

**VILLAGE OF OLD BROOKVILLE
LOCAL LAW 3-2008
“READoption OF ZONING CODE OF THE INCORPORATED VILLAGE OF OLD
BROOKVILLE”**

A local law pursuant to Village Law §7-706 to re-adopt all of the zoning regulations of the Village of Old Brookville and new minor amendments under a new codified chapter number, by repealing Chapter 30, “*Zoning Code of the Incorporated Village of Old Brookville,*” and adopting new Chapter 300, “*Zoning Code of the Incorporated Village of Old Brookville.*”

BE IT ENACTED by the Board of Trustees of the Village of Old Brookville as follows:

SECTION 1. Chapter 30, “*Zoning Code of the Incorporated Village of Old Brookville*” as last amended by Local Law 2-2008, is hereby repealed and new Chapter 300, “*Zoning Code of the Incorporated Village of Old Brookville*” is hereby enacted as follows:

[SEE ANNEXED ZONING CODE]

SECTION 2.

Severability. If any section, provision or part thereof in this local law shall be adjudged invalid or unconstitutional by a Court of competent jurisdiction, then such adjudication shall not affect the validity of this local law as a whole or any section, provision or part thereof not so judged invalid or unconstitutional.

SECTION 3.

This local law shall become effective immediately upon filing with the Secretary of State.

ZONING CODE
OF THE
INCORPORATED VILLAGE OF OLD BROOKVILLE
Nassau County, New York

Last revised 3/05/08

District changes	58
§ 300.52 Nonconforming lots existing prior to adoption or amendment of this Chapter	58
Exemption from area, width and depth requirements	58
Variance, when required	59
§ 300.53 Signs	59
Restrictions	59
Residence Districts	60
Business Districts	63
Permits and fees	66
Construction and maintenance of signs	66
Revocation and expiration of permit	67
Applicability	68
§ 300.54 Fences	68
§ 300.55 Mobile homes and trailers	70
§ 300.56 Height Requirements	71
§ 300.57 Reducing area or dimensions of lots	71
ARTICLE VI ADMINISTRATION AND ENFORCEMENT	72
§ 300.61 Enforcement officer	72
§ 300.62 Building permits	72
When required	72
Board of Appeals approval	73
Planning Board approval	73
Architectural Review Board approval	73
§ 300.63(1) Site Plan	74
§ 30.64 Architectural Review Board	97
Legislative intent, policy and findings	97
Creation of Architectural Review Board	100
Procedures of Architectural Review Board	101
Referrals to the Board	102
Standards for Board Action	105
Appeal	112
Fees	112
§ 300.65 Certificates of Occupancy	113
Required	113
Alterations	114
Noncompliance with Chapter	114
§ 300.66 Application and forms	114
§ 300.67 Board of Appeals	115
Creation, appointment and organization	115
Powers and duties	116
Procedure	117
	-ii-
§ 300.68 Fees	118
ARTICLE VII AMENDMENTS AND INTERPRETATION	119

§ 300.71 Amendments	119
§ 300.72 Interpretation	119
ARTICLE VIII PENALTIES	119
§ 300.100 Violations and penalties	119
Injunctive relief	120

CHAPTER 300

**ZONING CODE OF THE
INCORPORATED VILLAGE OF OLD BROOKVILLE**

ARTICLE I

GENERAL PROVISIONS

§ 300.1 Title

This Chapter shall be known and may be cited as the “Zoning Code of the Incorporated Village of Old Brookville.”

§ 300.2 Declaration of purpose

This Chapter is adopted pursuant to Article 7 of the Village Law for the purpose of promoting the health, safety, morals, or the general welfare of the community, and in furtherance of the following related and more specific objectives:

1. To guide and regulate the orderly growth, development, and redevelopment of the Village in accordance with a comprehensive plan and with long-term objectives, principles, and standards deemed beneficial to the interests and welfare of the people.

2. To protect the established character and the social and economic well-being of both private and public property.
3. To promote, in the public interest, the utilization of land for the purposes for which it is most appropriate.
4. To secure safety from fire, panic, and other dangers, and to provide adequate light, air and convenience of access.
5. To prevent overcrowding of land or buildings, and to avoid undue concentration of population.
6. To lessen and, where possible, to prevent traffic congestion on public streets and highways.
7. To eliminate nonconforming uses gradually.
8. To conserve the value of buildings and to enhance the value of land throughout the Village.
9. To conserve and reasonably to protect the natural scenic beauty of the Village and its environs.

§ 300.3 Definitions

A. Scope and meaning of certain words and terms.

As used in this Chapter, unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural, and the plural the singular.

The word “shall” is mandatory, and not directory; the word “may” is permissive.

The word “lot” includes the word “plot” and the word “land.”

The word “structure” includes the word “building.”

The word “use” refers to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design or using the same.

The word “used” refers to the actual fact that a lot or land, building or structure, or part thereof, is being occupied or maintained for a particular use.

B. Definition of words and terms.

As used in this Chapter, unless the context or subject matter otherwise requires, the following words and terms shall have the following meanings:

Accessory Building shall mean a building which is subordinate and accessory to the principal use or building on the same lot and which is used for purposes customarily incidental to those of said principal building or use, such as and including without limitation a private garage; bathhouse; cabana; private toolhouse; private children's playhouse; private tennis house; private stable; and noncommercial greenhouse which said accessory building shall be separated from the principal building on said lot at all points by a horizontal minimum distance of ten feet. Any accessory building attached to the principal or main building or less than ten feet therefrom at any point shall be considered part of the principal building.

Accessory Use shall mean a use or occupancy customarily incidental to the principal use or occupancy of the main building or lot.

Agriculture shall mean the use of land for growing or crops and horticulture in connection with and incidental to the principal use thereof for single family detached dwellings.

Alterations as applied to a building or structure shall mean

a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on the front, rear, or on a side or by increasing in height, or the moving from one location or position to another.

Approved shall mean approved by the Building Inspector under the regulations of this Chapter, or approved by an authority designated by law or this Chapter.

Basement shall mean that portion of a building located wholly or partially underground immediately beneath the first floor of a building where the first floor elevation of the building is more than five feet above the average finished grade extending for a width of at least ten feet around the perimeter of the building. A basement shall be counted as a story and included in floor area. (See definitions of “Cellar,” “Floor Area” and “Story.”)

Building shall mean a structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof which could afford shelter to persons, animals, or property, whether or not actually used for such shelter.

Building Area shall mean the aggregate of the maximum horizontal cross-section area of all the buildings projected on a lot excluding such cornices, eaves, gutters, or chimneys as project not more than eighteen (18) inches, all

steps, one story open porches, bay windows not extending through more than one story and not projecting more than five (5) feet, and balconies.

Building Line shall mean the line established by law, or regulation, beyond which no part of a building, other than parts expressly permitted, shall extend.

Cellar shall mean that portion of a building located wholly or partially underground immediately beneath the first floor of a building where the first floor elevation of the building is less than five feet above the average finished grade extending for a width of at least ten feet around the perimeter of the building. A cellar shall not be counted as a story and not included in floor area. (See definitions of “Basement,” “Floor Area” and “Story.”)

Church shall mean any structure used for worship or religious instruction including social and administrative rooms accessory thereto.

Club shall mean any organization catering exclusively to its members and their guests, premises and buildings which are used for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required for the membership and purposes of such club; it shall include

fraternal, social and service organizations. Any such organization's premises or building which provides sleeping accommodations for more than five (5) persons shall be considered a multiple dwelling.

Clubhouse shall mean a building to house a club or social organization not conducted for private profit which is not an adjunct to or operated by or in connection with a public tavern, café or other public place.

Corner Lot shall mean a parcel of land at the junction or and bounded on two (2) or more sides by intersecting streets.

Dwelling shall mean any building or structure, or part thereof, used and occupies for human habitation, or intended to be so used.

Dwelling Unit shall mean a complete self-contained residential unit, with living, sleeping, cooking, sanitary facilities within the unit, for use by only one family.

Family shall mean one (1) or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over five (5) members.*

* See *City of White Plains v. Ferraioli*, 34 NY2d 300, 306. as to interpretation of "family"; *Mental Hygiene Law § 42.34(f)* as to community residence and family care homes. As to group homes, see *Group Home v. Bd of Zoning*, 45 NY2d 266, 408 NYS2d 377, 380 NE2d 207.

Farm shall mean any lot or parcel of land at least five (5) acres in area which is used for the commercial raising of agricultural and horticultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribe limits and storage of equipment used. It excludes the commercial raising or maintenance of the following: fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

Floor Area shall mean the sum of the gross horizontal areas of the several floors in each story of a building measured from the exterior face of the exterior walls of such building, without exclusion of any areas of the floors being measured whatsoever (i.e., including, without limitation, enclosed porches, enclosed breezeways, attached garages, closets, kitchens, bathrooms, corridors, basements, partitions and stairwells), except that cellar and half story floor areas shall not be included. Any upper story of a building with at least two opposite exterior side walls of not less than two feet above the surface of the floor of such story which sides meet a sloping roof shall be counted as a story and includable as floor area. Further, for horizontal floor areas where the floor to ceiling height is fourteen (14) feet or greater, twice the horizontal areas shall be included in floor area.

Front Lot Line shall mean, in the case of a lot abutting

upon only one street, the street line, and, in the case of a corner lot, the street line which is designated as the front lot line in an application for a building permit to erect or alter a building on such lot, or, if not so designated, the street line from which the principal building sets back the greatest distance, or, if its setback is equidistant from two or more street lines, the street line which is nearest to the main entrance of the principal building, or, if such lot extends through a block so that the lot abuts on two streets, the street lies separating the lot from each of said streets, in which case the front setback regulations shall apply to such lot with regard to each of such front lot lines and the rear setback regulations shall not apply to such lot.

Garage, Private, Non-Commercial shall mean a building used for the housing of one or more non-commercial motor vehicles or conveyances owned and used by the owner or tenant of the lot on which it is erected for a purpose and for a use except incidental to the use of the lot. When attached to the principal building by means of a covered breeze-way it shall be deemed a part of the principal building. [Amd. LL #4, 85.]

