

**ZONING**

**Chapter 192**

**From the  
CODE  
of the  
VILLAGE OF FORT PLAIN**

**COUNTY OF MONTGOMERY  
STATE OF NEW YORK**

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ZONING

**Chapter 192**

ZONING

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[HISTORY: Adopted by the Board of Trustees of the Village of Fort Plain 6-24-1971 as Appendix B of the 1971 Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 69.

Moving of buildings — See Ch. 72.

Numbering of buildings — See Ch. 75.

Fences — See Ch. 99.

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ARTICLE I  
General Provisions

§ 192-1. Title.

This chapter shall be known and cited as the "Village of Fort Plain Zoning Ordinance."

§ 192-2. Purpose.

This chapter is enacted for the following purposes:

- A. To lessen congestion in the streets.
- B. To secure safety from fire, flood, panic and other dangers.

- C. To promote health and the general welfare.
- D. To provide adequate light and air.
- E. To prevent the overcrowding of land.
- F. To avoid undue concentration of population.
- G. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- H. To conserve the value of buildings.
- I. To encourage the most appropriate use of land throughout the village.
- J. To avoid the pollution of air and water.

## ARTICLE II Terminology

### § 192-3. Word usage.

For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

- A. Words used in the present tense shall include the future. The singular number includes the plural, and the plural the singular.
- B. The word "person" includes a corporation as well as an individual.
- C. The word "building" includes the word "plot" or "parcel."
- D. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged or designed to be used or occupied."

### § 192-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY BUILDING** — A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ALLEY** — A service way which affords a secondary public means of vehicular access to abutting property.

**AREA, BUILDING** — The total ground area of a principal building and accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

**BASEMENT** — A space of full story height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground and which is not designed or used primarily for year-round living accommodations.

**BUILDING** — Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property. When a building is divided into separate parts extending from the ground up, each part so divided is deemed a separate "building."

**BUILDING FLOOR AREA** — The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**BUILDING, HEIGHT OF** — Vertical distance measured from curb to grade level to the highest level of a flat or mansard roof or to the average height of a pitched, gabled, hip or gambrel roof, excluding bulkheads, penthouses and similar constructions enclosing equipment or stairs, provided that they are less than twelve (12) feet in height and do not occupy more than



thirty percent (30%) of the area of the roof upon which they are located.

**BUILDING LINE** — A line established by law or by agreement, usually parallel with a property line, beyond which a structure may not extend.

**CELLAR** — That space of a building that is partly or entirely 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.

**DWELLING, MULTIPLE-FAMILY** — A building or group of buildings designed for year-round occupancy by more than three (3) families, including apartment houses and group houses, but excluding hotels and rooming houses.<sup>1</sup>

**DWELLING, ONE-FAMILY** — A detached building, other than a trailer or other temporary structure, designed for exclusive year-round occupancy by one (1) family only.

**DWELLING, TWO-FAMILY** — A detached building, other than a trailer or other temporary structure, designed for exclusive year-round occupancy by two (2) families living independently of each other.

**DWELLING UNIT** — One (1) or more rooms with provision for living, sanitary and sleeping facilities arranged for the use of one (1) family.

**FACTORY-MANUFACTURED HOME** — That which incorporates structures or components designed for residential occupancy which are constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

in a manufacturing facility and which is intended for permanent installation on a building site.<sup>2</sup>

**FAMILY** — Any number of persons of recognized family relationship maintaining a common household, including domestic help.

**FARM** — A parcel or tract of land which is used for the production or raising of agricultural products, except where such production is an accessory and noncommercial garden to a principal residential use on the same lot, but not including kennels nor the raising of poultry, fur-bearing animals, hogs or goats.

**GARAGE, PRIVATE** — A roofed space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a nonresident of the premises.

**GARAGE, PUBLIC** — A building or part thereof used for the storage, hiring, selling, greasing, washing, servicing or repair of motor-driven vehicles, operated for gain.

**GARAGE, STORAGE** — A building or part thereof used only for the storage of vehicles for gain and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

**GASOLINE STATION** — Any area of land, including structures thereon, that is used or designated to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubrication washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term "gasoline station" shall be deemed to include filling station and service station.<sup>3</sup>

<sup>2</sup> Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>3</sup> Editor's Note: The former definition of "hog farm," which immediately followed this definition, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**HOME OCCUPATION** — Any personal or professional service customarily conducted entirely within a dwelling and carried on only by resident members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof and in which there is kept no stock-in-trade.

**HOSPITAL** — A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

**HOTEL** — A building or group of buildings where transient guests are lodged for hire, including motels but excluding rooming houses.

**JUNKYARD** — A lot, land or structure or part thereof used for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles and for the sale of the parts thereof.

**LAUNDERETTE** — A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

**LOT** — A parcel of land considered as a unit, occupied or capable of being occupied by a building or use and accessory buildings or uses or by a group of buildings united by a common use or interest, and including such open spaces as are required by this chapter and having its principal frontage on a public street or an officially approved place.

**LOT, AREA** — The total horizontal area included within lot lines. No part of the area within a public right-of-way may be included in the computation of lot area.

**LOT, CORNER** — A lot located at the intersection of and fronting on two (2) or more intersecting streets and

having an interior angle at the corner of intersection of less than one hundred thirty-five degrees (135°).

