

**THE ZONING ORDINANCE**

**OF THE**

**VILLAGE OF MAMARONECK**

**MAMARONECK, N. Y.**

**April 1, 1968**

## TABLE OF CONTENTS

ARTICLE I.	— PURPOSES .....	1
ARTICLE II.	— DEFINITIONS .....	3
ARTICLE III.	— ZONING DISTRICTS AND MAP .....	10
ARTICLE IV.	— REGULATIONS .....	12
	Section 410—General Regulations .....	12
	420—District Regulations .....	17
	423—Additional Standards for Particular Uses Subject to Special Permit Procedure ..	17
	430—Off-Street Parking and Loading Space and Access ..	21
	440—Regulation of Non-Con- forming Uses and Buildings	28
ARTICLE V.	— PROCEDURES .....	30
	Section 500—Uses Subject to Additional Standards and Require- ments (Special Permits) ....	30
	510—Site Development Plan Approval .....	31
ARTICLE VI.	— ENFORCEMENT AND PENALTIES .....	36
	Section 600—Building Permits .....	36
	610—Certificate of Occupancy ....	36
	620—Duties of Building Inspector	37
	630—Violations and Penalties ....	37
ARTICLE VII.	— <del>ZONING</del> BOARD OF APPEALS .....	38
ARTICLE VIII.	— AMENDMENTS .....	42
NOTE	—This Ordinance includes the Zoning Map and Schedules of Residential and Non-Residential District Regulations.	

# THE ZONING ORDINANCE OF THE VILLAGE OF MAMARONECK, NEW YORK

## ARTICLE I. — OBJECT AND PURPOSES

### Section 100. *Object*

In order to achieve the purposes hereinafter set forth, this Ordinance defines and establishes the rights, duties, and limitations attendant upon the uses of lands and buildings in the Village, and prescribes procedures to be followed in the observance thereof. It shall be read and construed in combination with and not in lieu of all other pertinent and related laws and ordinances affecting the Village and the uses of lands and buildings therein, except that if there be a clear conflict between any provision of this Ordinance and that of any other ordinance of the Village, the terms of this Ordinance shall be deemed to prevail.

### Section 110. *Purposes*

It is the intention of the Village:

111. To guide its future growth and development in accordance with a comprehensive master plan of land use and population density that represents the most beneficial and convenient relationships among the residential, non-residential, and public areas within the Village, considering the suitability of each area for such uses as indicated by existing conditions, trends in population and mode of living, and future requirements, within the Village and in relationship to areas outside thereof.
112. To protect the character and the social and economic stability of all parts of the Village; to encourage the orderly and beneficial development of all parts of the Village, and to protect and conserve the value of land and buildings appropriate to the various districts established by this Ordinance.
113. To promote the most beneficial relationship between the uses of land and buildings, and the street system which serves these uses, having particular regard to the potential amount and intensity of such land and building uses in relationship to the traffic capacity of the street system, so as to avoid congestion in the streets; and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the Village.

114. To provide adequate light, air, and privacy; to secure safety from fire and other danger, and to prevent overcrowding of the land and undue congestion of population.
115. To enhance the appearance of the Village as a whole.
116. To bring about the gradual conformity of the uses of land and buildings throughout the Village to the Ordinance set forth herein, and to minimize conflicts among the uses of land and buildings.
117. To provide a guide for public action in the orderly and efficient provision of public facilities and services, and for private enterprise in building development, investment, and other economic activity relating to uses of land and buildings throughout the Village.

## ARTICLE II. — DEFINITIONS

### Section 200. *Definitions*

Unless otherwise expressly stated, the following terms shall, for the purpose of this Ordinance, have the meaning herein indicated. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the words "plot", "sites", and "premises". The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged, or designed to be occupied or used". Where no specific definition is given herein, the definitions of the New York State Building Construction Codes shall be accepted where applicable.

**Alter:** To change or rearrange the existing facilities of a structure, or any of the supporting members of a structure, including but not limited to bearing walls, retaining walls, columns, beams, or girders.

**Area, Building:** Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps, and terraces.

**Basement:** That space of a building that is partly below grade, but which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

**Building:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or property.

**Building, Accessory:** A building subordinate to the principal building on the same lot and used for purposes customarily incidental to that of said principal building.

**Building, Main:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**Cellar:** That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

**Club:** An organization, incorporated in the State of New York, with its facilities catering exclusively to members and their guests, for recreational, athletic, or social purposes, the activities of which are not conducted primarily for gain,

and where there are not conducted any vending stands, merchandising, or commercial activities, except as required generally for the membership and purposes of such club.

*Coverage:* That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

*Curb Level:* The elevation of the curb opposite the center of the front of the building. If a building faces on more than one street, the curb level shall be the average of the elevations of the curbs at the center of each side or front of the building. Where no curb level or its equivalent has been established by the municipal authority, the average elevation of the finished grade immediately adjacent to the front of the building shall be considered as the curb level. If a building faces on more than one street where no curb level has been established, the average of the elevations of the finished grade on each street side of the building shall be considered as the curb level.

*Dwelling:* A building designed or used exclusively as living quarters of one or more families; the term shall not be deemed to include automobile court, motel, boarding or rooming house, mobile home trailer, tourist home, or tent.

*Dwelling, One-Family:* A dwelling containing one dwelling unit only.

*Dwelling, Two-Family:* A dwelling containing two dwelling units only.

*Dwelling, Multi-family:* A building containing three or more dwelling units, or a part of a building above a permitted business use containing three or more dwelling units.

*Dwelling Unit:* A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family (including any domestic servants employed on the premises) and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other "dwelling unit". A boarding house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing, or other similar home or structure, shall not be deemed to constitute a dwelling unit.

*Family:* One or more persons occupying a dwelling unit and living together as a single housekeeping unit in a familial relationship; or not more than two unrelated persons living together as a single housekeeping unit.

*Floor Area, Gross:* The sum of gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding:

- (a) Roof areas;
- (b) Cellar areas used only for incidental storage or for the operation and maintenance of the building; and
- (c) Any areas devoted only to accessory off-street parking or loading.

*Floor Area Ratio:* Numerical value obtained by dividing the gross floor area, exclusive of cellars or basements used only for storage and utilities, within a building or buildings on a lot by the area of the lot.

*Floor Area, Habitable:* All spaces within the exterior walls of a dwelling unit, exclusive of garages, cellars, heater rooms, and unheated porches and breezeways.

*Frontage:* The extent of a building or of land along a street.

*Garage, Private:* An accessory building, or part of a main building, used only for the permitted storage of motor vehicles as permitted in this Ordinance.

*Grade, Finished:* The finished grade at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks, and roads adjoining the wall at that point.

*Height, Building:* The vertical distance to the level of the highest point of the roof if the roof is flat, or to the mean level between the eaves and the highest point of the roof if the roof is of any other type, measured as follows:

1. If the building adjoins the front property line or is not more than ten feet distant therefrom: measured at the center of the front wall of the building from the established grade of the curb; if no grade has been officially established and no curb exists, measured from the average level of the finished ground surface across the front of the building.
2. If the building is more than ten feet from the front property line: measured from the average level of the finished grade adjacent to the exterior walls of the building. Where the finished grade surface is made by filling, the level of such finished grade, for purpose of this definition, shall not be deemed to be more than three feet above the established grade of the curb.
3. When a lot fronts on two or more streets of different

levels, either the lower street or the average elevation of the lot with regard to the abutting streets may be taken as the base for measuring the height of the building.

*Lot:* A parcel of land not divided by streets, consisting of one or more lots as shown on a filed subdivision plot or on the Village Assessor's Map, devoted or to be devoted to a particular use, or occupied or to be occupied by a building or buildings as permitted by this Ordinance, together with such open spaces as are required under its provisions, and having its principal frontage on a street or on such other means of access as may be deemed in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for a building or buildings on such land.

*Lot Area:* The total horizontal area included within lot boundaries.

*Lot, Corner:* A lot at the junction of, and abutting on, two or more intersecting streets where the interior angle of intersection does not exceed 135 degrees. Any lot adjoining a curved street at a point where the street line describes an arc subtended by an angle of one hundred and thirty-five (135) degrees or less shall also be considered a corner lot. All corner lots are deemed to have two front yards, two side yards, and no rear yard.

*Lot Depth:* The horizontal distance from the street line of a lot to the rear lot line of such lot.

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

*Lot Line, Front:* In the case of a lot abutting upon only one street, the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of this Ordinance, have the privilege of electing any street lot line as the front lot line.

*Lot Line, Rear:* The lot line which is generally opposite the front lot line; if the rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line not less than ten (10) feet long, lying wholly within the lot and farthest from the front lot line.

*Lot Line, Side:* Any lot line not a front or rear line.

*Lot Width:* The horizontal distance between the side lot lines, measured at right angles to the lot depth.

*Motel (Hotel)*: A building or portion thereof containing rooms occupied primarily by transients who are lodged with or without meals, and in which there may be certain public rooms for the use of guests, and in which are provided such services as are incidental to the use thereof as a temporary residence.