Height shall mean, as applied to a building, the vertical distance from the mean level of the grounds immediately surrounding the building to a point midway between the highest and lowest points of the roof provided that chimneys shall not be included in the height. [Amd. LL #4,

85.]

Home Occupation shall mean a subordinate use of a nonresidential nature which is conducted within a dwelling unit, by an occupant of the dwelling unit, which is clearly incidental and accessory or secondary to the use of the property for residential purposes, and which meets the following additional conditions:

- a. The occupation or activity shall be carried on wholly within the principal building.
- b. No person outside the resident household shall be employed in the occupation or as assistants.
- c. There shall be no exterior display or sign except as permitted under this Chapter, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the lot or of the surrounding neighborhood.
- d. No offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced.
- e. The home occupation shall not generate traffic in any greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the occupation shall be met off the street

and in accordance with the regulations of this Chapter.

Lot shall mean a portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same. [Amd. LL #1, 87.]

Lot Area or Net Lot Area shall mean the land area within the legal boundaries of a lot measured only to the street line or lines on which the lot abuts. It shall not include any portion of the lot (1) where the distance between the side lot lines is less than fifty percent (50%) of the length of the minimum front lot line required in the zoning district in which the lot is situated, (2) which lies within a driveway, right-of-way or access easement serving any other lot or lots, (3) underwater to the extent that the underwater portion exceeds ten (10%) percent of the minimum lot area for the Zoning District in which the lot lies, or, where a lot lies within two Zoning Districts, to the extent that the underwater portion exceeds ten (10%) percent of the minimum lot area required for the less restrictive Zoning District, (4) within an area which has been designated or mapped as a freshwater wetlands by the New York State Department of Environmental Conservation or the Village of Old Brookville or by any other municipal or governmental agency having jurisdiction over the same, or (5) is a designated conservation easement set aside as part

of a subdivision approved by the planning board.

Lot Coverage shall mean that percentage of the net lot area covered by the combined area of all buildings or structures on the lot as well as all areas on the ground or elevated above the ground which are comprised of materials such as brick, asphalt, concrete, masonry, lumber, gravel or paving stones, including partially opened paving stones, and including elements such as swimming pools, courtyards, volleyball courts, tennis courts and other recreational courts, decks, patios, terraces and, also, those driveways which are made of compacted dirt or improved with gravel, crushed stone or other paving material.

Lot Width shall mean the width of a lot measured parallel to the front lot line at the minimum required front setback.

Parking Space shall mean the area required for parking one (1) automobile, shall not be less than ten (10) feet wide and twenty (20) feet long and shall not include passageways and driveways giving access thereto.

Physically Handicapped shall include only those not under treatment for or affiliated with communicable diseased, mental disability, insanity, epilepsy, alcoholism or drug addiction.**

** See footnote to "Family".

Rear Lot Line shall mean the property line bounding a lot which is most parallel to the front lot line. If the rear lot line is less than ten 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 lot line not less than fifty feet long, lying wholly within the lot and farthest from the front lot line.

Rear Yard shall mean an open space on the same lot with a principal building, between the rear wall of the principal building and the rear lot line, and unoccupied except for accessory buildings. In the case of a corner lot, the owner may designate any interior lot line as the rear lot line, provided that the minimum setback from the rear lot line is met pursuant to the appropriate Articles and Sections of this Chapter.

School shall mean a public, private or church-affiliated establishment academically below the college level, for the education of children and/or adults in subjects or skills.

Setback shall mean the smallest horizontal distance between any part of a Building or Structure and any part of a Front, Side or Rear lot line. Such distances shall be referred to, respectively, as Front Setback, Side Setback, and Rear Setback.

Side Lot Line shall mean the property line or lines

extending from the front lot line to the rear lot line.

Side Yard shall mean an open unobstructed space on the same lot with a building between the building and the side line of the lot and extending through from the front to the rear yard, into which space there is no extension of building parts other than eaves with an overhang of not more than two (2) feet, rainwater leaders, window sills and other such fixtures; open steps; and bay windows not more than twelve (12) feet side, at one (1) floor level only, and projecting for a distance not to exceed two (2) feet.

Sign shall include the word “billboard” and shall be deemed to mean any advertising structure, sign, picture, word or device for the advertisement thereon or thereby of any commodity, service or thing.

Stable, Private shall mean a building used for the housing of one or more horses owned and used by the occupant of the lot on which it is erected for a purpose accessory to the use of the lot, such horses not to be let for commercial purposes.

Story shall mean that portion of any building included between the surface of any floor and the surface of the floor or roof next above it, or if there is no floor above it then the space between the surface of the floor and the top of the ceiling beams next above it. A basement shall be counted

as a story for the purpose of determining the permitted number of stories and shall be includable in floor area. A cellar shall not be counted as a story for the purpose of determining the permitted number of stories.

Story, Half shall mean the uppermost story of a building with at least two opposite exterior side walls extending not more than two feet above the surface of the floor of such story which sides meet a sloping roof. The floor area of a half story shall not be included in floor area.

Street shall mean a thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law, including private roads. [Amd. LL #4, 85.]

Street Line shall mean a line dividing a lot, plot, or parcel from a street.

Structure shall mean any combination of materials forming any construction, erected with a fixed location on the ground or the use of which requires location on the ground, such as but not limited to:

Buildings, garages, tool houses or sheds,
greenhouses, children's play houses, tree houses,
outside garbage or other bins, stables, barns,
kennels for dogs or other animals, rabbit hutches,

runs for dogs or other animals, riding rings, paddocks, corrals or other roofless fenced enclosures for animals, roofed enclosures for animals, fountains or reflecting or other pools, and swimming pools, whether above or below ground (including filters, heaters and other mechanical equipment, and/or appurtenant bath houses or cabanas, tennis courts and/or appurtenant tennis houses, walls, fences, gates, gate posts, statues, signs, billboards, poster panels, tents, gazebos, pergolas, arbors, trellis, clothes lines, posts or other drying structures, trash or other burners, air conditioning equipment, units or compressors, heat exchangers or above ground heating tanks, solar collectors, platforms, porches, verandas, outdoor decks or patios, paved area used principally as a recreational area, TV antennas or dish antennas, radio or television towers and/or antennas, communication antennas used for the receiving or sending of communication signals, stand-pipes, transmission or distribution lines, towers and/or poles, trailers, campers, mobile homes (whether movable or stationary) and enclosures therefor, stadiums, reviewing stands, windmills, observation towers, staging, gasoline tanks or pumps (whether above or below ground),

any of the foregoing or other structures, whether permanent or temporary, and any structure over one foot above ground. The word “structure” shall be construed as though followed by the words “or part thereof”. [Amd. LL #4, 85, 5/20/85.]

Swimming Pool shall mean any body of water or receptacle for water having a depth at any point greater than one foot, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above ground. A swimming pool shall be deemed a structure for all purposes under the provisions of this Chapter. For purposes of this Chapter, the small plastic type wading pools for small children shall not be considered a swimming pool.

Village shall mean the incorporated Village of Old Brookville in the County of Nassau and State of New York.

§ 300.4 Application of regulations.

Except as hereinafter otherwise provided:

- A. No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose or in any manner other than as permitted in the district in which such building or land is located.

- B. No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located.
- C. No building shall be erected, no existing building shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, and building location regulations hereinafter designated for the district in which such building or open space is located.
- D. No yard or other open space provided around any building for the purpose of complying with the provisions of this Chapter shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.
- E. If a use or building is not specifically permitted, it shall be deemed prohibited provided, however, if a use of building not enumerated in any district, is so similar in character to an enumerated permitted use or building as to be compatible with other permitted uses or buildings, it shall be deemed a permitted use or building.

ARTICLE II

ESTABLISHMENT OF DISTRICTS

§ 300.21 Establishment of districts.

For the purposes of promoting the public health, safety, morals and general welfare of the Village of Old Brookville the Village is hereby divided into the following types of districts:

Residence R-3A District
Residence R-2A District
Residence R-1A District

Business District 1
Business District 2
[§ 30.21 amd. LL#1, 87.]

§ 300.22 Boundaries of Districts on Zoning Map.

A. Zoning Map.

The boundaries of each of the Districts listed in § 300.21 are hereby established as shown upon the duly adopted Zoning Map which accompanies this Chapter, and which, with all notations, references, and other matters shown thereon, is hereby declared a part of this Chapter.

B. Interpretation.

1. Generally. The District boundary lines, unless shown otherwise, are intended generally to follow street centerlines, railroad right-of-way boundary lines or their centerlines, other similar right-of-way lines, or lot lines or boundaries of subdivisions, or Village boundary lines, all as shown on the Zoning Map. Where a District boundary line does not follow such a line, but is shown parallel to such a line on the Zoning Map, the distance between the parallel lines shall be as dimensioned on the Zoning Map. Such dimensions shall be construed to read from the outside edge of all rights-of-way rather than from their centerlines.
2. Inaccurate street layouts. Where the street layout actually on the ground varies from the street layout as shown on the Zoning Map, the designation shown on the mapped streets shall be applied in such a way as to carry out the purpose and intent of the Zoning Map for the particular area in question.
3. Scaling. When the location of a District boundary line cannot be otherwise determined, the determination thereof shall be made by scaling the distance on the Zoning Map from a line of known location to such District boundary line.

4. Interpretation by Board of Appeals. In the case of uncertainty as to the true location of a District boundary line in a particular instance, an appeal may be taken to the Board of Appeals, as provided in this Chapter.

5. Division of lot. When a District boundary line divides a lot in a single ownership at the effective date of this Chapter or any subsequent amendment thereto, the Board of Appeals may permit extension into one District of a lawful conforming use existing in the other District, as hereinafter provided.

ARTICLE III

RESIDENTIAL DISTRICTS

§ 300.31 Residence Districts.

A. Permitted Principal Uses.

The permitted principal uses in the Residence R-3A, R-2A and R-1A Districts are as follows:

1. Single family detached dwellings.
2. Farms.

B. Special permit uses:

The following uses are permitted upon issuance of a special permit by the Planning Board:

1. Watertowers.
2. Educational institutions, subject to the provisions of Article VI, § 300.64(D).
 - a. Primary or secondary schools.
 - b. Non-profit educational institutions under the

supervision of the New York State Department of Education or an educational institution chartered by the Regents of the University of the State of New York, subject to the following standards and conditions:

- (1) Building area: Shall not cover more than ten (10) percent of the area of the lot.
- (2) Height: The height of any building shall not exceed 35 feet or 2 stories.
- (3) Yards: Each lot shall have front, side and rear yards not less than the depths and widths following:

Front yard depth: One hundred ten (110) feet.

