need for the variation to allow the owner or occupant of the property to make reasonable use of a structure, the design of which otherwise fails to conform to generally accepted or prevailing standards of the Village for the use and enjoyment of a structure as a residence for a family;
- (vii) the efficient and advantageous use of existing structures and the degree to which the proposed construction makes efficient; economical, and advantageous use of existing and proposed floor area and impervious surfaces; and

- (viii) the reasonableness of the variation requested in light of the purposes served by the proposed construction and the design problems of the existing structure intended to be alleviated by the proposed construction.

For purposes of supplementing the above standards and factors in connection with requests for variations from the requirements of Section 5.3 of this ordinance, the Board, in making its determination, may also take into consideration the following factors, among other factors deemed relevant by the Board, to the extent they are established by the evidence and deemed relevant by the Board:

- (i) the height and location of existing and proposed structures on the property and adjacent properties;
- (ii) the need to maintain the height of the proposed structure in relation to the height of an existing structure in order to enable the existing and proposed structures to present a pleasing appearance reflecting architectural integrity and harmony among separate structural elements; and
- (iii) the need to maintain a particular height of a proposed addition to a structure in order to observe sound structural design and accommodate good building practices in the construction of the proposed addition.

(f) **Conditions.**

The Board may impose such conditions and restrictions upon the premises benefited by the variance as may be necessary to comply with the standards set out in paragraph (e) of this section to reduce the injurious effect of the variation upon other property in the neighborhood, and better to carry out the general intent of this ordinance.

(g) **No Variation as to Use.**

Under no circumstances shall the Board grant a variance under this Section 17.5 to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited in said district by this ordinance.

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) 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.

(b) **Changes in Uses.**

If a use permitted in any district shall become a special use by reason of the amendment of this Section 17.6, all such uses in existence on October 13, 1998 shall remain permitted uses and be deemed authorized special uses on the lots or parts of the lots on which such uses then exist. Any changes in the use of a structure from a permitted use to a special use or any accessory use (as defined in Section 2.2) that is accessory to a special use shall require authorization as a special use under this Section 17.6.

(c) **Buildings.**

Except as may be specifically authorized by action of the Board of Trustees pursuant to Section 17.6(j), the construction of a building or the addition or alteration to the exterior of any building (other than routine repairs and maintenance) used for or associated with a special use or any accessory uses that are accessory uses to any special use shall be deemed a special use requiring further authorization as a special use under this Section 17.6, whether such authorized special use or accessory use is authorized by reason of having been a permitted use prior to the amendment of this Section 17.6 or is authorized by action of the Board of Trustees pursuant to Section 17.6(j).

(d) **Impervious Surfaces.**

Except as may be specifically authorized pursuant to this Section 17.6, the construction or installation of or the addition to or alteration (other than routine repairs and maintenance and replacements and relocations) of impervious surfaces (other than

buildings) used for or associated with a special use or any accessory uses that are accessory uses to a special use shall be deemed a special use requiring further authorization as a special use under this Section 17.6, except that an aggregate of impervious surfaces (other than buildings) of up to 2% of the lot area may be constructed or installed on a lot after October 13, 1998 without the prior authorization otherwise required under this Section 17.6 if the aggregate of all impervious surfaces (other than buildings) does not and will not exceed 18% of the lot area, and if all other applicable provisions of this ordinance and all other applicable ordinances are complied with.

(e) Playground Equipment.

Except as may be specifically authorized pursuant to this Section 17.6, the construction or installation of or the addition to or alteration (other than routine repairs and maintenance and replacements) of playground equipment used for or associated with a special use or any accessory uses that are accessory uses to a special use shall be deemed a special use requiring further authorization as a special use under this Section 17.6, except that:

- (i) Playground equipment in existence on October 13, 1998 shall remain a permitted use on the lots or parts of lots on which such playground equipment exists on October 13, 1998. Playground equipment for which a building permit or other request for approval was on file with the Village on or before October 13, 1998 shall be considered a permitted use on the lots or parts of lots on which such playground equipment is proposed to be situated, but only to the extent a permit therefor or other approval would have been issued (or was not required) under ordinances in effect prior to October 13, 1998. A building permit shall be obtained for any alteration (other than routine repairs and maintenance), relocation, replacement (other than replacement with items substantially equivalent in size and function), or expansion of such playground equipment. No building permit shall be issued for any such alteration, relocation, replacement, or expansion without authorization as a special use under this Section 17.6 if the administrative official shall determine that such alteration, relocation, replacement, or expansion will or may materially and adversely affect the public health, safety, and welfare, injure the value of other property in the neighborhood, or interfere with the use and enjoyment of neighboring properties, compared with the effects of such playground equipment on such factors before the proposed alteration, relocation, replacement, or expansion.
- (ii) Playground equipment authorized by action of the Board of Trustees as a special use under this Section 17.6 may be altered, relocated, replaced or expanded within any applicable limits of such approval. A building permit shall be obtained for any alteration (other than routine repairs