*Non-Conforming Use*: A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful at the time this Ordinance or amendments thereto became effective. (See Section 440).

*Nursery School*: A place, building or structure, used or intended to be used to provide care or instruction for two or more children under six years of age.

*Office Building*: A building occupied or used for business or professional offices of individuals, partnerships, associations, or corporations, and in which no commercial goods, materials, or products are sold or offered for sale at retail from the premises, no stock-in-trade other than samples is displayed or stored, and no commercial goods, materials, or products are manufactured, assembled, or commercially serviced or repaired.

*Parking Area*: An off-street area containing one or more parking spaces with passageways and driveways appurtenant thereto. In general, there shall be an average of about three hundred and fifty (350) square feet of parking area per parking space. (See Section 430).

*Parking Space*: A paved or surfaced area which, exclusive of access driveways and turning areas, is accessible and available at all hours for the parking of one passenger car, and being 9 feet wide by 19 feet long.

*Place of Public Assembly*: A structure or portion thereof devoted to the occupancy and use by the general public for social, recreational, or entertainment purposes, (other than a club, hotel, theatre, or bowling alley) in which accommodations are made for more than 25 persons.

*Playgrounds, Children's*: Any portion of a permitted private non-profit park or playground.

*Porch*: A roofed-over structure projecting from the wall or walls of a main structure, whether or not open to the weather. It shall be deemed to be a part of the building.

*School, Private*: A kindergarten, primary, or secondary school, furnishing a comprehensive curriculum of academic instruction similar to that of a public school.

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7/1/69

*School, Public:* An educational institution operated by a public school district under the laws of the State of New York.

*Site:* Same as "lot" as defined herein.

*Story:* Portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story, but a cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

Any space partially within the roof framing, where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is 7 feet 6 inches or more.

*Street:* A way which is an existing State, County, Town, or Village highway, or a way shown upon a subdivision plat approved by the Village Planning Board as provided by law, or on a plat duly filed and recorded in the Office of the County Clerk.

*Street Line:* The dividing line between a lot and a street.

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

*Trailer:* Any vehicle which is or can be mounted on wheels, movable either by its own power or by being drawn by another vehicle, and equipped to be used for living or sleeping quarters, or so as to permit cooking. The term "trailer" shall include such vehicles if mounted on temporary or permanent foundations, with the wheels removed.

*Usable Open Space:* An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the smallest dimension of which is at least 40 feet, and which is available and accessible to all occupants of the building or buildings on the said lot for purposes of active or passive outdoor recreation; no more than 10% of such areas shall have a grade of more than 10%. Accessory building roof space may be substituted for ground space, provided such space is available and directly accessible to all the said occupants by means of access other than stairs, such as, but not limited to, a ramp or elevator.

*Use, Accessory:* A use customarily incidental and subordinate

to the main use on a lot, whether such "accessory use" be conducted in a principal or accessory building.

*Village Board*: The duly constituted Board of Trustees of the Village of Mamaroneck.

*Village Law*: Chapter 64 of the Consolidated Laws of the State of New York.

*Yard*: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line, and is unoccupied and unobstructed from ground upward, except as may be specifically authorized in this Ordinance. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the line of the building, as defined herein, to the nearest lot line.

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*Yard, Front*: An open unoccupied space on the same lot with the building between the nearest front line of the building and the front line of the lot and extending the full width of the lot.

*Yard, Rear*: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

*Yard, Side*: A yard between the side line of the lot and nearest line of the building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot line, as the case may be.

ARTICLE III. — ZONING DISTRICTS AND ZONING MAP

Section 300. *Establishment of Districts*

The Village of Mamaroneck is hereby divided into the following classes of districts:

One-Family Residence District .....	R-20
One-Family Residence District .....	R-15
One-Family Residence District .....	R-10
One-Family Residence District .....	R-7.5
One-Family Residence District .....	R-6
One-Family Residence District .....	R-5
One and Two-Family Residence District .....	R-2F
Four-Family Residence District .....	R-4F
Multiple Residence District .....	RM-1
Multiple Residence District .....	RM-2
Multiple Residence District .....	RM-3
General Commercial District .....	C-1
Central Commercial District .....	C-2
Office District .....	O-1
Manufacturing District .....	M-1

Section 310. *Zoning Map*

The boundaries of the said districts are hereby established as shown on the "Zoning Map, Village of Mamaroneck", dated February 14, 1968, which accompanies, and which, with all explanatory matter thereon, is hereby adopted and made a part of this Ordinance. Said Map, indicating the latest amendments, shall be kept up to date in the offices of the Building Inspector for the use of the public.

Section 320. *District Boundaries*

In determining the boundaries of districts shown on the Map, the following rules shall apply:

321. Where such boundary lines are indicated as approximately following streets, highways, waterways, railroad rights-of-way, or such lines extended, they shall be construed as following the center lines thereof.

322. Where such boundary lines are indicated as approximately following the property lines of parks or other publicly owned lands, such line shall be construed to be such boundaries.

323. Where such boundary lines are indicated as following or approximating lot lines, such lot lines shall be construed to be such boundaries.

324. The district classification of any water area within the Village, inshore from the mean low tide line on February 14, 1968, shall be defined to be the same as the classifica-

tion of the adjoining land area, and the area extending outward from said mean low tide line shall be deemed to be R-20 District; and such zoning classification shall continue in force regardless of any filling or draining of such lands.

325. Where boundary lines are shown as approximately paralleling a street line, such lines shall be construed as paralleling the nearest street line at the specific distance indicated on the Zoning Map.

326. If, after use of the above rules and the map, the district classification of any land is in question, it shall be deemed to be in the most restrictive of the adjoining districts.

327. Wherever any property is not under these rules specifically included in any district shown on the Zoning Map, such property is hereby declared to be an R-20 District.

**Section 330. *Village-owned Properties***

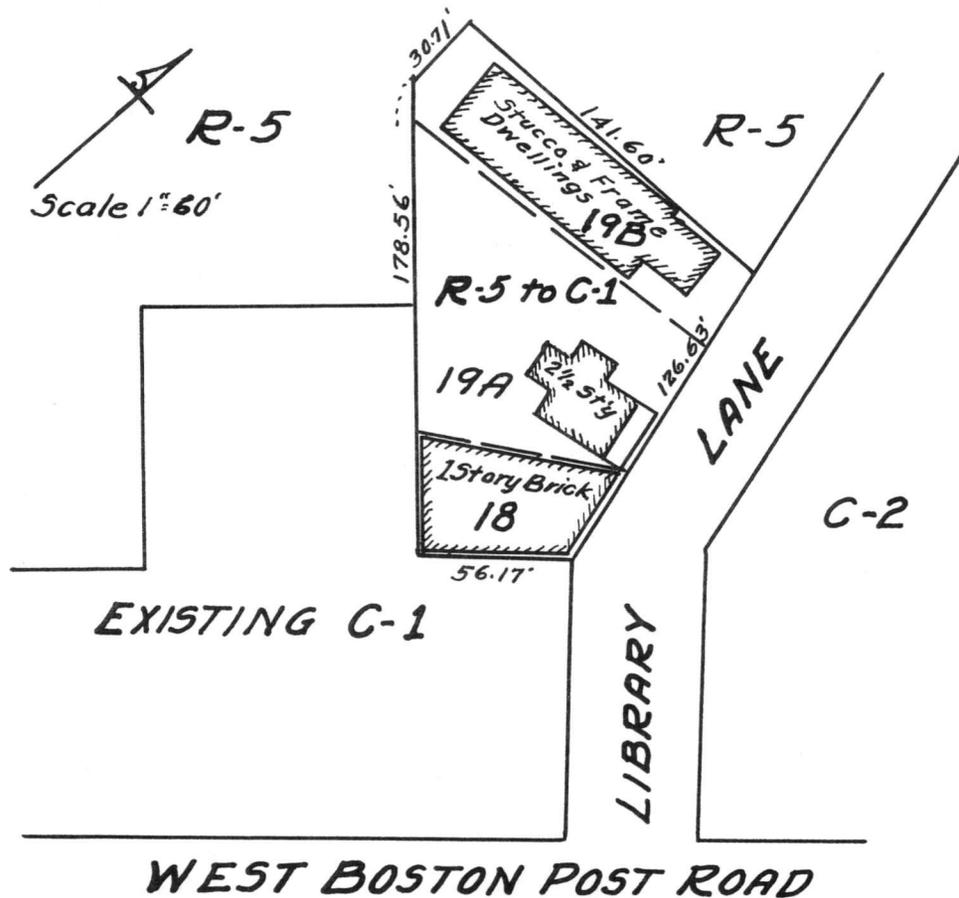
All Village-owned property, improved or unimproved, whether now owned or hereafter acquired, and however designated on the Zoning Map, shall be put to such public uses as the Village Board may duly determine and prescribe, and such uses by the Village shall not be subject to any limitations or regulations or procedures provided in this Ordinance, whatever the zone in which the property may be located.