Side yard width: Each fifty (50) foot for a one story principal building, each seventy (70) feet for a two story building; however, when a side yard abuts upon a street line, the width shall be one hundred ten (110) feet.

Rear yard depth: Fifty (50) feet for a one story building; seventy (70) feet for a two story principal building.

- (4) Parking area: Off street parking on the lot shall be provided in a paved area equal in area to one times the building area. Such parking area may extend into the side and rear yards, but shall be distant not less than thirty (30) feet from any lot line and twenty (20) feet from any street line.
- (5) Screen: Where a parking area abuts a property line a screen of evergreen shrubs 4 feet in height and 20 feet in width shall be installed along said lines.
- (6) Marginal Roadway: A marginal roadway 50 feet in width in the front yard and in any side yard abutting a street shall be provided. Said marginal roadway shall extend from the road or street line into the front and side yard; shall be separated from the street by a wall 10 feet in width; not more than 2 openings in the wall for access shall be made on any one street; the wall shall be curbed; the pavement in the roadway shall be 30 feet in width; a sidewalk 4 feet in width shall be constructed along the inner side of the marginal roadway. All work and construction hereinabove set forth shall be in

accordance with Village specifications and regulations.

- (7) Plan: The plot plan required to be submitted with the application for the building permit shall in addition show the requirements set forth herein together with the estimated cost of the improvements required in clauses (4), (5), and (6) hereof.

- (8) Bond: If the improvements provided in clauses (4), (5), and (6) have not been completed prior to the application for a certificate of occupancy, a performance bond for not more than one year may be accepted by the Village in an amount estimated by the Village Engineer necessary to complete the improvements, which bond shall be a surety company bond in such form as shall be approved by the Village Attorney. On the acceptance and filing of such bond the Building Inspector shall be authorized to issue the certificate of occupancy, and

Further provided that the area of the lot shall not be less than fifty (50) acres, and not withstanding any contrary provisions of this

Chapter, the following uses on the same lot or any other premises in the Village used in connection with such permitted uses are expressly prohibited.

- (a) Dormitories and sleeping quarters, except a single family dwelling unit for one caretaker and his or her family.
 - (b) The erection of any structure for the use of spectators.
 - (c) Outdoor swimming pool.
 - (d) Athletic contests and games with other institutions, schools or organizations.
 - (e) Any use for which an admission is charges, gratuity, donation or subscription is accepted.
 - (f) Any equipment or structures used for extra curricular activities.
- c. Educational institutions for the physically handicapped.
3. Playgrounds and parks provided that they are a part of

and incidental to a permitted educational institution or that they serve the needs of the inhabitants of the Village and are not operated for profit.

4. Churches.
5. Incorporated golf or tennis clubs, subject to the conditions that it be a bona fide membership private club, operated by a corporation organized under the Membership Corporation Law or Not-For-Profit Corporation Law of the State of New York and qualifying for Federal Tax Exemption under the Internal Revenue Code.

A golf club shall be on a plot at least 125 acres. A tennis club shall be on a plot of at least 20 acres.

The site plan and size of membership of a golf or tennis club shall be approved by the Planning Board after a public hearing. The Planning Board shall be guided by the following standards in addition to those contained in § 300.63(c). In case of a conflict, the higher standards shall apply.

- a. All structures including outdoor courts, swimming pools, cabanas and caddy houses and the main club house shall have a setback of no less than 100 feet from every street line and no

less than 150 feet from each and every other boundary line of the lot.

- b. The construction of any structure to provide indoor tennis facilities is expressly prohibited.
- c. Parking spaces shall be provided at the ration of no less than one parking space for every three members. A parking space is defined as a space no less than 300 square feet per car. Each parking space shall be set back a distance of no less than 75 feet from each and every boundary line of the lot.
- d. Any outdoor illumination shall be as prescribed by the Planning Board provided however, that no outdoor illumination shall be provided so as to permit the use of any outdoor facilities other than during daylight hours.
- e. The extent and kind of screening, planting and fencing shall be as prescribed by the Planning Board.
- f. The location of ingress and egress shall be so located as to avoid the creation of traffic hazards.
- g. The installation of such drainage facilities as may

be recommended by the Village Engineer to prevent the overflow of water onto adjoining properties or to any road abutting upon the subject premises shall be required.

6. Executive headquarters.

a. Purpose. The purpose of this paragraph is to preserve one or more buildings or structures:

- (1) Which have extraordinary architectural or aesthetic value, or which have a relationship to and association with notable personages, families, historic events, any of which contribute to the cultural heritage of the Village;
- (2) The use of such buildings, or one or more of them, as single family residences is no longer feasible, due to their excessive size for such use, the cost of or inability to secure services and staff necessary for the physical maintenance and use of such buildings and the grounds upon which it or they are located, by reason of which such buildings have become obsolete and anachronisms, and in great danger of deterioration, decay, and eventual demolition and loss;

- (3) Those tangible assets which provide a sense of identity with the area as it once was should be conserved, protected, restored, perpetuated, and enhanced for the benefits which their restored existence would confer upon the Village, in harmony with a comprehensive plan and policies thereof, and the promotion of the general welfare;
- (4) There is little or no possibility of their conservation, restoration, or perpetuation, if limited to single family residential use as they formerly were used; and,
- (5) The Village Board finds that limited, quasi-commercial uses of those of such properties which are on sufficiently large parcels of land to safeguard the properties of adjoining owners, in the manner hereinafter set forth, will be in harmony with the spirit and intent of this Chapter and comprehensive plan, and the most suitable alternative to destruction and continuing deterioration of such properties.

b. Premises which may be converted.

Any existing building or structure which shall be found by the Planning Board to possess historical, outstanding aesthetic, architectural, cultural, or other value set forth in subparagraph a and which is no longer used or capable of being used as a single family residence, by virtue of the matters set forth in such preambles, and which building is:

- (1) Centrally located on a parcel of land at least fifty (50) acres in size fronting on a state or county road,
- (2) Was constructed in 1930 or earlier,
- (3) Contains a minimum of forty (40) rooms or contains a minimum of 450,000 cubic feet, when approved by the Planning Board, after a public hearing, may be used, operated, and maintained as executive headquarters including the reception and extension of hospitality to persons connected therewith, visitors and dignitaries. As accessory and incidental thereto, such property may contain guest facilities for the temporary accommodation of visiting executives, business visitors and dignitaries, in existing winds, buildings or facilities, subject to the

discretion of the Planning Board.

c. Procedure.

In passing upon an application for the conversion of such properties to such use, the Planning Board shall give consideration to among other matters as provided in this Chapter, the following:

- (1) Whether the size, extent and intensity of the use will prevent the orderly and reasonable use of adjacent properties, or properties in the immediately surrounding area, or will materially affect the value thereof.
- (2) Whether the effect of the proposed use will be to create or unduly increase traffic congestion upon the roads giving access to it.
- (3) Whether the use of the structures to be used therefor will cause an undue concentration of population thereon.
- (4) Whether, in connection with the foregoing, and all the aspects of use on a particular parcel, the proposed use, subject to such reasonable conditions as may be necessary

or desirable to mitigate any adverse impacts thereof, furnishes a reasonable alternative to the existing condition of the premises, or to the conversion thereof to any other use, in conformity with the general purposes and intent of this chapter.

d. Conditions. Such use, if granted, shall be subject to the following conditions:

- (1) Offices and areas used for the conduct of any operations of a business nature, including record storage, location of business machinery, furniture and equipment, and staff operations shall not exceed thirty-five (45%) percent of the total interior space, figured on a cubic foot basis, or fifth (50%) percent of the total square footage of interior floor space.
- (2) No change, modification or alteration shall be made to the interior or exterior of the principal building, nor to the interior or exterior of any existing accessory building without prior approval of the Planning Board.
- (3) The uses permitted hereunder may be

carried on solely in the existing principal building, with existing accessory buildings, if any, being used solely for accessory uses specified in Subdivision C, Paragraph 5 and/or for storage of equipment and materials or parking of vehicles.

- (4) There shall be permitted no more than seventy-five (75) officers and employees.
- (5) In granting approval hereunder, the Planning Board further shall give careful consideration to the preservation of original or existing landscaping, the necessity of additional landscaping, the location and use of accessory buildings, the extent and manner in which the buildings, furnishings and grounds are intended to be repaired and restored, and shall impose reasonable conditions with respect to the foregoing and to the hours during which the activities may be conducted upon the premises.

- e. Residential use. No residential use may be made of the premises except as set forth above and except for such use as may be necessary for persons employed in the premises in a security or maintenance capacity together with their families.

f. Waivers and modifications; additional conditions.

The Planning Board shall have the power to waive or modify in a particular case any of the conditions with respect to size of the plot, date of construction, or size of principal building, in furtherance of the purposes hereof, and to impose such other, further and additional conditions upon its grant of approval as may be reasonable and in furtherance of the purposes hereof and in harmony with the spirit and intent of these provisions.

C. **Accessory Uses.**

Accessory uses of buildings and land which are customarily incidental to the permitted principal use or special permit use and located on the same lot are hereby permitted provided, however, that no such accessory buildings capable of use as a dwelling or dwelling unit such as guest houses and servants quarters shall result in any type of continuous or permanent occupancy or for any occupancy resulting in rental income.

The following accessory uses are specifically permitted subject to the conditions hereinafter provided:

1. Agriculture.
2. Dairying.
3. Keeping of poultry.
4. Keeping of dogs, game and birds.

Provided, however, that with respect to the uses enumerated in paragraphs 1, 2, 3, and 4 all buildings or structures be set back at least 50 feet from every boundary line of the lot and at least 100 feet from the street line.