LOT, DEPTH — The mean horizontal distance between the front and rear lot lines measured in the general direction of the side lot lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT, THROUGH — A lot having frontage on two (2) approximately parallel or converging streets other than a corner lot.

LOT, WIDTH — The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district.

MOBILE HOME — A structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein.<sup>4</sup>

MOBILE HOME PARK OR COURT — A parcel of land which has been planned and improved for the placement of two (2) or more mobile homes for nontransient use.

MOTEL — See "hotel."

NONCONFORMING USE — Use of a building or of land that does not comply with the regulations for the district in which it is situated.

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<sup>4</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**NURSERY SCHOOL** — Facilities for the daytime care or instruction of two (2) or more children from two (2) to five (5) years, inclusive, and operated on a regular basis.

**NURSING OR CONVALESCENT HOME or HOME FOR THE AGED** — A building used for the accommodation and care of persons with or recuperating from illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

**PARKING SPACE** — An off-street space available for the parking of one (1) motor vehicle and having an area of not less than one hundred eighty (180) square feet, exclusive of passageways and driveways thereto.

**ROOMING HOUSE (TOURIST HOME)** — A dwelling where transient guests are lodged for hire.

**SIGN** — Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government or government agency, school or religious group or of any civic, charitable, religious, patriotic, fraternal or similar organization nor any official traffic-control device. Each display surface shall be considered to be a "sign."

**SIGN, ADVERTISING** — A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed and only incidentally on the premises if at all.

**SIGN, BUSINESS** — A sign which directs attention to a business or profession conducted or a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed. A "For Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed to be a business sign.

**SIGN, FLASHING** — Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this chapter, any revolving or illuminated sign shall be considered a "flashing sign."

**STABLE, PRIVATE** — An accessory building in which horses are kept for private use and not for hire or sale.

**STABLE, PUBLIC** — An accessory building in which horses are kept for remuneration, hire or sale.

**STORY** — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF** — That part of a building between a pitched roof and the uppermost full story and having a floor area at least half as large as the floor below. Space with less than five (5) feet clear headroom shall not be considered as floor area.

**STREET** — A public or private way which affords the principal means of access to abutting property.

**STRUCTURAL ALTERATION** — Any change in the supporting members of a building.

**STRUCTURE** — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**THEATER, OUTDOOR** — An open lot or part thereof with its appurtenant structures and facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis.

**TOURIST HOME (ROOMING HOUSE)** — A dwelling where transient guests are lodged for hire.

**TRAILER** — A mobile unit designed for camping, recreational travel or vacation use which is equipped with a chassis and provides partial housekeeping

facilities such as plumbing, heating, electrical, cooking or refrigeration systems or equipment.

**TRAILER CAMP** — An area occupied or designed for occupancy by two (2) or more trailers.

**VARIANCE, AREA** — The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.<sup>5</sup>

**VARIANCE, USE** — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.<sup>6</sup>

**YARD, FRONT** — An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the main building projected to the side lines of the lot.

**YARD, REAR** — A space on the same lot with a main building, open and unoccupied except for accessory buildings, extending the full width of the lot and situated between the rear line of the main building projected to the side lines of the lot and the rear line of the lot.

**YARD, SIDE** — An open unoccupied space on the same lot with a main building, situated between the side line of the main building and the adjacent side line of the lot and extending from the front yard to the rear yard.

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<sup>5</sup> Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>6</sup> Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**ARTICLE III**  
**Districts and Boundaries**

**§ 192-5. Establishment of districts.**

- A. For the purpose of this chapter, the Village of Fort Plain is divided into the following types or classes of districts:

R-1	Residential
R-2	Residential
R-3	Residential
A	Agricultural
C-1	Commercial
C-2	Commercial
M-1	Manufacturing
P-H	Planned Historical

Planned Development Districts

PDR	Planned Residential
PDB	Planned Business
PDC	Planned Commercial
PDM	Planned Manufacturing
PRD	Planned Recreational

- B. Said districts are bounded and defined as shown on a map entitled "Zoning Map of the Village of Fort Plain," hereinafter called the "Zoning Map,"<sup>7</sup> adopted by the Village Board and certified by the Village Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.

**§ 192-6. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

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<sup>7</sup> Editor's Note: The Official Zoning Map is on file in the office of the Village Clerk. A copy of the map may be included in the pocket at the end of this volume. To ensure its accuracy, also refer to the Table of Zoning Map Amendments included at the end of this chapter.



- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
- D. Where the boundary of a district follows a stream or other body of water, said boundary line shall be deemed to be the center line of stream or body of water unless otherwise indicated.
- E. Where the district boundary lines are indicated to be approximately parallel to a street or highway, they will be considered to be two hundred (200) feet from the nearest street or highway line and parallel to it or along the back line of properties of record fronting on said street or highway, whichever line is closer to the street at the time this chapter becomes effective, unless otherwise noted.

#### ARTICLE IV Use Regulations

##### § 192-7. R-1 Residential District.

In the R-1 Residential District, no building or premises shall be used and no building shall be erected or altered except for one (1) or more of the following uses:

- A. Uses permitted:
  - (1) Existing one-family dwelling.
  - (2) One-family dwelling.