and maintenance), relocation, replacement (other than replacement with items substantially equivalent in size and function), or expansion of such playground equipment. No building permit shall be issued for any such alteration, relocation, replacement, or expansion without further authorization under this Section 17.6 if the administrative official shall determine that such alteration, relocation, replacement, or expansion will or may result in a material departure from the site plan previously approved by the Board of Trustees or will or may materially and adversely affect the considerations under which such playground equipment was previously approved as a special use.

- (iii) Playground equipment (whether fixed or movable) that, when put to its intended use does not have or is not intended to have a fixed or single location on the land, shall not require authorization as a special use or accessory use that is accessory to a special use.

(f) **Application.**

An application for special use shall be filed and processed in the manner prescribed 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 authorized by the Board of Trustees unless the Board of Appeals 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 after a public hearing called and held in the manner prescribed herein for variations.

(i) **Conditions.**

The Board of Appeals 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 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 for further consideration.

17.7 NOTICE REQUIREMENTS.

(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 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.

The mailing of notice, addressed to the name and address on the most recent Cook County real estate tax records, shall be deemed a satisfaction of this notice requirement.

The required mail notice for applications under this Ordinance shall contain, at a minimum, the following information:

- (1) The street address, legal description, or detailed location description of the property, if any, that is the subject of the application;
- (2) A statement describing the relief requested;
- (3) The name and address of the applicant;
- (4) The name and address of the legal owner, and beneficial owner if any, of the property;
- (5) The meeting date, time, and location.

At the public hearing, the applicant shall present to the hearing body an affidavit, certification, or other evidence satisfactory to the hearing body, demonstrating to the satisfaction of the hearing body, that the notice requirement of this section has been satisfied.

(b) Notice by Publication.

The Administrative Official shall cause a notice to be published in a newspaper published in, or of general circulation within, the Village at least once no less than fifteen (15) days, nor more than thirty (30) days, in advance of the hearing date, containing the information required in the notice in Subsection (a) above.

ARTICLE XVIII

APPEALS FROM THE BOARD OF APPEALS

18.1 WHO MAY APPEAL.

Any person or persons, or any board, taxpayer, department, board or bureau of the Village aggrieved by any decision of the Board of Appeals may seek review by a court of record of such decision, in the manner provided by the statutes of the State of Illinois.

ARTICLE XIX

DUTIES OF ADMINISTRATIVE OFFICIAL, AND OF BOARD OF APPEALS AND BOARD OF TRUSTEES ON MATTERS OF APPEAL

19.1 PROCEDURE AS TO QUESTIONS OF INTERPRETATION AND ENFORCEMENT.

All questions of interpretation and enforcement shall be first presented to the Administrative Official, and such questions shall be presented to the Board of Appeals only on appeal from the decision of the Administrative Official.

19.2 DUTIES OF BOARD OF TRUSTEES.

The duties of the Board of Trustees in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this ordinance. Under this ordinance the Board of Trustees shall have only the duties

- (a) of considering and acting upon applications for special uses as provided in Section 17.6;
- (b) of considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law; and
- (c) of establishing a schedule of fees and charges as stated in Article XX below.

ARTICLE XX

SCHEDULE OF FEES, CHARGES, AND EXPENSES

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 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 17.5 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.

20.2 RECOVERABLE COSTS.

For purposes of calculating the fee due pursuant to Section 20.1 above, the actual costs incurred by the Village in processing an application that is subject to the recovery of actual costs in Section 20.1 shall be deemed to consist of the following items of direct and indirect expense:

- (a) Legal Publication (direct cost);
- (b) Recording Secretarial Services (direct cost);

- (c) Court Reporter (direct cost);
- (d) Administrative Preparation and Review (hourly salary times a multiplier to be established from time to time by the Village Manager at a level sufficient to recover 100 percent (100%) of the direct and indirect cost of such service);
- (e) Document Preparation and Review (hourly salary times a multiplier to be established from time to time by the Village Manager at a level sufficient to recover 100 percent (100%) of the direct and indirect cost of such service);
- (f) Professional and Technical Consultant Services (direct cost);
- (g) Legal Review, Consultation and Advice (direct cost);
- (h) Copy Reproduction (direct cost); and
- (i) Document Recordation (direct cost).