5. Horticulture, including non-commercial greenhouses.
6. Keeping of horses or livestock subject to the following conditions:

Occupants of a single family detached principal dwelling shall, as an accessory use only, be permitted to keep horses or livestock for their personal use provided there is compliance with the following standards and conditions:

- a. No such use shall be permitted on lots having less than two acres of land.
- b. The number of horses and livestock permitted on each lot shall not exceed the following:

Two (2) horses or livestock (in any aggregate combination) for the first two acres of lot area plus one (1) additional horse or livestock for each additional acre of lot area. In no event shall the total number of horses and livestock (in any aggregate combination) permitted on any one lot irrespective of its area exceed seven (7). Upon application to the Planning Board the aforesaid limitation may be varied and that Board shall impose such conditions as it deems necessary for the public health, safety and welfare, provided it finds that the number of horses is an accessory use. In acting upon an application under this paragraph, the Planning Board shall exercise the powers granted to it by this Chapter and by the Village Law.

- c. Any such horse or livestock shall be beneficially owned in fact, as well as in title, solely by the resident-occupants of the lot who shall upon written request of the Building Inspector produce a sworn affidavit and other reasonable evidence of said ownership.
- d. The board or keeping of horses or livestock owned by or for the use or benefit of persons other than those who are the resident-occupants

of any lot is strictly prohibited.

- e. All grain type feed shall be kept in rodent proof metal containers.
- f. No manure shall be stored or permitted to accumulate within seventy-five (75) feet from any boundary line or within twenty-five (25) feet from a dwelling on the same lot, or within one hundred twenty-five (125) feet from a dwelling on any adjacent or other lot. The Building Inspector shall approve the storage area for manure and it shall be stored and treated in such a manner so that it shall not create any odor or attract or harbor any rodents, flies or other insects.
- g. The stables, barns, sheds, or other accessory buildings or structures used in connection with or for sheltering horses or livestock pursuant to this paragraph shall meet the following requirements:
 - (1) The number of such structures and buildings shall not exceed those reasonably necessary to accommodate the permitted number of horses and livestock.
 - (2) No such building or structure shall be

located nearer the street line than the rear line of the principal dwelling, nor

- (a) be closer than 75 feet to any street line.
[Item (1=2) amd. LL #4, 85.]
- (3) The building area of all such buildings and structures devoted to this accessory use shall not in the aggregate cover more than 2,000 square feet, regardless of the area of the lot.
- (4) The yard area occupied by such buildings or structures shall be included in computing the maximum percent of the lot area which may be utilized for building area (all buildings).
[¶2 amd. LL #3, 85, 5/20/85.]
- (5) All such buildings or structures shall, except as otherwise herein specifically provided, be subject to the setback requirements for a principal building as set forth in Subdivision D, and in addition shall be set back one hundred twenty-five (125) feet from any principal dwelling on any adjacent lots, except that any private riding ring, private paddock, corral fencing or other roofless enclosure for horses and livestock and any unenclosed area for their unattended

maintenance shall be located not less than twenty (20) feet from any side or rear boundary line, seventy-five (75) feet from any front boundary line, and one hundred twenty-five (125) feet from any dwelling on any adjacent lot.

(6) No such building or structure shall hereafter be erected, altered or enlarged to a height in excess of twenty-five (25) feet.

h. The maintenance of structures and hygienic conditions connected with the accessory use here permitted shall be under the supervision of the Village by its Building Inspector and by the Nassau County Department of Health, to the extent necessary. If conditions are found to exist which are dangerous to the health, safety, and welfare of humans, horses or livestock or if any of the requirements of this or any other provision of this Chapter or any condition attached to any special use permit granted in connection with this accessory use are not complied with by the resident-occupants, the accessory use here permitted may upon application of the Building Inspector, be ordered by the Planning Board to cease and discontinue, after public hearing, until such time as the conditions complained of are

remedied to the satisfaction of said Board.

- i. The land devoted to this accessory use shall have suitable drainage self-contained within the lot and the topography and soil conditions shall be such that no effluents shall be discharged or be drained or permitted to run off into any adjacent streets, roadways or lots, or create any odor, or otherwise be detrimental to the public health, safety and welfare. The Building Inspector shall approve such drainage and topography in accordance with the foregoing standards, and no building permit for any accessory buildings or structures connected with such accessory use shall be granted unless and until any such conditions have been corrected and approved by said Building Inspector.
- j. The final approval of a subdivision or partitioning of the property, any part of which is devoted to the accessory use and buildings herein permitted, shall terminate such use. In said event, no such structure or building used for these purposes shall be converted or used as a principal building or accessory building for any purpose in connection with said subdivision or partition unless said building complies with all requirements of this Chapter as an accessory

building on a single lot resulting from such subdivision or partitioning.

7. Home occupation.
8. Real Estate activities of an owner or of his or her duly authorized agent, in connection with his or her property within the Village.
9. The office or studio of a physician, surgeon, architect, dentist, teacher, painter or sculptor, musician, lawyer or engineer residing in the dwelling unit in which such office or studio is located, provided that there is no display or advertising on the premises in connection with such use except for a professional name plat not over one square foot in area, and said name plate shall comply with the provisions of Signs, § 300.53(B) of this Chapter; that no such studio or office shall occupy more space than the equivalent of one-third of the area of one floor of such dwelling and that such use is merely incidental to the use of such dwelling unit primarily for residential purposes; that any such musician's studio is equipped and used in such a manner that sounds therefrom are not unduly annoying to other persons on nearby premises or public places; that no assistants, whether paid or not, may participate in such use except that one assistant may be employed if the nature of the profession is such as to require an

assistant; that no such use shall be made of more than one building and that such use by a painter, sculptor, or musician shall not be deemed to include the right to engage in wholesale or retail trade, as such is ordinarily understood.

D. Lot Area, Height, Setback, Front Lot Line, Building Size and Lot Coverage.

In all Residence Districts all Buildings and Structures shall conform to the following Lot Area, Height, Setback, Front Lot Line, Building Size and Lot Coverage regulations.

1. All lots in the R-3A District shall have minimum Net Lot Areas of not less than 3 acres. All lots in the R-2A District shall have minimum Net Lot Areas of not less than 2 acres. All lots in the R-1A District shall have minimum Net Lot Areas of not less than 1 acre.
2. The maximum height for any building shall be thirty-five feet and no building shall exceed two and one half stories. In no case may the highest point of a roof be higher than forty feet above the finished grade at the perimeter of the building extending at least ten feet in width around the perimeter of the building.
3. In all Residence Districts all lots shall have a minimum lot width equal to seventy-five percent of

the minimum required front lot line. Such minimum lot width shall be maintained to at least the minimum required front setback.

4. Principal Buildings:

No principal building or structure shall hereafter be erected on any lot in any Residence District except in compliance with the following table:

Net Lot Area square feet	Maximum Permitted Floor Area	Minimum Required Front Lot Line	Minimum Required Front Setback	Minimum Required Side Setback	Minimum Required Rear Setback
up to 40,000	(12% of lot area)				
40,000	4,800	120	50	30	50
50,000	5,700	134	56	34	56
60,000	6.050	147	61	37	61

70,000	6,400	159	66	40	66
80,000	6,750	170	71	48	71
90,000	7,100	180	75	51	75
100,000	7,450	190	79	54	79
110,000	7,800	199	83	56	83
120,000	8,150	208	87	59	87
130,000	8,500	216	90	72	90
140,000	8,850	224	105	75	105
150,000	9,200	232	108	77	108
160,000	9,550	240	112	80	112
170,000	9,900	247	115	82	115
180,000	10,250	255	119	85	119
190,000	10,600	262	122	87	122
200,000	10,950	268	125	89	125
250,000	12,050	300	140	100	140
300,000	13,150	300	153	110	153
350,000	14,250	300	166	118	166
400,000	15,350	300	177	126	177
500,000	17,550	300	198	141	198

600,000	19,750	300	217	155	217
700,000	21,950	300	234	167	234
800,000	24,150	300	250	179	250
1,000,000	28,550	300	280	200	280
1,200,000	32,950	300	307	219	307
1,400,000	37,350	300	331	237	331
1,600,000	41,750	300	354	253	354
2,000,000	50,550	300	396	283	396

NOTES:

Except where given as a percentage, all areas are given in square feet and dimensions are given in feet.

If a net lot area falls between the specified net lot areas in the foregoing table, then the limits specified for the larger net lot area shall apply

For properties larger than 2,000,000 sq. ft., the limits revert to those corresponding to 2,000,000 sq. ft.

a. For corner lots the minimum front setback shall be provided from every street line.

b. No principal building shall be erected on any lot in any Residence District with a floor area of less than 2500 sq. ft.

5. Accessory Buildings and Lot Coverage

No accessory building shall hereafter be erected on any lot in any Residence District and no lot shall have a lot coverage except in compliance with the following table:

Net Lot Area square feet	Maximum Lot Coverage	Maximum Floor Area	Minimum Required Front Setback	Minimum Required Side Setback	Minimum Required Rear Setback
up to 40,000	(25% of Net Lot area)				
40,000	10,000	960	50	20	20

50,000	12,500	1140	56	22	22
60,000	15,000	1210	61	24	24
70,000	17,500	1280	66	26	26
80,000	20,000	1350	71	28	28
90,000	22,000	1420	75	30	30
100,000	24,000	1490	79	32	32
110,000	26,000	1560	83	33	33
120,000	28,000	1630	87	35	35
130,000	30,000	1700	90	36	36
140,000	32,000	1770	105	42	42
150,000	34,000	1840	108	43	43
160,000	36,000	1910	112	45	45
170,000	38,000	1980	115	46	46
180,000	40,000	2050	119	48	48
190,000	42,000	2120	122	49	49
200,000	44,000	2190	125	50	50
250,000	49,500	2410	140	56	56
300,000	57,000	2630	153	61	61
350,000	64,500	2850	166	66	66

400,000	72,000	3070	177	71	71
500,000	102,000	3510	198	79	79
600,000	112,000	3950	217	87	87
700,000	122,000	4390	234	94	94
800,000	132,000	4830	250	100	100
1,000,000	152,000	5710	280	112	112
1,200,000	172,000	6590	307	123	123
1,400,000	192,000	7470	331	133	133
1,600,000	212,000	8350	354	142	142
2,000,000	252,000	10110	396	158	158

NOTES:

Except where given as a percentage, all areas are given in square feet and dimensions are given in feet.