- (3) Existing two-family dwelling.
  - (4) Public or parochial school.
  - (5) Church, parish house, convent.
  - (6) Public park or playground.
  - (7) Water reservoir or standpipe.
  - (8) Farm and accessory buildings and uses.
  - (9) Customary accessory uses or structures.
  - (10) Cemetery.
- B. Uses permitted as a special exception by the Board of Appeals:
- (1) Public utilities.
  - (2) Nursing, convalescent or home for the aged.
  - (3) Customary home occupation.

**§ 192-8. R-2 Residential District.**

The following use regulations shall apply in any R-2 Residential District:

- A. Uses permitted:
- (1) One-family dwelling.
  - (2) Existing two-family dwelling.
  - (3) Public or parochial school.
  - (4) Church, parish house, convent.
  - (5) Public park or playground.
  - (6) Water reservoir or standpipe.
  - (7) Farm and accessory buildings and uses.
  - (8) Customary accessory uses and structures.
  - (9) Cemetery.

- (10) Two-family dwelling.
  - (11) Three- or four-family dwelling.
  - (12) Customary home occupations.
  - (13) Customary accessory uses or structures.
- B. Uses permitted as a special exception by the Board of Appeals:
- (1) Public utility structure or use.
  - (2) Nursing or convalescent home for the aged.

**§ 192-9. R-3 Residential District.**

The following use regulations shall apply in any R-3 Residential District:

- A. Uses permitted:
- (1) One-family dwelling.
  - (2) Existing two-family dwelling.
  - (3) Public or parochial school.
  - (4) Church, parish house, convent.
  - (5) Public park or playground.
  - (6) Water reservoir or standpipe.
  - (7) Farm and accessory buildings and uses.
  - (8) Customary accessory uses and structures.
  - (9) Cemetery.
  - (10) Two-family dwelling.
  - (11) Three- or four-family dwelling.
  - (12) Customary home occupations.
  - (13) Customary accessory uses or structures.
  - (14) Multiple-family residence.

- (15) Nursing or convalescent home for the aged.
- B. Uses permitted as a special exception by the Board of Appeals:
- (1) Public utility structure.
  - (2) Mobile home court.
    - (a) Residents in mobile home courts must register by name and lot number with the Zoning Officer when entering and leaving the court.
    - (b) Mobile homes must have a concrete slab above grade level as specified in the construction code.
    - (c) Mobile homes must have a skirt of complete noncombustible material with adequate ventilation.
    - (d) Mobile home courts must have a garage or utility building to house all garden and lawn tools.
    - (e) Mobile home wheels must be removed.
    - (f) The hitch and tongue must be removed or completely enclosed with the skirt as a planter.

**§ 192-10. A Agricultural District.**

In the A Agricultural District no building or premises shall be used and no building shall be erected or altered except for one (1) or more of the following uses:

- A. Uses permitted:
- (1) One-family dwelling.
  - (2) Existing two-family dwelling.
  - (3) Public or parochial school.
  - (4) Church, parish house, convent.
  - (5) Public park or playground.

- (6) Water reservoir or standpipe.
  - (7) Farm and accessory buildings and uses.
  - (8) Customary accessory uses and structures.
  - (9) Cemetery.
  - (10) Two-family dwelling.<sup>1</sup>
  - (11) Three- or four-family dwelling.
  - (12) Customary home occupations.
  - (13) Customary accessory uses or structures.
  - (14) Multiple-family residence.
  - (15) Nursing or convalescent home for the aged.
  - (16) Picnic grove, fish or game club, grange hall or club.
  - (17) Public utility building, station or structure.
  - (18) Private camp, organized camp.
  - (19) Public camp or campsite.
  - (20) Public park, forest or recreation area.
  - (21) Forest practices.
  - (22) Customary accessory uses.
- B. Uses permitted as a special exception by the Board of Appeals:
- (1) Processing plant for farm or food products.
  - (2) Sand, gravel, rock quarry or processing of such materials.
  - (3) Mobile home court.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**§ 192-11. C-1 Commercial District.**

The following use regulations shall apply in any C-1 Commercial District:

**A. Uses permitted:**

- (1) One-family dwelling.
- (2) Existing two-family dwelling.
- (3) Public or parochial school.
- (4) Church, parish house, convent.
- (5) Public park or playground.
- (6) Water reservoir or standpipe.
- (7) Farm and accessory buildings and uses.
- (8) Customary accessory uses and structures.
- (9) Cemetery.
- (10) Two-family dwelling.
- (11) Three- or four-family dwelling.
- (12) Customary home occupations.
- (13) Customary accessory uses or structures.
- (14) Multiple-family residence.
- (15) Nursing or convalescent home for the aged.
- (16) Two-family dwelling.<sup>2</sup>
- (17) Picnic grove, fish or game club, grange hall or club.
- (18) Public utility building, station or structure.
- (19) Private camp, organized camp.
- (20) Public camp or campsite.
- (21) Public park, forest or recreation area.