20.3 FEE PAYMENT AND ESCROW.

(a) Initial Payment and Escrow.

Every application filed pursuant to this ordinance shall be accompanied by the required fee plus, where required, an additional amount for recoverable costs as provided in Section 20.2 above, as fixed from time to time by the Administrative Official, to be deposited in an application fee escrow. No interest shall be payable on any such escrow.

(b) Charges Against Escrow.

From the date of filing of any application for which the recovery of actual costs is required pursuant to this ordinance, the Village shall maintain an accurate record of the actual costs, as defined in this Article, of processing such application. The Administrative Official shall, from time to time, draw funds from the escrow account established for such application to pay such costs and shall transfer such funds to the appropriate Village accounts. The Administrative Official shall maintain an accurate record of all such drawings.

(c) Additional Escrow Deposits.

Should the Administrative Official at any time determine that the escrow account established in connection with any application for which the recovery of actual costs is required is, or is likely to become, insufficient to pay the actual costs of processing such application, the Administrative Official shall inform the applicant of that fact and demand an additional deposit in an amount deemed by him to be sufficient to cover foreseeable additional costs. Unless and until such additional amount is deposited by the applicant, the Administrative Official may direct that processing of the application shall be suspended or terminated.

(d) **Final Settlement.**

As soon as reasonably feasible following final action on an application for which the recovery of actual costs is required, the Administrative Official shall cause a final accounting to be made of the escrow deposits made in connection with such application and the actual cost of processing such application and shall make a final charge of such costs against such escrow deposits. A copy of the accounting shall be provided to the owner and the applicant. If the amount in the escrow account is insufficient to pay the total actual costs, a written demand for payment of the balance due shall be mailed to the owner and the applicant. If unused balance remains in the escrow account after paying the total actual costs, it shall be returned to the applicant.

20.4 CONDITION OF ALL APPLICATIONS, APPROVALS AND PERMITS; TIME PERIODS.

No Application filed pursuant to this ordinance shall be considered complete unless and until all fees and deposits due pursuant to the Article XX have been paid. Every approval granted and every permit issued pursuant to this ordinance shall, whether or not expressly so conditioned, be deemed to be conditioned upon payment of fees as required by this Article XX. Where this ordinance provides that the passage of time without decision or action shall be deemed an approval or a recommendation for approval, time periods shall be tolled during any period of non-payment, but shall otherwise continue to run. The failure to fully pay any such fee or deposit, when due, shall be grounds for refusing to process an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee or deposit relates.

20.5 SPECIFIED PUBLIC BODIES EXEMPT.

The provisions of this Article XX shall not apply to, and no fee shall be required of, any public body or agency deriving the majority of its revenues from taxes levied within the Village.

ARTICLE XXI

AMENDMENTS

21.1 AMENDMENTS OF ORDINANCE.

The regulations imposed and the districts created by this ordinance may from time to time be amended by ordinance in the manner provided by the statutes of the State of Illinois, but no such amendment shall be made without a public hearing before some commission or committee designated by the President and Board of Trustees of the Village which shall report its findings and recommendations to the Board of Trustees.

ARTICLE XXII

PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

22.1 PROVISIONS ARE MINIMUM REQUIREMENTS.

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

ARTICLE XXIII

COMPLAINTS REGARDING VIOLATIONS

23.1 HANDLING OF COMPLAINTS OF VIOLATIONS OF ORDINANCE.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Official. He shall record properly and promptly investigate such complaint, and shall take action thereon as provided by this ordinance.

ARTICLE XXIV

PENALTIES FOR VIOLATION

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 \$100 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.

24.2 PERSONS RESPONSIBLE FOR VIOLATIONS.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

24.3 VILLAGE MAY TAKE OTHER LAWFUL ACTION.

Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE XXV
SEPARABILITY CLAUSE

25.1 INVALIDITY OF ANY PROVISION SHALL NOT AFFECT VALIDITY OF REMAINING PROVISIONS.

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.