If a net lot area falls between the specified net lot areas in the foregoing table, then the limits specified for the larger net lot area shall apply

For properties larger than 2,000,000 sq. ft., the limits revert to those corresponding to 2,000,000 sq. ft.

- a. Notwithstanding the minimum front setbacks as set forth in the foregoing table, no accessory building shall be located between the front wall of the principal building and the front lot line. The total aggregate lot coverage of all accessory buildings shall not exceed one hundred fifty (150%) percent of the maximum floor area permitted for an accessory building as set forth in the foregoing table.
- b. For corner lots the minimum front setback for

principal buildings shall be provided from every street line for accessory buildings.

8. Governing Limits and Dimensions

a. Wherever the limitations set forth in this section 300.31(D) are more restrictive than the regulations of any other section of Article III of the Zoning Code of Old Brookville, the limitations set forth in this section 30.31(D) shall govern and control.

b. Any building legally existing on the effective date of this section with respect to the setbacks of such building may be altered or enlarged in such a manner that does not increase the nonconforming setback subject to compliance with the other provisions of this Chapter.

ARTICLE IV

BUSINESS DISTRICTS

§ 300.41 Business District 1.

A. Permitted principal uses.

1. Same as Residence A-1 District.
2. Office buildings, retail stores and similar uses subject to site plan review by the Planning Board as provided in Article VI, § 300.63.
3. Dwelling units either as a separate use or in conjunction with uses permitted in Paragraph 2.

B. Accessory uses.

Any accessory uses permitted in Subdivision C of § 300.31 except Paragraphs 1, 2, 3, and 4.

C. Limitations.

Without regard to the generality of this section as limited by the particularization of the foregoing specified uses and purposes of this Business District, no building or premises shall be used for any trade, industry, business or purpose which is or may reasonably be expected to be obnoxious or offensive by reason of causing or emitting odor, smoke, vapor, gas, dust, garbage, refuse matter, noise or vibrations, or that is dangerous or harmful to the health, peace, comfort, or safety of the community, that tends to disturb or annoy residents of the Village of that involves any explosion menace or any serious fire hazard.

D. Area, yard, coverage and height regulations.

Area, yard coverage and height regulations are as follows:

Minimum setback	25 feet
Minimum rear yard	25 feet
Maximum lot coverage	50%
Maximum building height	35 feet or 2 stories
Minimum habitable floor area for each dwelling unit	1,250 sq. feet

E. Additional restrictions.

1. Off street parking. Off street parking facilities shall be provided as prescribed by the Planning Board, who shall take into account health, safety and general welfare in relation to the use of the building or premises and the elimination of hazards.
2. Cedar Swamp Road. There shall be no access for the purposes of ingress or egress to Cedar Swamp Road.

§ 300.42 Business District 2.

A. Permitted principal uses.

Same as Business District 1.

B. Accessory Uses.

Any accessory uses permitted in Subdivision C of § 300.31 except Paragraphs 1, 2, 3 and 4.

C. Limitations.

Same as Subdivision C of § 300.41.

D. Area, yard, coverage and height regulations.

Area, yard, coverage and height regulations are as follows:

Minimum front lot line	250 feet
Minimum setback	50 feet
Minimum side yard	50 feet
Minimum rear yard	50 feet
Maximum lot coverage	25%
Maximum building height	35 feet or

2 stories

Minimum habitable floor area for each dwelling unit	1,250 sq. feet
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E. Additional restrictions.

1. Off street parking. Off street parking facilities and screening shall be provided as prescribed by the Planning Board who shall take into consideration the health, safety and general welfare of its residents, the elimination of hazards and the character of the neighborhood and preservation of values therein.

2. Glen Cove–Greenvale Highway. There shall be no access for the purpose of ingress or egress to the Glen Cove–Greenvale Highway.

ARTICLE V

SUPPLEMENTARY REGULATIONS

§ 300.51 Non-conforming buildings and uses.

The use of any building or land existing and lawful at the time of the enactment of this Chapter may be continued although such use does not conform with the provisions of this Chapter.

A. Unsafe structures.

Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

B. Alterations.

A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty percent (50%) of the full market value of the building unless such building is changed to a conforming use.

C. Extension.

A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existing prior to the enactment of this Chapter shall not be deemed the extension of such nonconforming use.

D. Construction approved prior to adoption or amendment of this Chapter.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and for which the excavation has been prepared and the foundation walls

constructed when this Chapter or any amendment hereto takes effect provided, however, that the construction must be constructed must be complete within one year from such date.

E. Restoration.

No building damages by fire or other causes to the extent of more than fifty percent (50%) of its fair market value shall be repaired or rebuilt in conformity with the regulations of this Chapter.

F. Abandonment.

Whenever a nonconforming use has bene discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this Chapter.

G. Changes.

Once changed to a conforming use no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same higher classification, and when so changed to a higher classification, such use thereafter shall not be changed to a lower classification.

H. Displacement.

No nonconforming use shall be extended to displace a conforming use.

I. District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§ 300.52 Nonconforming lots existing prior to adoption or amendment of this Chapter.

A. Exemption from area, width and depth requirements.

Any lot held in single or separate ownership prior to the adoption of the ordinance from which this Chapter is derived, or any subsequent amendment thereto, which does not have sufficient area, width or depth shall be deemed, nevertheless, to comply with such minimum lot requirements and no variance shall be required by the original owner or any subsequent owner to obtain a building permit, provided that:

1. Such lot does not adjoin any other lot or lots held by the same owner at any time subsequent to the adoption

of the original Zoning Ordinance adopted on June 10, 1930 or any amendment thereto or any amendment to this Chapter increasing required lot dimensions whose aggregate area, width or depth is equal to or greater than the minimum lot area, width, or depth required for that district.

2. The proposed use complies with all other zoning regulations for the district in which it is located.

B. Variance, when required.

In the event that the proposed use cannot reasonably comply with all other zoning regulations, a variance may be granted by the Board of Appeals as provided in Article VI, § 300.68(B).

§ 300.53 Signs.

A. Restrictions.

Except for directional, informational, traffic and cautionary signs maintained by the Village, county or state, or signs require by law or approved by the Board of Trustees, no sign shall be erected or maintained on any building or premises in any Residence or Business District except as hereinafter specifically provided.

B. Residence Districts.

In any residence district signs may be erected and maintained for the following purposes and for no other. Any sign erected or maintained shall be subject to all of the conditions and provisions set forth in this Section.

1. One professional name plate which shall be not over one square foot in area for the purposes set forth in § 300.31(C)[9] of this Chapter.
2. One sign which shall not exceed two square feet in area displaying not more than the name of the occupant or the name of the property and/or the street address of the premises.
3. One sign or bulletin board, not exceeding eight square feet in area, on church, institutional or school property, giving the identification thereof or advertising the activities thereof, or both. Such sign shall not be placed within a distance of ten feet from any street or property line and shall not exceed six feet in height above ground level.
4. One sign, which shall not exceed one square foot in area, indicating that the premises are protected by a security company. Such sign shall not be placed within a distance of ten feet from any property line or

any street line and shall not exceed one foot in height above ground level. Signs on windows, not exceeding thirty-six square inches, indicating that the premises are protected by a security company, shall be exempt from the provisions of this Section.

5. One permanent subdivision or development sign to be approved by the Planning Board which shall not exceed four square feet in area and which shall indicate only the name of the subdivision or development. Such sign shall be installed in such a manner and in such a location within the property line at the entrance to the subdivision or development as shall be approved by the Planning Board.
6. One real estate sign affixed to a post, which post and sign shall not be more than six feet in height above ground level. Such sign shall not set forth the name of an individual or firm, shall not state “in contract” or “sold” or the like, and shall be limited to the wording “For Sale” or “For Rent” and may add the words “Broker” or “Owner” and may set forth no more than two telephone numbers. Any such real estate sign shall be removed within twenty four hours after the transfer of title or the giving of possession to the property.
7. One “open house” sign for a period of no more than

five hours on the day of an open house. Any such open house sign shall be removed at the conclusion of the open house.

8. No more than one “construction” sign may be maintained on the premises by each company erecting, altering, or repairing a structure on the premises, which sign may identify the name of the company, its address, trade and telephone number.
9. No more than one temporary real estate subdivision sign, the design of which has been approved by the Planning Board. Any such sign shall be installed within the property line at a location approved by the Planning Board. Only one such sign shall be permitted in a subdivision. Such sign may be erected and maintained for a period not to exceed two years commencing with the filing of the resolution granting final approval to the subdivision. Such sign shall be kept in good repair and shall be removed at the end of two years, unless the Planning Board grants permission to maintain the sign for a longer period, or at the time of occupancy of all homes in the subdivision whichever is sooner.
10. One sign not larger than twelve square feet in area to advertise the sale of farm products grown on the premises, said sign to be set back not less than 15 feet

from every street line and not less than 10 feet from every side line which is not a street line. Such sign shall be no higher than six feet above ground level.

11. Any real estate sign, open house sign, construction sign or temporary real estate sign, including any posts to which such sign may be affixed, shall be no higher than six feet above ground level, and any such sign shall be no larger than two feet wide by two feet long. Any such street sign shall be set back not less than 20 feet from any street line and not less than 25 feet from any other lot boundary.
12. No sign shall be illuminated or made with reflective or florescent paint or material.

C. Business Districts.

In a Business District the following kinds of signs may be erected and no others. Any sign erected or maintained shall be subject to all of the conditions and provisions set forth in this subsection.

1. Generally. Any sign permitted in a Residence District for the purposes set forth therein.
2. Business District 1. In Business District 1 a single

sign may be erected for location purposes only, the dimensions of which shall not exceed 48 inches by 72 inches on a flat surface.

No exterior lighting shall be permitted on such location sign which, if lighted, must be constructed on translucent, plastic material and lighted from within the interior and shall be of a height no greater than 25 feet.

In addition thereto a single individual sign may be erected on a flat surface on the front of the building which shall not exceed dimensions of 24 by 40 inches, which in the case of every building located therein shall be uniform as to lettering, shape, size and color, unless otherwise permitted by the Planning Board. Such sign shall be parallel with the building frontage and shall project no more than six inches therefrom. No such sign shall be illuminated. A sketch of each proposed sign shall be submitted to the Planning Board before approval is granted.