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<sup>2</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (22) Forest practices.
  - (23) Customary accessory uses.
  - (24) Retail store.
  - (25) Bank, savings or loan institution.
  - (26) Restaurant or other place for serving food or beverages.
  - (27) Motel or hotel.
  - (28) Personal service such as barbershop, beauty parlor, tailor or shoe repair shop.
  - (29) Coin-operated laundry or dry cleaner or pickup station.
  - (30) Household appliance sales or service.
  - (31) Funeral home.
  - (32) Social, recreational or fraternal club or ski lodge.
  - (33) Business or professional office.
  - (34) Municipal or public utility structure or use.
  - (35) Automobile, boat, mobile home or trailer sales or rental, including accessory service.
  - (36) Bowling alley, theater.
  - (37) Customary accessory building or use.
  - (38) Business sign.
- B. Uses permitted as a special exception by the Board of Appeals:
- (1) Drive-in food-service establishment.
  - (2) Gasoline service station.
  - (3) Commercial recreation, including golf driving range, miniature golf, par-3 golf course, trampoline center.

- (22) Forest practices.
- (23) Customary accessory uses.
- (24) Retail store.
- (25) Bank, savings or loan institution.
- (26) Restaurant or other place for serving food or beverages.
- (27) Motel or hotel.
- (28) Personal service such as barbershop, beauty parlor, tailor or shoe repair shop.
- (29) Coin-operated laundry or dry cleaner or pickup station.
- (30) Household appliance sales or service.
- (31) Funeral home.
- (32) Social, recreational or fraternal club or ski lodge.
- (33) Business or professional office.
- (34) Municipal or public utility or use.
- (35) Automobile, boat, mobile home or trailer sales or rental, including accessory service.
- (36) Bowling alley, theater.
- (37) Customary accessory building use.
- (38) Business sign.
- (39) Drive-in food-service establishment.
- (40) Laundry or dry-cleaning shop.
- (41) Fruit or vegetable market.
- (42) Farm implement sales or service.
- (43) Public garage.
- (44) Heating, plumbing, air-conditioning, electrical, cabinet or similar hand fabrication shop.



- (45) Printing or publishing establishment.
  - (46) Public utility station, structure or use.
  - (47) Radio, television or household appliance sales or service.
  - (48) Commercial recreation, including golf driving range, miniature golf, par-3 golf, trampoline center or amusement park.
  - (49) Customary accessory uses.
  - (50) Animal hospital, commercial kennel or animal pound.
  - (51) Business sign.
- B. Uses permitted upon issuance of a special permit by the Board of Appeals:
- (1) Truck terminal.

**§ 192-13. M-1 Manufacturing District.**

In the M-1 Manufacturing District no building or premises shall be used and no building shall be erected or altered except for one (1) or more of the following uses:

- A. Uses permitted:
- (1) One-family dwelling.
  - (2) Existing two-family dwelling.
  - (3) Public or parochial school.
  - (4) Church, parish house, convent.
  - (5) Public park or playground.
  - (6) Water reservoir or standpipe.
  - (7) Farm and accessory buildings and uses.
  - (8) Customary accessory uses and structures.
  - (9) Cemetery.

- (10) Two-family dwelling.
- (11) Three- or four-family dwelling.
- (12) Customary home occupations.
- (13) Customary accessory uses or structures.
- (14) Multiple-family residence.
- (15) Nursing or convalescent home for the aged.
- (16) Two-family dwelling.<sup>4</sup>

(Cont'd on page 19225)

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<sup>4</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



- (17) Picnic grove, fish or game club, grange hall or club.
- (18) Public utility building, station or structure.
- (19) Private camp, organized camp.
- (20) Public camp or campsite.
- (21) Public park, forest or recreation area.
- (22) Forest practices.
- (23) Customary accessory uses.
- (24) Retail store.
- (25) Bank, savings or loan institution.
- (26) Restaurant or other place for serving food or beverages.
- (27) Motel or hotel.
- (28) Personal service such as barbershop, beauty parlor, tailor or shoe repair shop.
- (29) Coin-operated laundry or dry cleaner or pickup station.
- (30) Household appliance sales or service.
- (31) Funeral home.
- (32) Social, recreational or fraternal club or ski lodge.
- (33) Business or professional office.
- (34) Municipal or public utility structure or use.
- (35) Automobile, boat, mobile home or trailer sales or rental, including accessory service.
- (36) Bowling alley, theater.
- (37) Customary accessory building or use.
- (38) Business sign.
- (39) Drive-in food-service establishment.
- (40) Laundry or dry-cleaning shop.

- (41) Fruit or vegetable market.
- (42) Farm implement sales or service.
- (43) Public garage.
- (44) Heating, plumbing, air-conditioning, electrical, cabinet or similar hand fabrication shop.
- (45) Printing or publishing establishment.
- (46) Public utility station, structure or use.
- (47) Radio, television or household appliance sales or service.
- (48) Commercial recreation, including golf driving range, miniature golf, par-3 golf, trampoline center or amusement park.
- (49) Customary accessory uses.
- (50) Animal hospital, commercial kennel or animal pound.
- (51) Business sign.
- (52) Lumber, feed, fuel sales or storage.
- (53) Manufacture, assembly, processing or treatment of the following:
  - (a) Textiles, leather, plastics.
  - (b) Candy, cosmetics.
  - (c) Pharmaceutical or food products.
  - (d) Electrical, precision, surgical, dental or musical instruments.
  - (e) Toys or novelties.
  - (f) Paper, plastic, metal, stone or wood products from previously prepared materials.
  - (g) Asphaltic concrete.
- (54) Warehousing and distribution.