The Zoning Ordinance and present Zoning Map are hereby amended so as to classify from an R-5 Residence District or Classification, as now constituted and established, to a C-1 General Commercial District or Classification the following described area:

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**BEGINNING** at a point on the Southwest side of Library Lane, said point being a distance of 105.33 feet Northwest from the Northwest side of West Boston Post Road, thence running Southwest 56.17 feet, Northwest 178.56 feet, North 30.71 feet and Easterly 141.60 feet to the West side of Library Lane, thence running South along the West side of Library Lane 126.63 feet to the point and place of beginning.

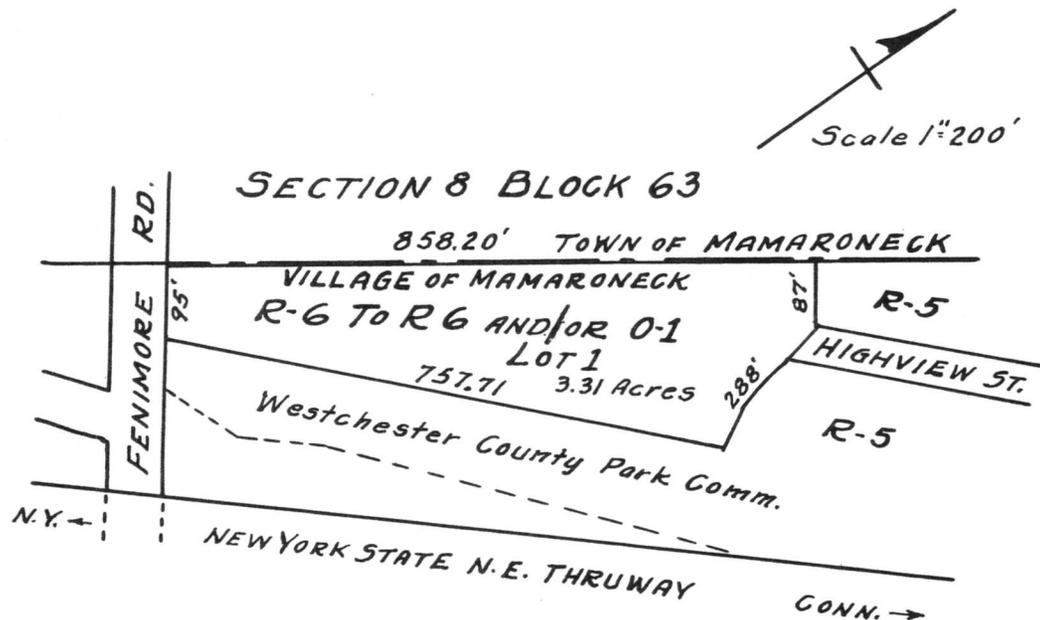
*SECTION 9 BLOCK 49 LOTS 18, 19A & 19B*



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The Zoning Ordinance and present Zoning Map are hereby amended so as to reclassify from an R-6 Residence District or Classification, as now constituted and established, to an R-6 Residence District or Classification and/or O-1 Office Business District or Classification the following described area:

Beginning at a point on the Northeast side of Fenimore Road, said point being on the division line of the Town of Mamaroneck and Village of Mamaroneck, thence running in a Northeast direction along the Village of Mamaroneck and Town of Mamaroneck Line 858.20 feet, thence running in a Southeast direction 87 feet to Highview Street, thence running across the Southwest end of Highview Street in a southerly direction 288 feet to the Northwest side of Westchester County Park Commission Property, thence running Southwest along the Northwest side of the Westchester County Park Commission Property 757.71 feet to the Northeast side of Fenimore Road, thence running along the Northeast side of Fenimore Road 95 feet to the Village of Mamaroneck and Town of Mamaroneck Line, the point and place of beginning.



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## ARTICLE IV. — REGULATIONS

### Section 400. *Application of Regulations*

401. No building shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water, or building be used, designed, or arranged to be used for any purpose, except in compliance with this Ordinance.

402. In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience, and general welfare of the Village and the residents thereof.

403. This Ordinance shall not be deemed to affect, in any manner whatsoever, any easements, covenants, or other agreements between parties, except that where it imposes a greater restriction upon the use of buildings or land, or upon erection, construction, establishment, moving, alteration, or enlargement of buildings than is imposed by such easements, covenants, or agreements, or by any public ordinance, rule, regulation, license, certificate, or other authorization, the provisions of this Ordinance are intended to and shall prevail.

### Section 410. *General Regulations*

The following regulations shall apply in all zoning districts:

#### 411. *Buildings, Uses and Lots*

411.1 *Lot For Every Building*—Every building hereafter erected shall be located on a lot as herein defined.

411.2 *Required Street Frontage*—No permit shall be issued for any land use or structure unless the lot upon which such land use is to be established or structure is to be built has the required frontage on a street as defined herein, which street frontage provides the actual access to such land use or structure, and which street shall have been suitably improved to the satisfaction of the Planning Board, or a performance bond posted therefor as provided in Section 179-o, Subdivision 2 of the Village Law.

411.3 *Yard and Open Space for Every Building*—No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. No yard or other open space on one lot shall be considered as a yard or open space for a building on any other lot.

411.4 *Subdivision of a Lot*—Where a lot is formed here-

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after from part of a lot already occupied by a building, such separation shall be ~~affected~~ effected in such manner as not to impair conformity with any of the requirements of this Ordinance with respect to the existing building and all yards and other required spaces in connection therewith; and no permit shall be issued for the establishment of a land use or the erection of a building on the new lot thus created unless all the requirements of this Ordinance are complied with by such new lot.

411.5 *Existing Lots Below Minimum Requirements*—The minimum lot area, width, frontage, and depth regulations, or any combination thereof, shall not apply to any lot with an area, width, frontage, and/or depth of less than prescribed herein provided that:

- a. Such lot was under different ownership from that of any adjoining land on April 1, 1968, and is still so owned at the time of application for a building permit; and
- b. Such lot was legal for the proposed use under the provisions of the Zoning Ordinance in effect on the day prior to the adoption of the amendment which made the lot non-conforming; and
- c. Such lot shall comply with all other applicable regulations prescribed by this Ordinance.

411.6 *Trailers*—The storage or parking and use of a trailer by any person or persons, except as hereinafter provided, is hereby prohibited in any District. Trailers may be stored or parked in fully enclosed garages, provided such trailers are not placed in use and the doors thereof are kept closed.

A temporary permit for the placing and use of a trailer on a lot may be issued by the Building Inspector in connection with any construction for which a building permit has been issued. Such permit shall be for a period of not greater than six (6) months, but may be renewed at the discretion of the Building Inspector if work on said construction is not completed but is progressing diligently.

411.7 *Storage of Boats*—Outside storage of boats and boat trailers is prohibited in all residential areas unless boats or boat trailers are owned by the owners or occupants of the property used for storage, and provided that such storage is not within the front yard of the property, nor within 30 feet of the curb line of a side yard abut-

ting the street. Said storage in said front or side yard may be permitted by the **Zoning** Board of Appeals if the Board finds that storage elsewhere on the premises would create a practical difficulty or unnecessary hardship, and storage in the front or side yard is not within the vision of motorists in a manner to create a traffic hazard.

**411.8 Limitations on Private Garages and Commercial Vehicles—**

- a. A private garage is permitted on the same plot with a dwelling for less than three families as an accessory thereto, provided that no business, service, or industry connected directly or indirectly with motor vehicles is carried on. No permit shall be issued for a private garage unless a dwelling is already erected or in the course of erection upon the same plot.
- b. Every such private garage shall be set back at least 50 feet from the front property line, and on corner lots shall also set back at least 20 feet from a side street unless such garage is made part of the main dwelling.
- c. No commercial vehicle shall be stored or kept on any premises located in any residential district except as follows:
  - one commercial vehicle up to and including  $\frac{1}{2}$  ton capacity may be kept in an enclosed building in R-6 and R-5 Districts;
  - one commercial vehicle up to and including  $\frac{3}{4}$  ton capacity may be kept in an enclosed building in an R-2F District.
- d. No garage for more than five cars may be erected or extended, and no building now used as a garage for more than five cars may have its use changed to a garage for more than five cars, and no gasoline service station, automobile laundry, or repair and/or paint shop for motor vehicles may be erected or extended within a distance of 200 feet from the nearest exit from or entrance to a church, hospital, public or private school, playground, orphanage, or children's home for children under sixteen years of age.

**412. Yards, Building Projections**

**412.1 Projecting Architectural Features (Horizontal).** The space in any required yard shall be open and unobstructed, except for the ordinary projection of the window sills, bay windows, belt courses, cornices, eaves, and other architectural features, provided, however, that

such features shall not project more than 3 feet into any required yard, but not closer than 5 feet to the property line. The sum total of such projections in any one yard shall not exceed 25 per cent of the overall dimension of the wall from which they project.