3. Business District 2. In Business District 2, there shall be allowed no more than two location signs marking the entrances to the shopping center, the dimensions of each of said two signs shall not exceed 8 feet by 10 feet on a flat surface. No exterior lighting shall be permitted on such location signs, which if lighted must

be constructed of translucent, plastic material and lighted from within the interior.

Individual signs for each of the structures located within said shopping center shall be uniform in lettering and shape and color. They shall not exceed 24 inches in height and depending upon the length of the store frontage, shall be of a length between 40 inches to a maximum of 108 inches. They shall run parallel with the building frontage and shall project no more than six inches therefrom. No such sign shall be illuminated.

4. Location, height limitations. Any individual signs erected pursuant to the foregoing provisions shall be within the property lien and no higher than the ceiling of the first story and in no case above the eaves and cornices and shall be limited to displaying the name and nature of the business or employment for which said building is used.
5. All other signs prohibited. No signs other than those expressly permitted herein shall be permitted including signs painted directly on walls of any building nor paper signs fixed to the windows of any building. Signs shall be deemed to include streamers, balloons or any other form of outdoor advertising designated to attract public attention.

D. Permits and fees.

1. Permit required. It shall be unlawful to erect, alter, maintain, reconstruct or relocate a sign until a permit has been issued therefor by the Building Inspector. A written application therefor shall be filed with the Building Inspector by the owner or lessee of the building or premises on which such sign is to be erected or maintained or by the duly authorized agent of such owner or lessee. Such application shall be accompanied by the written consent of the owner and shall contain an accurate description of the location or proposed location of such sign, the name and address of the applicant and the name and address of the person by whom such signs is to be erected, altered, maintained, reconstructed or relocated, and such other information as the Building Inspector may require to show a compliance with the provisions of this Chapter.

2. Sign fees. Fees for the issuance of sign permits shall be paid to the Village as provided in the Village of Old Brookville's Fees and Deposits Law, Chapter 154.

E. Construction and maintenance of signs.

All signs shall be property secured, supported and braced as to make them safe and shall be kept in perfect structural condition and clean and well painted.

F. Revocation and expiration of permit.

1. When it shall appear to the Building Inspector that any sign is being maintained in an unsafe or insecure manner or in violation of any of the other terms of this section he or she shall so notify the person to whom the final permit has been issued in writing at the address stated on the application, and it shall be the duty of such person to make such repairs or to comply with the necessary provisions of this section within the time stated in the notice. If such repairs are not so made or if such compliance is not so effected, the Building Inspector may cause such sign to be removed and shall charge the expense thereof to the person so notified.

2. Any permit issued hereunder shall be deemed to expire upon any change in ownership of the premises on which it is to be erected or upon any change in ownership of the business or profession which it shall advertise. Upon expiration and notice thereof by the Building Inspector to the applicant it shall be the duty of the person so notified to remove such sign, and, if not so removed, the Building Inspector may cause such sign to be removed and shall charge the expense

thereof to the person so notified.

G. Applicability.

This Section shall also apply to all signs existing on the effective date of this Chapter as well as to signs hereafter erected.

§ 300.54 Fences, Walls, Piers, Gates and Gate Posts.

- A. For purposes of this section a “fence” shall mean collectively any fence, wall, pier, gate, gate post or any other structure in the nature of a fence, wall, pier, gate or gate post regardless of composition, except a living fence, which is erected or maintained for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions.
- B. No fence shall be hereafter erected or maintained on any premises which shall exceed 6 ½ feet in height, such height to be measured from the curb level or ground, whichever is higher. In case of a fence to be located on top of a berm, the height of the fence shall be measured from the ground below the berm and not from the top of the berm.
- C. No fence shall hereafter be erected or maintained unless the fence is uniformly less than 50% solid. Solid stockade fences are specifically prohibited. All chain link fences

shall be erected with the closed loop at the top of the fence. No fence shall be multi colored. The design and materials of all fences shall be approved by the Architectural Review Board prior to the issuance of a building permit.

- D. The yard requirements of this Chapter shall not be deemed to prohibit the erection or maintenance of any necessary fence provided that all fences must be erected or maintained within the property line and none shall be erected or maintained so as to encroach upon a street or public right of way. The locations of all fences shall be subject to site plan review and approval of the planning board pursuant to section 300.63 of this chapter. Fences shall not be erected in locations which will result in the disturbance, alteration or destruction of natural buffers or living fences consisting of existing natural vegetation and/or trees. The “good,” “face,” or “finished” side of all fences located on or near property lines shall be faced outward from the property on which they are located toward the property line of the adjacent owner or adjacent street. If the fence is being erected to comply with New York State Law for swimming pools, such fence shall be free standing with no bracing or similar type installations or supports which would act as a ladder. The Building Inspector shall designate which side of the fence is the good, finished or face side of the fence.
- E. Any existing fence which does not conform to the

requirements of this Chapter shall not be reconstructed or structurally altered during its life to an extent exceeding in the aggregate cost fifty (50%) of the full replacement cost of the fence unless such fence is made to conform to the requirements of this Chapter.

- F. The provisions of Section 300.62 of this Chapter, “Building Permits,” shall apply to fences. No fence shall be hereafter erected or maintained unless a Building Permit therefore shall have been issued by the Board of Trustees. In addition to the requirements set forth in Section 300.62 of this chapter, the application for a Building Permit for a fence shall also be accompanied by a plan or sketch showing the exact location of the fence in relation to property lines and the materials to be used therein which must be in accordance with this section and any other pertinent local law regulating construction within the Village. The Board of Trustees may require that an applicant for a Building Permit for a fence submit a current property survey showing the exact proposed location of the fence, an affidavit of the owner that the fence will be installed on his property and evidence that the applicant has notified all adjacent landowners by certified mail, return receipt requested of the permit application.

§ 300.55 Mobile homes and trailers.

No mobile home, trailers for recreational uses (including campers, boats and trailers), designed to be used for human habitation shall be used, stored or parked in any Residence District, except that a mobile home or trailer may be stored or parked inside a private garage, or screened enclosure. [Amd. LL #4, 85, §4, 5/20/85.]

§ 300.56 Height Requirements.

The height limitations of this Chapter shall apply to belfries, church spires, cupolas, silos, penthouses and domes which are not used for human occupancy and to ventilators, skylights, water tanks and the necessary mechanical appurtenances usually carried above the roof level; to flag poles, monuments, transmission towers and cables, radio and television antennas or towers and similar structures but not to chimneys. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structures. [Amd. LL #4, 85, §5, 5/20/85.]

§ 300.57 Reducing area or dimensions of lots.

No building lot, whether improved or unimproved, shall be changed or divided in any respect which would make the lot or any building or structure thereon in violation of any provision of this Chapter.

ARTICLE VI

ADMINISTRATION AND ENFORCEMENT

§ 300.61 Enforcement officer.

This Chapter shall be enforced by either the Village of Old Brookville Building Inspector or the Code Enforcement Officer.

§ 300.62 Building permits.

A. When required.

It shall be unlawful to excavate or construct, alter, remove or demolish, or to commence the construction, alteration, removal or demolition of a building or structure; or to change the contour of land, without first filing with the Building Inspector an application in writing and obtaining a building permit authorized by the Board of Trustees. Each application for a permit received by the Building Inspector shall be submitted by the Building Inspector with a report to the Board of Trustees. A formal permit shall be issued only pursuant to an application approved by the Board of Trustees. Such permit shall at all times be affixed to the building so that it is visible from the street, or kept on display at all times in some easily accessible place at the site approved by the Building Inspector.

B. Board of Appeals approval.

Except upon written order of the Board of Appeals, no such building permit shall be issued:

1. Where the said structure, or alteration or use thereof would be in violation of any of the provisions of this Chapter;
2. Where approval of the Board of Appeals is otherwise required by this Chapter.

C. Planning Board approval.

Site plans for other than one and two family dwellings shall require Planning Board approval before a building permit shall be issued.

D. Architectural Review Board approval.

Review and approval by the Architectural Review Board of the exterior of new construction and of alterations and reconstruction where the areas in square feet of such alteration or reconstruction exceeds twenty per cent (20%) of the total square footage of the structure prior to alterations or reconstruction shall be required before a building permit shall be issued.

§ 300.63(1) Site Plan Review

A. Findings; legislative intent.

1. The Board of Trustees of the Incorporated Village of Old Brookville, (hereinafter the "Board of Trustees"), hereby finds that in order to ensure that future land use, reuse, development and redevelopment and other construction activities within the Village of Old Brookville (hereinafter the "Village") will be planned and designed to have a harmonious relationship with the existing or permitted use of contiguous land and with surrounding neighborhoods and to conserve the values of property and encourage the most appropriate use of land and to protect and promote the rural nature of the Village, its open space and natural environs, the topographical features of the Village and its unique suburban characteristics and to otherwise promote the health, safety, welfare, comfort and convenience of its residents and the occupants and users of the subject land and buildings in particular, site plans for future land use, reuse, development and redevelopment and other construction activities proposed within the Village should be subject to review and approval by the Village of Old Brookville Planning Board (hereinafter the "Planning Board").

2. It is, therefore, the intent of the Board of Trustees, and the purpose of this chapter, to establish a procedure for site plan review for new land use, reuse, development, redevelopment and other construction activities proposed within the Village consistent with and pursuant to §7-725-a of the Village Law of the State of New York and to authorize the Planning Board to review and provide it with appropriate standards in its review of all site plans for compliance with certain site plan elements, which include, where appropriate, those relating to parking, means of access, traffic, screening, lighting, signs, landscaping, location and dimension of buildings, adjacent land uses and physical features meant to protect adjacent buildings and land uses, as well as any additional site plan elements specified herein.

B. Authority of the Planning Board

Pursuant to Village Law § 7-725-a, the Planning Board is hereby authorized to review and approve, approve with modifications or conditions, or disapprove site plans submitted in accordance with the standards and procedures set forth in this section. Upon approval of a site plan, the Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan. Thereupon, such imposed conditions and restrictions must be met before the issuance

of any permits by the Board of Trustees, Building Inspector or any other applicable enforcement agent or officer of the Village.