- (55) Laundry or dry-cleaning plant.
- (56) Development or research center.
- (57) Machine shop.
- (58) Welding or metal craft shop.
- (59) Accessory building or use.
- (60) Business sign.

**§ 192-14. P-H Planned Historical District.**

- A. In any P-H Planned Historical District no building or premises shall be used and no building shall be erected or altered except in accordance with the following:
  - (1) Uses permitted:
    - (a) Residences.
    - (b) Farms.
    - (c) Historical buildings and sites.
    - (d) Antique sales.
    - (e) Restaurant.
    - (f) Motel.
    - (g) Church.
    - (h) Historical tourist attractions.
- B. In any P-H Planned Historical District the uses permitted are subject to the additional regulations set forth below:
  - (1) Any Planned Historical District shall comprise at least five (5) acres, and each parcel within the district shall comprise at least one (1) acre and a minimum of two hundred (200) feet of street frontage.

- (2) Application for creation of a new Planned Historical District or a new use within such a district shall be made to the Village Board, which Board shall refer the application to the Village Planning Board within thirty (30) days.
- (3) The applicant shall furnish such preliminary map, plans, drawings or elevations as may be required by the Village Planning Board for an understanding of the proposed character of development. In reaching its decision on the proposed development, the Planning Board shall consider and report upon the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, the safeguards provided to minimize possible detrimental effects on adjacent property in compliance with performance standards and other appropriate factors.
- (4) In the case of a request to establish a new development within a planned district, the Planning Board shall consider the proposed development in relation to use areas and height regulations of this chapter, access, topography, utilities, adjacent development and off-street parking and uses. The Planning Board shall either approve, modify and approve or disapprove such application and shall report its recommendation to the Village Board regarding issuance of a building permit within sixty-two (62) days.<sup>8</sup>
- (5) In the case of a request to establish a new Planned Historical District, the Planning Board shall consider such application and shall report its recommendations to the Village Board. The Village Board shall hold a public hearing preceded by due notice as

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<sup>8</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

provided by law prior to amending the Zoning Map<sup>9</sup> in regard to establishing a Planned Historical District.

- (6) In the event that the development has not been completed or substantial progress made within one (1) year from date of approval, such approval shall be deemed automatically revoked and void. The Village Board may extend the permit for an additional period of six (6) months if evidence is presented of intention to proceed.

**§ 192-15. Planned development districts.**

A. Purpose. The regulations for planned development districts are intended to provide a means for the development of residential, business, commercial, manufacturing or recreational subdivisions, or combinations thereof, in which economies of scale or creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of this chapter. In no case shall the regulations of this section be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of adjoining properties.

B. Planned development districts may be established only in accordance with the procedures specified below:

(1)<sup>10</sup>The minimum area for a planned development district shall be as follows:

- (a) Residential: five (5) acres.
- (b) Business: five (5) acres.

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<sup>9</sup> Editor's Note: The Official Zoning Map is on file in the office of the Village Clerk. A copy of the map may be included in the pocket at the end of this volume. To ensure its accuracy, also refer to the Table of Zoning Map Amendments included at the end of this chapter.

<sup>10</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



- (c) Commercial: five (5) acres.
  - (d) Manufacturing: ten (10) acres.
  - (e) Recreational: twenty-five (25) acres.
- (2) The calculation of area for a planned development district shall not include easements, parks, existing streets or otherwise dedicated land, water areas in excess of five percent (5%) of the minimum gross acreage, lands designated on the Official Map for public purposes or land undesirable by reason of topography, drainage or adverse subsoil conditions. Sites proposed for a combination of two (2) or more use classifications shall consist of the total land area required for each such use. The proposed development shall conform to the Village Master Plan.
- (3) Application for establishment of a planned development district or a development project within such a district shall be made to the Village Board. The Village Board shall refer the application to the Planning Board within thirty (30) days from receipt of the application. The applicant shall furnish to the Planning Board basic site data pertaining to the boundaries of the proposed planned development, existing zoning, the topography and subsoil conditions and such preliminary plans as may be required for an understanding of the proposed development with a petition for the desired zoning change, if required.
- (4) Planned development districts shall be considered as a single parcel for the purpose of applying the regulations for exterior yard dimensions as specified in Schedule A.<sup>11</sup> Individual building projects within such district shall conform to the interior yard regulations of Schedule A. The requirements for off-

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<sup>11</sup> Editor's Note: Schedule A can be found at the end of this chapter.

street parking, loading and unloading, screening and other transitional measures shall be as specified by the Planning Board in conformance with Schedule B.<sup>12</sup>

- (5) The Planning Board may require such changes in said preliminary plans as are found to be necessary to meet the requirements of this chapter. The Board may make such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the village. In reaching its decision on the proposed development and changes, if any, in the preliminary plans, the Planning Board shall consider, among other things, the following:
  - (a) The need for the proposed land use in the proposed location.
  - (b) The existing character of the neighborhood.
  - (c) The location of principal and accessory buildings on the site in relation to one another.
  - (d) The pedestrian circulation and open space in relation to structures.
  - (e) The traffic circulation features within the site and the amount, location and access to automobile parking areas.
  - (f) The height and bulk of buildings and their relation to other structures in the vicinity.
  - (g) The proposed location, type and size of display signs, driveways, loading zones and landscaping.
  - (h) The safeguards provided to minimize possible detrimental effects of the proposed use on

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<sup>12</sup> Editor's Note: Schedule B can be found at the end of this chapter.

adjacent properties and the neighborhood in general.