412.2 *Projecting Features Above the Roof Level.* The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, silos, and domes not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads, or similar features, and necessary mechanical appurtenances to a building which are carried above the roof level, except as such may be specifically modified by other provisions of this Ordinance. Radio and television antennae and supporting structures no more than 15 feet in height above the roof of the building to which they are attached shall be permitted; other such antennae and supporting structures shall be permitted only if approved by the Board of Appeals. Parapets or cornices, used for ornamentation and without windows, may extend above the roof level not more than 3 feet. All such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve.

412.3 *Exception for Existing Alignment of Buildings*—In any residential district, if on one side of a street within a given block, and within 150 feet of any lot, there is a pronounced uniformity of alignment of the fronts of existing buildings and of the depth of front yards greater or less than the depths specified in the Schedule of Regulations, the front yard required in connection with any new building shall conform as nearly as practicable with those existing on the adjacent lots, except that no such building shall be required to set back from the street a distance greater than 50 feet, and except that any building on a corner lot shall not be set back less than the minimum requirement for that zoning district.

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#### 413. *Miscellaneous Regulations*

##### 413.1 *Screening and Buffer Areas*

- a. A screening or buffer area shall be required along the side or rear lot line (or both if such be the case) of any lot in commercial or manufacturing use, or used for a children's playground, wherever such lot line or lines (1) adjoin or are less than 25 feet distant from a lot in a residential district, or (2) adjoin a street the opposite side of which is bounded by a residential district.

7/1/69

b. A screening or buffer area prescribed by the foregoing or by any other provision of this Ordinance shall be subject to the following standards and conditions:

- (1) It shall be planted with evergreens of such type, height, size, and location as may be fixed in its judgment by the Planning Board or the ~~Zoning~~ Board of Appeals, whichever has jurisdiction, so that the use or facility involved will be properly and adequately screened from the neighboring residential area. Non-evergreen planting may seasonably supplement, but shall not replace or be in lieu of the required evergreen planting;
- (2) The ~~Zoning~~ Board of Appeals or the Planning Board, whichever has jurisdiction, may approve and authorize a wall or fence of specified location, height, design, and materials, in lieu of part or all of such evergreen planting; or if the appropriate Board finds that a given use or facility is so far distant from any lot line or is so concealed by other features of the surrounding landscapes as not to be offensive or reasonably objectionable to the adjoining residential area, the Board may waive or modify the requirement for screening;
- (3) Plans and specifications for the required planting, wall, or fence, shall be filed with the plans for the proposed use of the lot; and until they are approved by the appropriate Board, no permit for such use shall be issued;
- (4) Every such planting, wall, or fence shall be maintained in accordance with such approval throughout the duration of the use or the existence of the facility in connection with which it is required. Neglect or failure of such maintenance shall constitute a violation of this Ordinance, punishable as such.

#### 413.2 *Commercial, Office, and Manufacturing Access*

A lot in a Commercial, Office, or Manufacturing District, which has access to a street or highway either side of which is located in a commercial or manufacturing zone, shall not also have an entrance or egress on a street one or both sides of which are located in a residential zone within a distance of 200 feet from such entrance or egress.

#### 413.3 *Exterior Lighting*

All exterior lighting in Manufacturing, Commercial, Office, and Multiple Residence Districts, and in connection with all non-residential uses in all other Residence Districts,

shall be of such type and location and shall have such shielding as will direct the light downward and will prevent the source of the light from being visible from any adjacent residential property or street. "Source of light" shall be deemed to include any transparent or translucent lighting which is an integral part of the lighting fixture or fixtures.

**Section 420. District Regulations**

The accompanying Schedules of Regulations (Sections 421 and 422) and the following Section 423 which supplements the Schedules, list the permitted uses of land and buildings and the standards and requirements applying to such uses for the various districts of this Ordinance. Unless otherwise indicated, requirements shall be deemed to be the minimum in every instance of their application.

- 421. *Schedule of Residential District Regulations*
  - 422. *Schedule of Non-Residential District Regulations*
- } See Schedules

**423. Additional Standards for Particular Uses Subject to Special Permit Procedure**

The following standards are to be considered minimum and may be increased where required by the ~~Zoning~~ Board of Appeals as a condition of approval under Section 500.

**423.1 Places of Worship and Religious Instruction in Residential Districts**

Places of worship and religious instruction and parish houses shall be on lots of adequate size, with sufficient parking and screening as determined by the ~~Zoning~~ Board of Appeals.

**423.2 Farms and Similar Uses**

Permitted farms, truck gardens, greenhouses, nurseries, and arboretums shall meet the following additional requirements:

Buildings other than dwellings and buildings accessory thereto, any heating plant, and any fertilizer storage shall be set back at least 75 feet from any lot line, except that buildings for the housing of livestock shall be set back at least 200 feet from any lot line.

**423.3 Clubs and Other Recreational Uses**

Clubs and other recreational structures and uses permitted under Sections 421 and 500, shall

- a. be on lots of adequate size with sufficient parking and

- screening as determined by the ~~Zoning~~ Board of Appeals, and shall
- b. have no outdoor entertainment, live or mechanical, except under permission granted by the Village Manager for particular occasions, and shall
  - c. have no exterior lighting other than that essential to the safe and convenient use of the premises, which lighting shall meet the standards of Section 413.3, and shall
  - d. have no outdoor public address systems, except for such as may be specifically permitted under the approval of Section 500.

#### 423.4 *Transformer Stations*

A permitted transformer station located in a Residence District shall meet the following requirements:

- a. The lot shall have an area of not less than 10,000 square feet, and a frontage of not less than 75 feet.
- b. The installation shall be so designed, enclosed, painted, or colored, and screened with evergreens, that it shall be harmonious with the area in which it is located.
- c. The entire property shall be suitably landscaped and maintained in reasonable conformity with the standards of property maintenance of the neighborhood in which it is situated, and in full accord with the standards and requirements of Section 413.1.
- d. The installation shall be surrounded by protective fencing and gates which shall be closed and locked except when necessary to obtain access thereto.

#### 423.5 *Cleaning and Laundry Pick-up Stations*

Except in Manufacturing Districts, permitted cleaning and laundry pick-up stations shall not conduct any washing of wearing apparel or household effects on the premises, and any other cleaning of such apparel or effects on the premises shall be permitted only if non-combustible solvent is used, except for incidental removal of spots. Motive power shall be electric and of not more than 5 horsepower. Self-service automatic laundry and dry-cleaning establishments shall contain no more than 30 machines in any one establishment.

#### 423.6 *Restaurants and Taverns*

No restaurant or tavern, or other place serving food or drinks, shall provide outdoor counter, drive-in, or curb service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1

District, no more than 20 percent of all indoor seats in a restaurant or tavern shall be counter seats.

**423.7 Public Garages and Motor Vehicle Filling Stations**

- a. No driveway to or from any public garage or automobile service station shall be located within 200 feet (measured along the street line of the side of any street on which such public garage or automobile service station has its main frontage and which such driveway would cross) of the boundary line of any Residence District, or of any school, church, park, playground, hospital, public library, institution for children or the aged or infirm, or any place of public assembly designed for the simultaneous use of 100 persons or more, regardless of the district in which either premises are located.
- b. No motor vehicle gasoline filling station building, and no gasoline or oil pump or service appliance, shall be located within twenty (20) feet of any street line.
- c. No automobiles or other vehicles shall be stored or kept at any service station for any purpose except for repairs and for car rental agencies limited to three (3) passenger vehicles, subject to approval by the Board of Appeals.
- d. No major repair or refinishing work shall be carried on at a service or filling station; gasoline or oil sales, changing of tires, and other similar automobile servicing shall not be considered to be major repair work. Painting, and body or fender or similar major repair work, where allowed, shall be performed indoors unless it be impracticable to do such work within the building, but in no case shall any vehicles requiring such work be stored outdoors for more than five days. All automobile parts, and all wrecked or damaged vehicles and any parts thereof, shall be stored in a building and not outdoors.
- e. No motor vehicle gasoline filling station and, unless located within a building and accessory to a use otherwise permitted, no gasoline or oil pump or automotive service appliance, shall be permitted to be established on a lot that is within 1,000 feet of another lot on which there is an existing automobile service station or outdoor gasoline or oil pump or automotive appliance, or of another lot for which a building permit has been issued for the erection of such a station, pump, or service appliance.
- f. No outdoor vending machines shall be maintained at any garage or filling station, except by permission of the Board of Appeals.

**Amended  
11/6/69**

**423.8 Manufacturing in Commercial Districts**

Permitted manufacturing activities shall be carried on in

an area fully concealed from any street or neighboring residential zone, and such areas shall not exceed 20 per cent of the area devoted to retail sales. Motive power shall be electric and, except in connection with newspaper printing, shall not exceed 10 horsepower. No more than 5 persons may be engaged at any one time in such manufacturing or processing.