C. Activities requiring site plan review; approval required.

The following applications for land use, reuse, development and redevelopment and construction activities within the Village shall require site plan review and approval by the Planning Board:

1. Every completed application for a building permit in any zoning district for the construction of any new building or structure within the Village or for the reconstruction, enlargement, modification or alteration of any existing building or structure within the Village including any additions thereto which would alter or increase the existing lot coverage of the building or structure or which would alter or increase the existing gross floor area of the existing building or structure or which requires any change in grade shall be referred by the Building Inspector to the Planning Board for site plan review and approval. The referral shall be made prior to the Building Inspector's review of the plans and drawings as required by the State Building Code and shall be made in conformity with this section. No building permit requiring site plan

approval shall be issued by the Building Inspector unless it first has been approved by the Planning Board.

2. Every completed application for a building permit in any zoning district for the reconstruction of a building or structure damaged by fire or other incident, the cost of which equals or exceeds 50% of the replacement cost of the building or structure at the time the damage occurred.
3. Any application for a use variance or a special use permit.
4. Minor construction activities or minor modifications to an approved site plan or existing site defined as those which will have minimal impact with regard to any of the guidelines or standards of this section, may be approved by the Chairman of the Planning Board and either the Building Inspector or Village Engineer without further compliance with this Section if they agree that the activity or modification is minor in nature. In such event, the approval of the Chairman and the Building Inspector or Village Engineer shall be evidenced by their signatures on the building permit

D. Site plan guidelines and considerations.

In reviewing any application for site plan approval, the Planning Board shall be guided, as appropriate, by the following considerations:

1. The location, arrangement, size, design, and general site compatibility of buildings and structures.
2. The adequacy and arrangement of vehicular access and circulation, off-street parking, loading, outdoor storage, pedestrian traffic and circulation. All driveways to a public or private street shall be so located to afford maximum safety and convenient ingress and egress to said roadway, to minimize conflict with the flow of traffic, and shall be designed to permit emergency vehicles and service vehicles such as delivery trucks, sanitation vehicles and the like to have reasonable access to, and space for, their intended functions.
3. The adequacy of stormwater and drainage facilities. Provision shall be made for the drainage of surface runoff waters in and from the premises so that flooding and erosion of the property and the property of others will be prevented, to the maximum extent practicable.
4. The adequacy of water supply, sewage disposal

facilities, fire lanes and other emergency zones, and the provision of fire hydrants.

5. The adequacy, type and arrangement of trees, shrubs and other landscaping and natural screening constituting a visual and noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
6. Protection of adjacent or neighboring properties against direct illumination and glare, noise, unsightliness and nuisances.
7. Materials and design of paving, lighting fixtures, retaining wall, bulkheads, fences, curbs, benches, etc. shall be of quality appearance, easily maintained and indicative of their function.
8. The overall impact of the proposed development on the neighborhood and surrounding uses, including compatibility of architectural and design considerations.

E. Affirmative requirements

The Planning Board shall not approve a site plan application unless it finds affirmatively that if carried out it will not:

1. Be visually offensive or inappropriate by reason of poor quality of design, monotonous similarity, or striking visual discord in relation to other sites or surroundings;
2. Significantly alter the character, nature, and ambiance of the Village;
3. Be detrimental to the character of the neighborhood.
4. Prevent the most appropriate development and utilization of the site or of adjacent land;
5. Adversely affect the functioning, economic stability, prosperity, health, safety, and general welfare of the entire community.

F. General application requirements

The Planning Board is hereby authorized to establish such rules and regulations as it deems reasonably necessary to carry out the provisions of this section setting forth the procedures and specifications for the submission of a complete site plan application consistent with the requirements of this section.

G. Public Hearing

The Planning Board shall schedule and conduct a public hearing on each site plan review application within 62 days of the date of the meeting at which an application in compliance with the requirements of this section was officially submitted to and found to be complete by the Planning Board.

H. Notice of Public Hearing

1. Public Notice of such hearing shall be given by publication in the Village's official newspaper at least 5 days prior to the date thereof. The Planning Board shall mail the notice of said hearing to the applicant at least 10 days before such hearing.
2. At least 10 days before such hearing the Planning Board shall mail notices thereof to the Nassau County Planning Commission as required by §239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision I of §239-m of the General Municipal Law.
3. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

I. Decision

1. Within 62 days after the public hearing portion of the review procedure is closed, the Planning Board shall act to approve, approve with modifications or conditions or disapprove the proposed site plan. The time period in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. A copy of the Board's decision shall within five business days be filed in the offices of the Village Clerk and the Building Inspector and a copy thereof mailed to the applicant.

2. Within 60 days of the date of approval or approval with modifications or conditions, the applicant shall present to the Planning Board a corrected final site plan in reproducible form, including any modifications or conditions required by the Planning Board as a condition of its approval. Upon verification by the Planning Board and the Village Engineer that the Plan complies with the requirements of the Board's approval, the plan shall be endorsed by the Planning Board Chairman and filed with the Village Clerk and the Building Inspector.

J. Extension of original jurisdiction

1. Until a certificate of occupancy or certificate of completion has been issued with respect to each construction, reconstruction, alteration or improvement contained within an approved site plan, the Planning Board shall have continuing jurisdiction to review and act upon a site plan, including any and all amendments to the approved site plan.
2. The Planning Board shall review and act upon an application for an amendment to an approved site plan in the same manner as the review of an original site plan.
3. In the event that it is determined that unauthorized changes have been made to an approved site plan, the Planning Board may rescind its prior site plan approval in its entirety or in part.
4. Within two years after a certificate of occupancy or certificate of completion has been issued with respect to each construction, reconstruction, alteration or improvement contained within an approved site plan, the Planning Board may authorize the Village Engineer to perform an inspection of the subject site to confirm that the specifications contained in the approved site plan

have been adhered to on a continuing basis. Regardless of whether inspections are performed or violations exist, the property owner is required to meet and maintain the specifications of the approved site plan unless and until a further application is approved by the Planning Board.

K. Security for performance and expiration

1. The Planning Board may condition site plan approval upon the applicant's submission to the Village Clerk of a cash deposit, performance bond or irrevocable letter of credit in an amount determined after recommendation from the Village Engineer, which amount shall be sufficient to ensure that all specifications of the approved site plan, and if required all public improvements, shall be completed, and to ensure against damage to the infrastructure, including public and private roads and drainage structures.

2. Any bond in any form as indicated in (1) above shall be in a form and substance acceptable to the Village Attorney, and any such bond shall not be accepted by the Village Clerk unless so approved by the Village Attorney.

3. Site plan approval shall automatically terminate and expire one year after the resolution granting approval is filed in the office of the Village Clerk, unless a permit has been issued thereon.
4. If no certificate of occupancy or completion has been issued within two years of issuance of a building permit, such permit shall automatically terminate and expire, and the Village is authorized to use the bond so posted towards the completion of the building permit thereto.

L. Waiver of requirements

Any requirement for site plan approval, approval with modifications or conditions or disapproval may be waived by the Planning Board upon finding that such requirement is not in the interest of the public health, safety or general welfare or is inappropriate to a particular site plan.

M. Fees and Deposits

An application for site plan review shall be accompanied by a fee and deposit in accordance with the Village's General Fee and Deposit Law. The payment of any fee or deposit in connection with the application shall be a condition precedent to the acceptance of the application. No building permit shall be issued pursuant to the

provisions of this Chapter until all charges which have been incurred by the Village in accordance with the Village's General Fee and Deposit Law and in the sole discretion of the Planning Board are necessary in connection with the review of a site plan are reimbursed to the Village by the applicant.

§ 300.63(2) Special Use Permit Review

A. Findings; legislative intent

1. The Board of Trustees of the Incorporated Village of Old Brookville, (hereinafter the “Board of Trustees”), hereby finds that certain uses of land within the Village are declared to possess such unique, special and/or individual characteristics, qualities and attributes that they have the potential to have undesirable consequences upon and adversely affect the neighborhood and the overall health, safety, welfare, comfort and convenience of the Village and its residents and that each such specific use should, thereon, be considered on an individual case.
2. It is, therefore, the intent of the Board of Trustees, and the purpose of this section, to establish a procedure for special use permit review and approval consistent with and pursuant to §7-725(b)

of the Village Law of the State of New York and to authorize the Planning Board to review, and to provide it with appropriate standards in its review of, all special use permits.

B. Authority of the Planning Board

1. Pursuant to Village Law §7-725(b), the Planning Board is hereby authorized to review and approve, approve with modifications or conditions, or disapprove special use permits submitted in accordance with the standards and procedures set forth in this section.
2. Upon approval of a special use permit, the Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Thereupon, such imposed conditions and restrictions must be met in connection with the issuance of any permits by the Board of Trustees, Building Inspector or any other applicable enforcement agent or officer of the Village.

C. Activities requiring a special use permit; approval required

Special use permits shall be required for all uses of land as

set forth in section 30.31(B) of this Chapter.

D. Special use permit guidelines and considerations

In reviewing any application for a special use permit, the Planning Board shall be guided, as appropriate, by the following considerations:

1. That the location and size of the use, the nature and intensity of the operations 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 streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the neighborhood in which it is proposed to be located and shall accord with and promote the purposes set forth in §7-704 of the Village Law.
2. That the granting of the special use permit will be in harmony with the long range, comprehensive, master or general plan of development of the Village.
3. That the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties, the neighborhood and the Village.

4. The compatibility of the proposed use with adjoining land uses and with other propped development, having particular reference to its probable affect on the value of other land and to the adequacy of features intended to promote public health, safety and welfare and the general purposes of this Chapter.
5. That the proposed use is or will be necessary or desirable to the neighborhood or Village in that it will provide a service, facility or convenience or otherwise contribute to the proper growth and development of the community and to its general welfare.
6. That the proposed use shall not be hazardous, inconvenient, conflicting or incongruous to the surroundings, neighborhood or Village by reason of excessive traffic, assembly of persons or vehicles, proximity to normal travel routes or congregation of children or pedestrians..
7. That the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its site layout and its relation to streets giving access to it will not be hazardous or inconvenient to the residential character of the

neighborhood or conflict with the orderly flow of traffic or normal traffic patterns on the residential streets, and satisfactory and safe methods of ingress and egress are provided.