- (i) Storm drainage and sanitary waste disposal in and adjacent to the area.
- (6) The Planning Board shall approve, approve with modifications or disapprove such application and shall report its findings to the Village Board within sixty-two (62) days following the date of referral by the Village Board to the Village Planning Board.<sup>13</sup>
- (7) The Village Board shall hold a public hearing on a proposal to create or change a planned development district, with public notice, as provided by law in the case of any amendment to this chapter.
- (8) The Village Board may amend this chapter after the public hearing so as to define the boundaries of the planned district. Such action shall have the effect only of establishing a planned development district for the use proposed in the preliminary plans filed with the Village Board. Such planned district shall be designated as Planned Residential, Planned Business, Planned Commercial, Planned Manufacturing or Planned Recreational according to the type of development. Such amendment of this chapter shall not constitute or imply a permit for construction or approval of construction plans.
- (9) Any permit for a building project within a planned development shall be issued only after approval of the project and preliminary plans thereof by the Village Planning Board, except as noted below.
- (10) In the event that the Planning Board disapproves a planned development district proposal or a project within such district or approves with modifications which the applicant is unwilling to make, an

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<sup>13</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

affirmative vote of not less than three-fourths ( $\frac{3}{4}$ ) of the members of the Village Board shall be required to establish such planned district or to authorize a building permit within such district.

ARTICLE V  
**Area and Height Regulations**  
**(Lots, Yards and Buildings)**

**§ 192-16. General provisions.**

Regulations governing lot area and lot width, front, side and rear yards, building coverage and building height are specified in Schedule A<sup>14</sup> and in the additional regulations of this Article and supplementary regulations of Article VI. Schedule A accompanies and is hereby made a part of this chapter.

**§ 192-17. Area regulations.**

A. Lots of less than required dimensions.

- (1) Any lot with an area or a width less than that required in the district in which said lot is located may be used for any permitted principal use in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this chapter and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements.
- (2) In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than twenty-four (24) feet, the Board of Appeals shall determine and fix yard and coverage requirements for said lot

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<sup>14</sup> Editor's Note: Schedule A can be found at the end of this chapter.

to permit its reasonable utilization for a permitted use.

- B. Reduction of lot area. The minimum yards and open spaces, including lot area per family, required by this chapter shall not be encroached upon or considered as yard or open space requirements for any other building nor shall any lot be reduced below the district requirements of this chapter. Two (2) permanent dwellings on one (1) lot, other than group housing, shall be prohibited unless lot area and yard requirements of the district are met for each dwelling, including required street frontage.
- C. Corner lot. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on each such street. One (1) rear yard shall be provided on each corner lot, and the owner shall designate the rear yard on his application for a permit. The Board of Appeals shall determine the yards and building width of a corner lot facing an intersecting street and of record at the time of the passage of this chapter if the yard requirements would result in a residential structure less than twenty-four (24) feet wide.<sup>15</sup>
- D. Front yard exceptions. The minimum front yard of all principal buildings and structures hereafter constructed within a residential district shall conform with Schedule A<sup>16</sup> and, in addition, shall be not less than the average front yard of all principal buildings in the block for a distance of three hundred (300) feet on each side of such building. A vacant lot within the three-hundred-foot distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.

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<sup>15</sup> Editor's Note: Former Subsection (4), Visibility at street corners, which immediately followed this subsection, was moved to Ch. 99, Fences.

<sup>16</sup> Editor's Note: Schedule A can be found at the end of this chapter.

## E. Transition yard requirements.

- (1) Where two (2) districts abut on the same street between two (2) intersecting streets and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of fifty (50) feet from the district boundary line in the less restricted district a front yard equal in depth to the average of that required in the two (2) districts.
- (2) Where the side or rear yard of a lot in a residential district abuts a side or rear yard of a lot in a commercial district, there shall be provided along such abutting line or lines in the commercial district a side or rear yard equal in depth to that required in the more restricted district and, in addition, a planting screen at least ten (10) feet wide may be required by the Village Planning Board in an easement in any commercial district.

## F. Projecting architectural features, terraces, porches and fire escapes.

- (1) The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than two (2) feet into any required yard.
- (2) A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure exceeding six (6) feet in height.
- (3) In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches or porches open at the side but roofed shall be considered a part of the building.

- (4) An open fire escape may extend into any required yard not more than four (4) feet six (6) inches, provided that such fire escape shall not be closer than four (4) feet at any point to any lot line.
  - (5) Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six (6) feet.
- G. Walls, fences and hedges. The yard requirements of this chapter shall not prohibit any necessary retaining wall or any fence, wall or hedge permitted by the village law, provided that in any residential district such fence, wall or hedge shall be no closer to any front lot line than two (2) feet and shall comply with visibility at street corners as provided in this Article.<sup>17</sup>

**§ 192-18. Height regulations.**

- A. Chimneys, spires, etc. The height limitations of this chapter shall not apply to belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level nor to flag poles, monuments, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.
- B. Through lots. On through lots one hundred twenty (120) feet or less in depth, the height of a building may be

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<sup>17</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

measured from the grade of either street. On through lots more than one hundred twenty (120) feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than one hundred twenty (120) feet from that street.