#### 423.9 *Sewage Disposal*

Sewage disposal plants shall

- a. be located on a lot of at least 5 acres;
- b. be set back at least 50 feet from all lot lines;
- c. not cover with buildings an area greater than 20 per cent of the lot area;
- d. not discharge or permit to escape into the atmosphere, odors which are offensive to the public or which endanger public health or safety. Intensity of offensive odors shall be determined at the property line adjacent to the source in the manner described in "Air Pollution Abatement Manual," Chapter 5, Table 111, Manufacturing Chemists Assoc., Washington, D.C., 1951, or as amended.

#### 423.10 *Swimming Pools*

No swimming pool shall be constructed or maintained except in compliance with the provisions of Chapter 14 of the Unified Code of Ordinances of the Village, or as it may be amended.

#### 423.11 *Residence Uses in Commercial Districts*

Residence uses, when permitted by Section 422 in Commercial Districts, shall meet the following standards:

- a. They shall be located only at or above the second story, and shall have a separate entrance from the street.
- b. They shall not exceed the density permitted in the RM-3 District, counting each 1,000 square feet of gross floor area used for other than residence purposes as equivalent to one dwelling unit.
- c. Any part of the building used for residence purposes shall be set back from side or rear property lines at least 15 feet at and above the lowest story used for residence purposes.
- d. Parking spaces shall be as provided in Section 430.

#### 423.12 *Authority of Planning Board*

No provision of this Ordinance shall be construed to limit the authority of the Planning Board in the exercise of the authority conferred upon it by Section 179-p of the Village Law and the resolution of the Board of Trustees adopted May 22nd, 1967.

**Section 430. Off-Street Parking and Loading Space and Access**

**431. General**

All structures and land uses hereafter erected, enlarged, created or extended, shall be provided with the amount of off-street automobile parking space and loading and unloading space required by the terms of this section to meet the needs of persons making use of such structures or land. A permit for the erection, replacement, reconstruction, extension or substantial alteration of a structure, or the development of a land use, shall not be issued unless off-street automobile parking facilities and, where required, loading and unloading spaces shall have been laid out in plan, in accordance with the appropriate requirements for structures and uses as set forth in this Section, unless there should occur a decrease in intensity of use. As used herein, parking facilities shall be construed to include loading and unloading spaces required by this Section. Other than for residence uses under Section 423.11, this Section shall not apply to the Central Commercial (C-2) District.

**432. Layout, Location and Maintenance of Off-Street Parking Facilities**

432.1 The off-street parking facilities which are required by this Section shall be provided on the same lot or premises with such structures or land use; except that off-street parking spaces required for structures or land uses on two or more adjoining lots may be provided in a single common facility on one or more of said lots, provided a legal instrument satisfactory to the Village Attorney assures the continued existence of the joint parking facility to serve said structures or land uses as long as they exist. Such agreement shall also guarantee that upon the termination of such joint use, each subsequent use of the premises will provide off-street parking facilities for its own use, in accordance with all requirements of this Section 430.

432.2 Parking spaces in the open shall not be located in any required front yard, nor within 8 feet of any side lot line that is within 50 feet of a front street line, but may be within 5 feet of a side or rear lot line elsewhere on the lot. Wherever open parking areas come within the required side or rear yards for a building other than a one or two family dwelling, such spaces shall be screened from adjoining lot lines in the manner and to the extent required under Section 413.1.

No parking areas shall be located within 15 feet of any

wall of a multi-family dwelling, which wall contains windows (other than kitchen and bathroom windows) with a sill height of less than 8 feet above the level of said parking area.

432.3 Required off-street parking facilities which after development are later dedicated or leased to and accepted by the Village, shall be deemed to continue to serve the uses or structures to meet the requirements for which they were originally provided.

432.4 Required off-street parking facilities shall be completed before a certificate of occupancy shall be issued, and said parking facilities shall be maintained as long as the structure or use exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times to those persons who are employed at or make use of such structures and land uses, except when dedicated to and accepted by the Village as public parking areas, and shall be available to such persons without additional charge for the use thereof.

433. *Effect of Parking Requirements on Existing Uses*

Structures and land uses in existence on, or for which building permits shall have been approved prior to April 1, 1968, shall not be subject to the requirements for off-street parking spaces set forth herein; provided that any parking facilities now existing to serve such structures or uses shall not, in the future, be reduced or converted to any other purpose except to the extent that they may exceed such requirements. No building permit for the enlargement or extension of any structure or use shall be granted except upon the provision of all parking spaces required for such structures or uses, including the proposed enlargement or extension thereof. In case of practical difficulty or unnecessary hardship arising out of this requirement the Board of Appeals may require only such degree of compliance as it deems reasonable in the particular case, but shall not permit reduction or elimination of whatever quantity of parking may already be in existence except to the extent that it is in excess of such requirements.

Amended  
7, 1/69

434. *Schedule of Off-Street Parking Requirements*

<i>Use</i>	<i>Minimum Number of Spaces</i>
One-family dwelling	Two
Two-family dwelling	Four
Multi-family dwelling	One and one-half outdoor spaces per dwelling unit.
Accessory uses in a dwelling:	
Roomers or boarders	One per room so occupied.
Office of physician or dentist	Four
Other permitted offices, studios or home occupations	Two
Place of worship or religious instruction	One for each 5 seats within the principal meeting room.
School	Four for each classroom or one for each 5 seats within the assembly hall, whichever is the greater, plus one for each teacher and employee.
Golf or Country Club	Two for each 3 individual, family, or other type of membership.
Other types of clubs and non-profit recreational uses, and places of assembly	One for each employee, plus one for each 5 individual, family, or other type of memberships, or one for each 200 square feet of floor area, or one for each 5 seats within the principal meeting room, whichever the Board of Appeals determines is most appropriate to the type of use involved.
Retail and/or Service Business	One for each 350 square feet of gross floor area of a building with not more than 3,500 square feet. One for each 200 square feet of the next 3,500 square feet of the gross floor area of the building. One for each 100 square feet of the gross floor area of the building in excess of 7,000 square feet.

Amended  
7/1/69

7/1/69

434. *Schedule of Off-Street Parking Requirements (continued)*

<i>Use</i>	<i>Minimum Number of Spaces</i>
Restaurant	One for each 3 seats, plus one for each 2 employees.
Office	One for each 300 square feet of gross floor area.
Hospital, sanitarium, nursing home	One for each two patient beds.
Wholesaling, storage, and warehousing, printing and publishing, manufacturing, assembling, converting, altering, finishing, cleaning, or other processing	One for each 500 square feet of gross floor area.
Funeral Home	One for each 4 chapel seats, but not fewer than 20 spaces.
Motor vehicle sales agency, service station, repair shop	One for each 150 square feet of gross floor area in excess of 1,500 square feet, but not fewer than 10 spaces.
Boat or Yacht Club	Two for each three memberships, plus one for each 3 employees, plus one for each 2 seats in a restaurant.
Other uses not listed	Off-street parking requirements for types of uses which do not fall within the categories listed above shall be determined by the Village Board and adopted as an amendment to this list.
Added Motel 12/23/69	One (1) space for each rentable accommodation; and One (1) space for each two employees.

Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements of each individual use on the lot, except that the Board of Appeals may approve the joint use of parking space by two or more establishments on the same lot or on contiguous lots, the total capacity of which is less than the sum of the spaces required for each, provided said Board finds that the capacity to be provided will

substantially meet the intent of this Article by reason of variation in the probable time of maximum use by patrons or employees at such establishments, and provided such approval of such joint use shall be automatically terminated upon a change of use at any such establishment. The Board shall require, as a condition of its approval, a legal instrument satisfactory to the Village Attorney assuring the continued existence and use of the joint parking facilities in connection with the uses they serve.

435. *Schedule of Off-Street Loading Requirements*

<i>Use</i>	<i>Required Spaces</i>
Research Laboratories	One for the first 8,000 square feet of gross floor area of building, plus one for each additional 10,000 square feet of gross floor area, or major part thereof.
Retail and/or Service Business	One for the first 6,000 square feet of gross floor area, plus one for each additional 8,000 square feet of gross floor area or major part thereof, except that no berths shall be required for buildings with a gross floor area of less than 5,000 square feet.
Office	One for the first 10,000 square feet of gross floor area, plus one for each additional 15,000 square feet of gross floor area or major fraction thereof, except that no berths are required for buildings of less than 5,000 square feet of gross floor area.
Wholesaling, storage, warehousing, printing and publishing, manufacturing, assembling, altering, finishing or other processing	One for each establishment, plus one for each 8,000 square feet of gross floor area or major fraction thereof.
Laundry, dry-cleaning plant	One for each establishment, plus one for each 5,000 square feet of gross floor area or major fraction thereof.

435. *Schedule of Off-Street Loading Requirements (continued)*

*Use*

*Required Spaces*

Other uses

Off-street loading space requirements for types of uses which do not fall within the categories listed above shall be determined by the Village Board and adopted as an amendment to this list.

No loading berth shall be located closer than 60 feet to a street line and 10 feet to all other lot lines. Wherever a loading/unloading area is provided in the open, such area shall be screened from the view of the street and any adjoining lots in the manner and to the extent required under Section 413.1.