ARTICLE VI  
**Supplementary Regulations**

**§ 192-19. Access to improved street.**

In any district, a lot to be used for building purposes shall have direct frontage on an improved street or highway or on a street in a subdivision plat approved by the Planning Board.

**§ 192-20. Lots in two districts.**

Where a district boundary line divides a lot in one (1) ownership at the time of adoption of said district line, the regulations for the less restricted portion of such lot shall extend a minimum of thirty (30) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

**§ 192-21. Drive-in food services.**

Any drive-in food-service building shall be located sixty (60) feet or more from any public right-of-way. Such businesses, where persons are served in automobiles, shall be not closer than two hundred (200) feet to a residential district. Arrangements of ingress and egress of vehicles, lights, fences and screening shall be approved by the Board of Appeals in such a way as not to interfere with uses in the residential district.



**§ 192-22. Accessory buildings.**

- A. Number. On any lot intended or used primarily for residential purposes, an accessory building such as a private garage for use in connection with the principal dwelling is permitted.
- B. Height. The maximum height of accessory buildings shall be one (1) story or fifteen (15) feet, except that there shall be no height limitations on barns, silos and other farm structures.
- C. Location. Accessory private garage buildings in residential districts which are not attached to a principal building may be erected within the rear yard in accordance with the following requirements:
- (1) Rear yard. Said building shall be five (5) feet from side or rear property line, except when abutting an alley, then ten (10) feet.
  - (2) Side yard. The street side of a corner lot shall be the same as for a principal building.
  - (3) Said building shall not be closer to a principal or accessory building than ten (10) feet.
  - (4) In any district, accessory buildings other than private garages shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than ten (10) feet.
- D. Attached accessory building in residence district. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.

**§ 192-23. Commercial excavation.**

- A. Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of

topsoil, earth, sand, gravel, clay or other natural mineral deposits or the quarrying of any kind of rock formation hereafter shall be conducted only in the Agricultural District, subject to a permit granted by the Village Board, and in compliance with Subsection B(1) through (4).

- B. Before issuing a permit for such use, the Village Board shall find that such excavation or quarrying will not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic or other condition. The Village Board may specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit, including the following:
- (1) The slope of material in such topsoil, sand, gravel, clay or other earth shall not exceed the normal angle of repose of such material.
  - (2) The top and the base of such slope shall not be nearer than fifty (50) feet to any property line nor nearer than two hundred (200) feet to the right-of-way line of any street or highway.
  - (3) A plan for restoration and rehabilitation of a commercial earth excavation area or borrow pit shall accompany the application for a permit and shall assure conformance with the public health, safety and welfare. The Village Board, upon approval of such plan, shall require a performance bond to assure rehabilitation of commercial excavation sites in conformance therewith.
  - (4) A plan for safeguarding the public health, safety and welfare in commercial rock or mineral excavation areas shall accompany the application for a permit and shall be approved by the Village Board.

**§ 192-24. Dumps and junkyards.**

No dump, junkyard or automobile wrecking yard shall be established or maintained within two hundred (200) feet from any highway or property line. A permit for any such use shall be obtained from the Village Board subject to any regulations the Board may prescribe for the public health, safety and welfare and to any conditions that the Board may impose in connection with a particular permit. The storing or abandonment for a month or more of two (2) or more unlicensed or unregistered motor vehicles, other than farm vehicles, not in operating condition, shall be deemed to be a junkyard. Any of the uses referred to in this section shall be subject to the requirement that such dumping or junkyard will not be objectionable by reason of dust, fumes, odors, smoke, vermin or otherwise detrimental to the public health, safety or welfare and will not interfere with drainage so as to be injurious to adjacent land or buildings.

**§ 192-25. Signs.**

- A. No person shall erect, construct or use any billboards, signs or other advertising media of a similar nature in, upon or near the streets and public places in the village without first obtaining a permit therefor from the Village Board upon payment of a fee as set forth by resolution of the Board of Trustees.<sup>18</sup>
- B. Signs shall comply with the following regulations:
  - (1) In R-1, R-2 and R-3 Residential and A Agricultural Districts:
    - (a) Nonilluminated and nonadvertising signs are permitted as follows:
      - [1] One (1) nameplate, identification or professional sign not to exceed two (2)

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<sup>18</sup> Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The current fee schedule is located in Ch. A196.

square feet of sign area showing the name or permitted home occupation or the occupation of the occupant of the premises.

- [2] One (1) sign not to exceed six (6) square feet of sign area during and pertaining to the sale, lease or rental of the land or building.
  - [3] One (1) temporary sign not to exceed six (6) square feet of sign area during and pertaining to construction, repairs or alterations on the property.
  - [4] Institutional or religious announcement signs not to exceed fifteen (15) square feet in area.
- (b) The above signs shall not be located in any required yard.
  - (c) Two (2) farm products signs, each not exceeding six (6) square feet in area, may be displayed on the property but only when such products are on sale.
- (2) In C-1 and C-2 Commercial and M-1 Manufacturing Districts, nonflashing, nonadvertising signs are permitted as follows:
- (a) A business sign or signs directing attention to a business or profession conducted or a commodity, service or entertainment offered or sold on the premises shall be permitted. Such sign or signs shall not exceed the aggregate of thirty-two (32) square feet in area for hanging, wall and pedestal signs, and no such sign shall project into or over the public right-of-way nor above the roof line. In the case of a shopping center or other group of related buildings, in addition to the general sign, each individual unit may display an identification sign affixed flat against the wall of the building which shall

not exceed one (1) square foot of sign for each foot of building frontage.

- (b) If illuminated, the source of light shall not be visible.
  - (c) Nonilluminated real estate signs not over sixteen (16) square feet in aggregate area advertising the sale, rental or lease of the premises on which they are located are permitted, but not in any required yard.
- (3) In the P-H Planned Historical Districts, a business sign is permitted as follows:
- (a) Business sign not exceeding sixteen (16) square feet in area pertaining to a business or service conducted on the premises shall be permitted, provided that it conforms with the provisions of Subsections B(1)(b) and B(2) of this section.

#### ARTICLE VII

#### **Off-Street Parking and Loading**

#### **§ 192-26. Automobile parking facilities.**

- A. Where one (1) or more motor or other vehicles recurrently parks by reason of the use and occupancy of any premises, there shall be provided on or in convenient connection therewith adequate garage or vehicular parking spaces for the number and in proportion to the size of the vehicles which so park, the minimum to be not less than one hundred eighty (180) square feet per automobile, in addition to driveway and backing and turning space. The recurrent parking of any such vehicle on the right-of-way of a highway or the impeding of traffic or creation of traffic hazards by the parking of any such vehicle shall be prima facie evidence of the failure to provide adequate and suitable garage or parking space on or in convenient connection with such premises. Other than in a business or industrial district, provision

shall be made for adequate parking space in the side or rear yard.

- B. Parking requirements for certain uses are specified in Schedule B.<sup>19</sup> For uses not specified, the Board of Appeals shall establish parking requirements after recommendation of the Planning Board. Schedule B accompanies and is hereby made a part of this chapter.
- C. For any building having more than one (1) use, parking shall be required for each use.

**§ 192-27. Off-street loading.**

Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.

**ARTICLE VIII  
Nonconforming Uses**

**§ 192-28. Continuation.**

The lawful use of any land or building existing at the time of adoption of this chapter may be continued although such use does not conform with the provisions of this chapter. Any such building may be reconstructed or structurally altered and the nonconforming use thereby changed, provided that the following conditions prevail.

**§ 192-29. Nonconforming use of buildings.**

- A. Reconstruction or alteration. A nonconforming building may not be reconstructed or altered during its life to

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<sup>19</sup> Editor's Note: Schedule B can be found at the end of this chapter.

exceed fifty percent (50%) of its fair value unless such building is changed from a nonconforming to a conforming use as defined by this chapter.

- B. Restoration. A building, nonconforming as to use, which has been damaged by fire or other causes to the extent of seventy-five percent (75%) of its fair value shall not be repaired or reconstructed except in conformance with the regulations of the district in which such building is located.
- C. Discontinuance. When a nonconforming use has been discontinued for a period of eighteen (18) months, any future use of such building shall conform with the regulation for the district in which it is located.
- D. Changes. A nonconforming use may not be changed to another nonconforming use under the provisions of this section.
- E. Completion of building. Any building lawfully under construction at the time of enactment of this chapter may be completed.

**§ 192-30. Nonconforming use of land.<sup>20</sup>**

The nonconforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this chapter. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter. A nonconforming use of land shall not be changed to another nonconforming use. If a nonconforming use of land is discontinued for a period of twelve (12) consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

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<sup>20</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE IX  
**Administration**

**§ 192-31. Enforcement.**

This chapter shall be enforced by the Code Enforcement Officer(s) designated by the Village Board. The Code Enforcement Officer(s) shall in no case grant any building permit where the proposed erection, alteration, relocation or use would be in violation of any provision of this chapter. The Code Enforcement Officer(s) shall make inspections of buildings or premises necessary to carry out his duties. No permit nor certificate of occupancy required hereunder shall be issued by the Code Enforcement Officer(s) except in compliance with the provisions of this chapter or as directed by the Board of Appeals under the provisions of Article X.

**§ 192-32. Building permit.**

- A. No building shall hereafter be erected, relocated or altered as to outside dimensions or so as to permit a change in its use and no excavation for any building shall be begun unless and until a permit therefor has been issued by the Code Enforcement Officer(s) or by the Board of Appeals wherever it is provided in this chapter that the approval of the Board of Appeals is required.
- B. No such permit shall be issued until there has been filed with the Code Enforcement Officer(s) a sketch or plot plan showing the actual dimensions and angles of the lot to be built upon, the exact size and location on the lot of the building or accessory buildings to be erected, relocated or altered and such other information as may be necessary to determine and provide for the enforcement of this chapter. Each application shall state the purpose for which the structure or land is to be used and a general description of the type of construction.
- C. The Code Enforcement Officer(s) shall act upon all applications for building permits within a reasonable