436. *Submission of Plans*

The plans for the erection, moving replacement, reconstruction, extension, or substantial alteration of any building, or development of a land use, when submitted to the Building Inspector with an application for a building permit and/or a certificate of occupancy, shall show by means of a plot plan drawn to scale, the specific location and size of the off-street parking facilities required to comply with this Article, and the means of access to such parking spaces from the public streets or highway. Except for uses subject to approval by the Village Board or to approval under Sections 500 and 510, the plan for traffic access, traffic circulation, and general layout of the parking facility shall be approved by the Village Engineer with regard to improvement, to safety of traffic on the public street, to safety of pedestrians on public sidewalks, and to safety and adequacy of access for cars and pedestrians using the parking facility, before a permit and/or certificate of occupancy shall be issued. Plans relating to parking, loading, and access under Sections 500 and 510 shall be approved as provided in those Sections.

437. *Employee Parking*

In approving a parking area plan in connection with a special permit or site development plan, the ~~Zoning~~ Board of Appeals or Planning Board, whichever is responsible for such procedure, may permit a reduction in the required width of parking spaces which are not to be used by the general public or visitors to the property but are to be restricted to employee parking use only. Such width shall be at least nine feet, and the ~~Zoning~~ Board of Appeals or Planning Board, as the case may be, shall attach such conditions to its approval

as will insure an increase in such parking space width and number of spaces as will be required by a future change in use.

**438. *Improvement of Parking Facilities***

Required off-street parking facilities may be enclosed in a structure or may be open, except as required specifically for multi-family dwellings, provided that all required parking facilities shall be graded, surfaced, drained, and suitably maintained to the satisfaction of the Village Engineer to the extent necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways or adjacent lands. In multi-family residential development and in non-residential development, the Village Engineer shall require the provision of suitable markings to indicate individual parking spaces, maneuvering area, entrances, and exits. Upon a finding by the Planning Board that the immediate need for parking spaces is substantially less than the total required by Section 434, the Board may temporarily waive the paving of up to one-half of the required spaces, provided the applicant gives assurances satisfactory to the Village Attorney, that he will pave sufficient additional spaces whenever the Planning Board makes a subsequent finding that the parking of cars connected with or visiting the use takes place on adjacent streets consistently, and notifies the applicant of the additional paving required.

**439. *Alternate Method of Providing Parking Spaces***

Where, because of limitations of size, dimensions, or topography of a lot, an applicant for a building permit in a Commercial or Manufacturing District finds it impracticable to provide all or part of the parking spaces required in connection with a proposed building or addition, he may offer to grant and convey to the Village appropriately located and developed land for an equivalent amount of parking spaces; if the Planning Board concurs in such finding and the appropriateness of the proposed land for parking, the Board of Trustees may, at its discretion, accept such developed land provided it is permanently dedicated to the Village. As another alternative, the applicant may offer to pay to the Village an amount of money which the Village determines is sufficient to provide the required amount of parking spaces which the Planning Board finds cannot practicably be provided on the applicant's lot. If either alternative is accepted by the Village Board of Trustees, the applicant shall be considered as having complied with the parking requirements for the use under the building permit applied for.

Section 440. *Regulation of Non-Conforming Uses and Buildings*

441. *Continuing Existing Uses*

Except as otherwise provided herein the lawfully permitted use of land or buildings existing at the time of the adoption of this Ordinance may be continued, although such use does not conform to the standards specified for the zone in which such land or building is located. Said uses shall be deemed non-conforming uses.

442. *Non-Conforming Use of Land*

Where no building is involved, the non-conforming use of land may be continued, provided however

- a. that no such non-conforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that lawfully occupied by such use at the time of the adoption of this Ordinance, unless specifically allowed by other provisions hereof;
- b. that no such non-conforming use be moved in whole or in part to any other portion of the lot or parcel of land lawfully occupied by such non-conforming use at the time of the adoption of this Ordinance;
- c. that if such non-conforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than ninety (90) days, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this Ordinance;
- d. that no non-conforming use of land shall be changed to another non-conforming use.

443. *Non-Conforming Use of Buildings*

443.1 A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be altered, enlarged, or extended unless the use therein is changed to a conforming use, except that the ~~Zoning~~ Board of Appeals, after public notice and hearing, may permit a non-conforming use to be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of the Ordinance provision that made the use non-conforming, and provided no structural alterations other than those required for health or safety are made therein.

443.2 A non-conforming use of a building shall not be changed to another non-conforming use, except where approved by the ~~Zoning~~ Board of Appeals after a finding that the change will be to a less non-conforming use and one that will be more harmonious with the surrounding area.

443.3 If any non-conforming use of a building ceases for any reason for a continuous period of more than six months, or is changed to a conforming use, or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, any future use of such building shall conform and be subject to the prevailing standards specified by this Ordinance for the district in which such building is located.

443.4 If any building in which any non-conforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located, and the subsequent use of any building thereon, shall be in conformity with the standards specified by this Ordinance for the district in which such land or building is located.

444. *Non-Conformity, Other Than Use*

A building that is conforming in use but which does not conform to the height, yard, land coverage, lot area and dimensions, minimum floor area per family, parking, or loading space requirements of this Ordinance, shall not be considered to be non-conforming within the meaning of Section 443. No permit shall be issued that will result in the increase of any such non-conformity.

445. *Restoration of Damaged Buildings*

Nothing in this Ordinance shall prevent the restoration of a non-conforming building, or one housing a non-conforming use, which is accidentally destroyed in whole or in part by fire, explosion, or other cause, or prevent the continuance or resumption of such non-conforming use as it existed at the time of such damage, but without extension or enlargement of such structure or use; provided, however, that such restoration shall be limited to exactly the same location and shall comply with the then prevailing building and housing codes in effect in the Village; provided, further, that the work of restoration must be completed within a period of twelve months of such damage or destruction. If restoration be not completed in full compliance with the foregoing conditions, any structure thereafter erected or repaired or completed, and any use of such structure, shall conform to all the regulations of this Ordinance for the district in which it is located.

## ARTICLE V. — PROCEDURES

### Section 500. *Uses Subject to Additional Standards and Requirements*

501. All uses listed in Sections 421, 422 and 423 as subject to additional standards and requirements are declared to possess characteristics of such unique and distinct form that each specific use shall be considered an individual case, and they shall meet the following general requirements set forth herein, and any pertinent specific requirements elsewhere in this Ordinance.

### 502. *General Provisions*

The special uses for which conformance to additional standards is required by this Ordinance shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of all requirements and standards prescribed by this Ordinance, and the granting of a special permit for such uses.

### 503. *Special Permits — Variances*

Amended  
7/1/69

All applications for required special permits shall be made to the Building Inspector who shall refer them to the Board of Appeals. If the applicant requests a variance in conjunction with the special permit because of practical difficulty or unnecessary hardship, the application shall state the circumstances constituting the basis for such request.

### 503.1 *Data to be Submitted*

Added  
7/1/69

Each application shall be accompanied by five (5) copies of the following:

- (a) A property survey or plot plan drawn to scale showing the location of all existing, proposed, enlarged, or altered buildings on the plot, with setback dimensions from front, rear and side property lines;
- (b) A set of drawings prepared by a registered architect or professional engineer consisting of elevations, floor plans with dimensions, and a cross or longitudinal section with heights marked thereon;
- (c) The plot plan shall include a layout of off-street parking and loading areas; the number and width of parking spaces and aisles; traffic access to and from public streets; illumination, screening, surfacing and drainage of parking areas; the square foot area of the plot, the gross floor area of the ground floor, and the percentage of lot area covered by all existing, proposed,

7/1/69

enlarged, or altered buildings with their total gross floor area.

**504. *Action on Referral***

Within 45 days after any referral, the Board of Appeals shall hold a public hearing on the application. It shall in each case ascertain that the proposed use will not adversely affect the public health, safety and welfare and the comfort and convenience of the public in general, and of the residents of the neighborhood in particular, and that the following conditions are satisfactorily met:

504.1 That the location and size of the use, the nature and intensity of the operations, and traffic involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to the type, arrangement, and capacity of streets giving access to it, are such that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is located.

504.2 That the location, nature, and height of buildings, walls and fences, and the nature and extent of the landscaping and screening on the site, as existing or proposed, are such that the use will not hinder or discourage the

appropriate development and use of adjacent land and buildings.

504.3 That operations in connection with the proposed use will not be objectionable by reason of noise, fumes, smoke, dust, vibration, glare, intensity or flashing of lights.

504.4 That the parking areas to be provided will be of adequate capacity for the particular use, properly located and suitably screened from adjoining residential uses, and that the entrance and exit drives shall be laid out so as to achieve maximum safety.

504.5 That, where they are applicable, the standards and requirements established or approved by the Village Engineer have been satisfactorily met as evidenced by his certification, and that all necessary approvals of any other governmental agency or board have been or will be obtained by the applicant.

505. *Determination of Application*

After public hearing and consideration of all factors involved, the Board shall make its findings and render its decision. If it finds that all appropriate conditions have been satisfactorily met, it shall grant the application and approve the proposed special use, subject to such terms as are prescribed in this Ordinance or as the Board may impose; otherwise it shall deny the application. Every special permit shall be conclusively limited to the specific use or uses particularized therein, and no other uses may be had thereunder without express permission of the **Zoning** Board of Appeals.

506. *Term and Expiration of Special Permits*

A special permit when granted shall be valid for six months thereafter; within that period the recipient shall apply for and obtain the building permit prescribed in Article VI hereof, failing which the special permit shall lapse and become invalid for all purposes. If, for any reason whatsoever, the practise of the use or uses authorized in any special permit should fall into disuse or cease for more than twelve months, the permit shall expire; and such use or uses may thereafter be restored or resumed only upon the granting by the **Zoning** Board of Appeals of a new special permit therefor.

Section 510. *Site Development Plan Approval*

511. No building permit may be issued for any building within the purview of this section, except in conformance with an approved site development plan. No certificate of occu-

pancy may be issued for any building or use of land within the purview of this Section unless the building is constructed or used, or the land is developed or used, in conformity with an approved site development plan. Every application for site development plan approval shall be accompanied by a certification by the Building Inspector to the effect that the said plan meets all the specific applicable requirements of this Ordinance, and a certificate by the Village Engineer that the plan meets all the applicable standards and requirements established or approved by him.

512. Site development plan approval by the Planning Board shall be required in all districts for:

- a. The erection or enlargement of any building, other than one or two family dwellings, except where a use is subject to Section 500, in which case the site development plan is reviewed as a part of that Section's procedure;
- b. All uses of open land for which a certificate of occupancy is required; and
- c. Any amendment of a previously approved site development plan.

513. *Pre-Submission.* Prior to a formal submission, the applicant should meet in person with the Planning Board, and/or their designated representative, to discuss the proposed site development plan in order to determine the requirements which should be incorporated in the development and submission of the site development plan.

514. *Required Submissions.* At least fifteen (15) days in advance of the Planning Board meeting at which a site development plan is to be presented, the information enumerated below must be submitted as required to the Secretary of the Planning Board, in six copies, along with a letter of application. All maps submitted must be at a scale of not less than thirty (30) feet to the inch. The information to be submitted, and which in total constitutes a site development plan, follows:

514.1 *Legal Data*

- a. The names of all owners of record of all adjacent properties, and the lot, block, and section number of the subject property, all as shown on the Village's Official Assessment Maps.
- b. Existing school, zoning, and special district boundaries.
- c. Boundaries of the property, building or setback lines as required in this Ordinance, and lines of existing streets and adjoining lots, as shown on the Village's Official

Assessment Maps. Reservations, easements, and areas dedicated to public use, if known, shall be shown.

**514.2 Existing Conditions**

The location of existing buildings, water courses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight(8) inches or more, measured three (3) feet above the base of the trunk, and other significant existing features on the premises and within a distance of 200 feet of all property lines thereof.

**514.3 Development Data**

- a. Title of development, date, north point, scale, name and address of record owner and of the engineer, architect, land planner, or surveyor preparing the site development plan.
- b. The proposed use or uses of land and buildings and proposed location of all buildings.
- c. All means of vehicular access and egress to and from the site onto public streets.
- d. The location and layout of any off-street parking or loading areas.
- e. The location of all proposed water lines, valves, and hydrants and sewer lines, or of alternative means of water supply and sewage disposal and treatment.
- f. The proposed location, direction, power, and timing of proposed outdoor lighting.
- g. The proposed location, size, color, and illumination of proposed signs.
- h. All proposed screening and landscaping.
- i. Proposed storm water drainage system.

**515. Additional Submissions.** Where due to special conditions peculiar to a site, or the size, nature, or complexity of the proposed use or development of land or buildings, the Planning Board finds that all, or a portion, of the additional data listed below is necessary for proper review of the site development plan, the Board may require any or all of such data to be included in the required submission of the said plan.

**515.1 Legal Data**

- a. A survey of the subject property having an error of closure not in excess of one in ten thousand, and indicating all lengths in feet and decimals of a foot, and all angles to the nearest ten (10) seconds, or closer if deemed necessary by the surveyor.
- b. A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract.

*515.2 Existing Facilities*

Location of existing water mains, culverts, and drains on the property, with pipe sizes, grades, and direction of flow.

*515.3 Topographic Data*

Existing contours with intervals of five (5) feet or less referred to Village of Mamaroneck datum, and showing at least one bench mark.

*515.4 Development Data*

a. All proposed lots, easements, and public and community areas. All proposed streets with: (a) profiles indicating grading, and (b) cross-sections showing width of roadway, location and width of sidewalk, and location and size of utility lines, according to the standards and specifications established or approved by the Village Engineer of the Village of Mamaroneck.

b. All proposed grades.

c. The proposed screening and/or landscaping as shown on a planting plan prepared by a qualified landscape architect or architect.

*515.5 Duties of Planning Board.* The Planning Board shall review the site development plan and act on the application within 45 days from and after the time of submission of the said plan. Failure on the part of the Planning Board to act shall be deemed to constitute approval, unless the time limit is extended by stipulation with the applicant. In reviewing the site development plan, the Planning Board shall take into consideration the public health, safety, and general welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and shall set any appropriate conditions and safeguards in harmony with the general purpose and intent of these regulations, and particularly in regard to achieving the following:

a. Maximum safety of traffic access and egress.

b. A site layout (including the location, power, direction, and time of operation of any outdoor lighting of the site) which would have no adverse effect upon any adjoining properties by impairing the established character or the potential use of such properties.

c. The reasonable screening, at all seasons of the year, of all playgrounds and parking and service areas from the view of adjacent residential properties and streets.

d. Conformance of the proposed site development plan

with such portions of the Master Plan of the Village of Mamaroneck as may be in existence from time to time.

e. In applicable cases, a drainage system and layout which would afford the best solution to any drainage problems.

515.6 *Waiver of Required Information.* Upon a finding by the Planning Board that due to special conditions peculiar to a site, certain of the information normally required as part of the site development plan is inappropriate or unnecessary, or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board may vary or waive such requirements wherever, in the opinion of the Board, such variance or waiver will not be detrimental to the public health, safety, or general welfare, or have the effect of nullifying the intent and purpose of the site development plan submission, the Official Map, the Master Plan, or this Ordinance.

## ARTICLE VI. — ENFORCEMENT AND PENALTIES

### Section 600. *Building Permits*

601. No building or structure in any district shall be moved, erected, placed on a lot, or structurally or externally altered, without a building permit duly issued upon proper application to the Building Inspector in compliance with Local Law No. 2, 1952, or as it may be amended, and other applicable laws and regulations.

602. No building permit shall be issued for a building to be used for any use subject to additional standards and requirements, unless such use has been approved by the ~~Zoning~~ Board of Appeals as meeting the standards of Section 500. Every building permit for which such a use has been authorized, or in connection with which a variance has been granted by the ~~Zoning~~ Board of Appeals, shall contain a detailed statement of such approved use or variance and of any conditions to which the same is subject. In any instance where site development plan approval by the Planning Board is required, a building permit shall be issued only for a building conforming to the approved site development plan.

### 603. *Building Permit Moratorium*

Whenever the Board of Trustees authorizes a public hearing on a proposed amendment to this Ordinance or Map, for a period of sixty days following the date of such resolution no building permit shall be issued for the erection, enlargement, or alteration of any building or structure, nor shall any use of land be established or extended in any manner, that would be contrary to the provisions of the proposed amendment, if adopted.

### Section 610. *Certificate of Occupancy*

611. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector, pursuant to Local Law No. 2, 1952, or as it may be amended, and the practices and procedures of the Building Department:

611.1 Occupancy and use of a building hereafter erected, structurally altered, or moved, or any change in the use of an existing building, and

611.2 Occupancy, use, or any change in the use of any land.

612. No certificate of occupancy shall be issued for any use of a building or of land subject to additional standards and requirements, unless such use has been approved by the

~~Zoning~~ Board of Appeals. Every certificate of occupancy for such use, or in connection with which a variance has been granted by the ~~Zoning~~ Board of Appeals, shall contain a detailed statement of such approved use or variance, and of any conditions to which it is subject.

Section 620. *Duties of the Building Inspector*

X It shall be the duty of the Building Inspector to enforce, literally, the provisions of this Ordinance, and of all rules, conditions, and requirements adopted or specified pursuant thereto. He shall maintain a current record of all variances and special permits granted by the ~~Zoning~~ Board of Appeals, all site development approvals made by the Planning Board, and all approvals granted by the Board of Architectural Review, and shall enforce the observance and performance of all the terms and conditions of such grants and approvals.

Section 630. *Violations and Penalties*

Any owner, lessee, contractor, agent or other person who uses or maintains, or causes to be used or maintained, any building or premises or any part thereof in the Village for any purpose other than the uses permitted therefor in this Ordinance, or who erects, enlarges, alters, moves, or maintains, or causes to be erected, enlarged, altered, moved, or maintained, any building or any part thereof in the Village except in conformity with the provisions of this Ordinance, or who uses or maintains, or causes to be used or maintained, any building or any part thereof in the Village which has been erected, enlarged, or altered other than in conformity with the provisions of this Ordinance, or of any conditions or requirements imposed under it, or who uses or maintains, or causes to be used or maintained, any building or any part thereof in the Village in violation of or without complying with a condition imposed by the ~~Zoning~~ Board of Appeals, Planning Board, or other responsible official, or who otherwise violates, or causes to be violated, any provision of this Ordinance, shall be guilty of an offense punishable by a fine not to exceed One Hundred (\$100.00) Dollars, or by imprisonment for not more than ten (10) days, or by both such fine and imprisonment for each such violation. Each and every day that premises are used or maintained or caused to be used and maintained in violation of this Ordinance shall constitute a separate offense.

## ARTICLE VII. — BOARD OF APPEALS

### Section 700. *Continuation of Existence*

The Board of Appeals heretofore created pursuant to the provision of Article 6-A of the Village Law and consisting of five members appointed from time to time by the Board of Trustees of the Village, is hereby continued without lapse or interruption.

### 701. *Jurisdiction*

The Board shall have exclusive jurisdiction of all matters prescribed by Section 179-b of the Village Law or by this Ordinance, or as may hereafter be referred to it by law or the Village Board. The following provisions relating to its powers and duties shall not be deemed to limit any power conferred by law upon the Board of Appeals.

### 702. *Appeals From Orders, Etc., General Power*

The Board shall hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official or board charged with the implementation or enforcement of this Ordinance, and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such determination and order as in its opinion ought to be made in the premises.

### 703. *Appeals: Interpretation and Construction*

On such an appeal, the Board may decide the following questions:

Determination of the meaning and applicability of any portion of the text of this Ordinance or of any condition or requirement specified or made under or pursuant to the provisions hereof.

Determination of the exact location of any district boundary shown on the Zoning Map, if after application of the rules of Section 320 the boundary location is still in dispute.

### 704. *Variances*

Upon an appeal or request for a special permit, and subject to such terms and conditions as it may fix in specific cases, the Board may vary or modify the application of any provision of this Ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, where it finds that owing to exceptional and extraordinary circumstances there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of

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this Ordinance. But no variance shall be granted unless the Board finds:

- 704.1 that there are physical conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant or any predecessor in title subsequent to the adoption of this Ordinance. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded, or in disrepair, or the fact that the property is then unimproved, shall not be deemed to make the plight of the property peculiar or unique or to contribute hereto; and
- 704.2 that the aforesaid circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building, and the granting of the variance is necessary for the reasonable use of the land or building; and
- 704.3 that the granting of the variance under such terms as the Board may deem necessary or desirable to impose will not constitute a radical departure from the general purpose and intent of this Ordinance, will not be injurious to the neighborhood nor change the character thereof, and will not be otherwise detrimental to the general welfare.
- 704.4 In all cases where the ~~Zoning~~ Board of Appeals grants a variance from the strict application of the requirements of this Ordinance, it shall be the duty of such Board to attach such conditions and safeguards as it deems appropriate in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of this Ordinance.
- 704.5 In the absence of clear proof by the applicant of extenuating circumstances satisfactory to the ~~Zoning~~ Board of Appeals, no variance or special permit shall be granted where there is an existing violation of this Ordinance against the property in question.
- 704.6 Where this Ordinance provides for the ~~Zoning~~ Board of Appeals to grant special exceptions to any of its terms without the necessity of proving unnecessary hardship or practical difficulty, the Board is so authorized.
705. *Special Permits and Exceptions*  
The ~~Zoning~~ Board of Appeals, pursuant to Sections 500-

506, shall determine all applications for special permits and exceptions as provided in this Ordinance or as may hereafter be referred to it by the Village Board.

*Section 710. Procedures: Limitations*

710.1 The powers and duties of the Board shall be exercised in accordance with its own rules of conduct and procedure, which rules shall be consistent with, and pursuant to, all the provisions of the Village Law.

710.2 The Board shall not act upon any application for a variance or a special permit without first holding a public hearing, notice of which hearing and of the substance of the appeal or application shall be given by publication three times in the official newspaper of the Village at least 10 days before the date of such hearing. Provided that due notice shall have been published, that copies have been mailed to all government agencies required by law to be notified, and to all property owners of record within 400 feet of the property which is the subject of the public hearing (except that in the cases of fences and boat storage the distance shall be 200 feet) and to the area school district, and that there shall have been substantial compliance with the remaining provisions of this section, the failure of one or more property owners to receive such notice in exact conformance herewith, shall not invalidate any action taken by the Board in connection with such applications.

710.3 If the land involved in an appeal or application lies within 500 feet of the boundary of any other municipality, the Village Clerk shall transmit to the Municipal Clerk of such other municipality a copy of the official notice of the public hearing thereon not later than the day after such notice appears in the official newspaper of the Village, and shall thereafter send a copy of the decision of the ~~Zoning~~ Board of Appeals to the Clerk of such other municipality.

710.4 Unless a building permit is obtained within six months of the date of the granting of a variance, such variance shall become null and void. The Board, without public hearing, may for good cause shown extend the time for completion of work under a variance or special permit theretofore granted by it.

710.5 Every appeal and application shall refer to the specific provisions of the Village Law or of the ordinance involved, and shall precisely set forth, as the case may be, the interpretation that is claimed, the specific variance or spec-

ial permit that is applied for, and the grounds on which it is claimed that the variance or special permit should be granted.

710.6 Every decision of the ~~Zoning~~ Board of Appeals shall be by resolution recorded on the minutes of the Board, shall fully set forth the circumstances of the case, shall contain a full record of the findings on which the decision is based, shall be signed by the Chairman and Secretary of the Board, and shall constitute a public record.

## ARTICLE VIII. — AMENDMENTS

### Section 800. *Amendments*

This Ordinance or any part thereof may be amended, supplemented or repealed from time to time by the Village Board on its own motion or by petition, as provided in Article VI-A of the Village Law. Any such proposed amendment may be referred by the Board of Trustees to the Planning Board and the ~~Zoning~~ Board of Appeals for advisory reports before public hearing.

### Section 810. *Report of Planning Board*

In making its report on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below.

811. Concerning a proposed amendment to the text of the Ordinance:

- a. whether such proposed amendment is consistent with the Master Plan of the Village, as it may exist from time to time;
- b. whether such change is consistent with the aims and principles embodied in the Ordinance as to the particular district or districts concerned;
- c. which areas and establishments of the Village will be directly affected by such change and in what way they will be affected;
- d. the indirect implications of such change in its effect on other regulations.

812. Concerning a proposed amendment to the Zoning Map:

- a. whether such proposed amendment is consistent with the Master Plan of the Village, as it may exist from time to time;
- b. whether the uses permitted by the proposed change would be appropriate in the area concerned;
- c. whether adequate public school or other facilities and services exist or can be created to serve the needs of any additional development likely to be constructed as a result of such change.

### Section 820. *Report of ~~Zoning~~ Board of Appeals*

In making its report on any proposed amendment, the ~~Zon-~~  
~~ing~~ Board of Appeals shall state its views as to the desirability and practicability of the proposal.

### Section 830. *Amendment Filing Fee*

Each petition for a zoning amendment shall be accompanied by the required fee, payable to the Village Clerk upon

the filing thereof. No fee shall be required for petitions filed in favor of, or against, a pending application.

**Section 840. Amendment—Public Hearing**

By resolution adopted at a stated meeting, the Board of Trustees shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with the provisions of Article VI-A of the Village Law. Every notice of public hearing shall specify the nature of any proposed amendment, the land or district affected, and the date and time when, and the place where, the public hearing will be held.

**Section 850. Amendment—Notice to Adjacent Municipality**

Should State or County law require that notice be sent to an adjoining municipality or to any other governmental agency, the Village Clerk shall transmit to the Municipal Clerk of such other municipality, or the secretary of such other governmental agency, a copy of the official notice of the public hearing thereon, not later than the day after such notice appears in the official newspaper of the Village.

**Section 860. Amendment—Protest**

In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of Article VI-A of the Village Law.

**Section 870. Amendment—Conformity to Master Plan**

In all cases where the Board of Trustees shall approve an amendment to the Zoning Map, the said Board shall find that, for reasons fully set forth in the said findings, such amendment is in conformity with the Master Plan for the Village, as it may exist from time to time, or the Board of Trustees shall state its reasons for departing therefrom.

**Section 880. Separability**

If any section or subsection of this Ordinance is found to be unconstitutional or otherwise declared by a court of competent jurisdiction to be invalid, the remaining sections and subsections of this Ordinance shall nevertheless remain in full force and effect.