8. That the design and location of loading and parking facilities are safe, suitable and adequate.
9. That the proposed use, site layout, location, size, heights, signs, walls, fences, landscaping and operations in connection with it will not hinder or discourage the appropriate use and development of adjacent uses or impair the value thereof.
10. That the proposed use, site layout, location, size, heights, signs, walls, fences, landscaping and operations in connection with it will not be more objectionable to nearby properties by reason of noise, traffic, vibration, excessive light, smoke, gas, fumes, odor or other similar atmospheric pollutants or other similar factors of impact than would be the operations and impacts of any permitted uses in the same zoning district not requiring a special use permit.
11. That the location and size of the use, the nature and intensity of the operations in or conducted in connection with it, its site layout and its relation to streets giving access to it will be such that vehicular

traffic will not be more hazardous than the normal traffic to the district, taking into account such factors as street intersections, traffic flow, sight distances and pedestrian traffic.

E. General application requirements

The Planning Board is hereby authorized to establish such rules and regulations as it deems reasonably necessary to carry out the provisions of this section setting forth the procedures and specifications for the submission of a complete special use permit application consistent with the requirements of this section.

F. Public Hearing

The Planning Board shall schedule and conduct a public hearing on each special use permit review application within 62 days of the date of the meeting at which an application in compliance with the requirements of this section was officially submitted to and found to be complete by the Planning Board.

G. Notice of Public Hearing

1. Public Notice of such hearing shall be given by publication in the Village's official newspaper at

least 5 days prior to the date thereof. The Planning Board shall mail the notice of said hearing to the applicant at least 10 days before such hearing.

2. At least 10 days before such hearing the Planning Board shall mail notices thereof to the Nassau County Planning Commission as required by §239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision I of §239-m of the General Municipal Law.
3. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

H. Decision

1. Within 62 days after the public hearing portion of the review procedure is closed, the Planning Board shall act to approve, approve with modifications or conditions or disapprove the proposed special use permit. The time period in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. A copy of the Board's decision shall within five business days be filed in

the offices of the Village Clerk and the Building Inspector and a copy thereof mailed to the applicant.

2. Within 60 days of the date of approval or approval with modifications or conditions, the applicant shall present to the Planning Board a corrected final site special use permit in reproducible form, including any modifications or conditions required by the Planning Board as a condition of its approval. Upon verification by the Planning Board and the Village Engineer that the permit complies with the requirements of the Board's approval, the permit shall be endorsed by the Planning Board Chairman and filed with the Village Clerk and the Building Inspector.

I. Extension of original jurisdiction

1. Until a certificate of occupancy or certificate of completion has been issued with respect to the special use permit, the Planning Board shall have continuing jurisdiction to review and act upon a special use permit, including any and all amendments to the approved special use permit.
2. The Planning Board shall review and act upon an application for an amendment to an approved

special use permit in the same manner as the review of an original special use permit application.

3. In the event that it is determined that unauthorized changes have been made to an approved special use permit, the Planning Board may rescind its prior special use permit approval in its entirety or in part.
4. Within two years after a certificate of occupancy or certificate of completion has been issued with respect to special use permit, the Planning Board may authorize the Village Engineer to perform an inspection of the subject site to confirm that the specifications contained in the approved special use permit have been adhered to on a continuing basis. Regardless of whether inspections are performed or violations exist, the property owner is required to meet and maintain the specifications of the special use permit unless and until a further special use permit is approved by the Planning Board.

J. Security for performance and expiration

1. The Planning Board may condition special use permit approval upon the applicant's submission to the Village Clerk of a cash deposit, performance bond or irrevocable letter of credit in an amount

determined after recommendation from the Village Engineer, which amount shall be sufficient to ensure that all specifications of the approved special use permit, and if required all public improvements, shall be completed, and to ensure against damage to the infrastructure, including public and private roads and drainage structures.

2. Any bond in any form as indicated in (1) above shall be in a form and substance acceptable to the Village Attorney, and any such bond shall not be accepted by the Village Clerk unless so approved by the Village Attorney.
3. Special use permit approval shall automatically terminate and expire one year after the resolution granting approval is filed in the office of the Village Clerk, unless a building permit has been issued thereon.
4. If no certificate of occupancy or completion has been issued within two years of issuance of a building permit, such permit shall automatically terminate and expire, and the Village is authorized to use the bond so posted towards the completion of the building permit thereto.

K. Waiver of requirements

Any requirement for special use permit review and approval, approval with modifications or conditions or disapproval may be waived by the Planning Board upon finding that such requirement is not in the interest of the public health, safety or general welfare or is inappropriate to a particular special use permit.

L. Fees and Deposits

An application for a special use permit review shall be accompanied by a fee and deposit in accordance with the Village's General Fee and Deposit Law. The payment of any fee or deposit in connection with the application shall be a condition precedent to the acceptance of the application. No special use permit shall be issued pursuant to the provisions of this Chapter until all charges which have been incurred by the Village in accordance with the Village's General Fee and Deposit Law and in the sole discretion of the Planning Board are necessary in connection with the review of a special use permit application are reimbursed to the Village by the applicant.

M. Penalties for offenses

For any and every violation of the provisions of this section, the owner, general agent, contractor of a building, premises or site, and lessee or tenant of an entire building or

entire premises, where such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other persons who knowingly commits, takes part or assists in any such violation or who maintains any building premises in which such violation shall exist, shall be liable for a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. Such penalties shall be collected as provided by law. Each week's continued violation shall constitute a separate, additional violation.

§ 30.64 Architectural Review Board.

A. Legislative intent, policy and findings.

1. It is the purpose of this Section to preserve and promote the character, appearances, aesthetics of the Village and to conserve the property values of the Village by providing procedures for an architectural review of the exterior of new construction and of certain alterations

and reconstruction where the area in square feet of such reconstruction or alteration exceeds twenty percent (20%) of the total square footage of the structure prior to reconstruction or alteration, and by so doing to:

- a. Encourage good qualities of exterior building design and good appearances and to relate such design and appearances to the sites and surroundings of structures; and
- b. Preserve the prevailing aesthetic character of the neighborhood and countryside and to enhance same by means of complimentary structures; and
- c. Permit originality and resourcefulness in building design and appearances which are appropriate to the sites and surroundings; and
- d. Promote and encourage good qualities of architectural design and utilization of land in the erection, and construction of new structures and the exterior, refurbishing reconstruction or alteration of existing structures; and
- e. Assure that the design and location of any proposed structure, or the addition, alteration or reconstruction of any existing structure, is in harmony with the existing topography of its site and/or the existing structure as well as the

neighboring countryside and existing property; and

- f. Discourage and prevent such design that would adversely affect or cause the diminution in value of neighboring property, whether improved or unimproved; and
- g. Prevent such design and appearance as are unnecessarily offensive to visual sensibilities, which impair their enjoyment, value or desirability of neighboring properties, and the health, safety and general welfare of the community at large.

2. The Board of Trustees hereby finds:

- a. That structures which are visually offensive or inappropriate by reason of poor exterior design, monotonous similarity or striking visual discord or dissimilarity in relation to their site or surroundings would mar the appearances of their areas and would adversely affect the desirability of the immediate area and neighboring areas; and
- b. That such structures would discourage and prevent the most appropriate development and utilization of land throughout the Village; and
- c. That such structures would impair the use,

enjoyment and desirability and stability of both improved and unimproved property and are detrimental to the character of the neighborhoods, produce degeneration of the values of real property with attendant deterioration of conditions affecting the functioning, economic stability, prosperity, health, safety and morals of the inhabitants of the Village, and destroy a proper relationship between the taxable value of real property and the cost of municipal services provided therefor.

3. It is the purpose of this Section to prevent these and other harmful effects, and thus to promote the health, safety, morals and general welfare of the community.

B. Creation of Architectural Review Board.

1. There is hereby created an Architectural Review Board, consisting of five (5) members, each to be appointed for a term of one (1) year by the Mayor subject to approval by the Board of Trustees by resolution. No person who is a member of the Village Board of Trustees or Planning Board member shall be eligible for membership on such Architectural Review Board. All members shall be residents of the Village. [Amd. LL 6-2007, 11/19/07.]
2. The Chairman of the Board shall be appointed by the Mayor subject to approval by the Board of Trustees.

3. The Mayor shall have the power to remove any member of the Board with or without cause prior to the expiration of his or her term. Vacancies shall be filled by the Mayor for the unexpired term of any member whose place has become vacant.
4. The Board of Trustees may officially designate and retain one or more registered architects to advise and take part in any deliberations of the Architectural Review Board. The Board of Trustees may fix and provide for all necessary costs or expenses involved in reviewing each application, including compensation for architects and other professional and advisory services. An architect so retained shall be without vote in regard to any application. [Added by LL 6-07, 11/19/07]

C. Procedures of Architectural Review Board.

1. Meeting of the Architectural Review Board shall be held monthly, or as required at the call of the Chairman of the Board and at such other times as the Board shall determine. The meetings of the Board shall be open to the public and shall be held at the Village Hall, McCouns Lane, in said Village. A majority of the members of the Board shall constitute a quorum for the transaction of business. Approval of any plan(s) shall be done by at least three (3) members signing the plans on which the

architect's signed seal appears and the notation shall be made on the plan "Approved Plan". The Board shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. [Amd. LL 6-2007 11/19/07]

2. The Board shall have power from time to time to adopt, amend, and repeal rules and regulations not inconsistent with law or the provisions of this Chapter governing its procedure and the transaction of its business, and for the purpose of carrying into effect the standards enumerated in Subdivision E hereof. Such action shall be taken after public hearing. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be filed in the office of the Village Clerk and shall be a public record.

D. Referrals to the Board.

1. Prior to the issuance of a building permit for construction of a new building or for the alteration or reconstruction of an existing building when such alteration or reconstruction exceeds 20% of the square footage of the building prior to alteration or reconstruction of the building, the applicant shall file with the Board a copy of the plans for the proposed building. The plans submitted

shall at least include architectural renderings accurately depicting the building and topography and landscaping of the site, identifying all materials incorporated in exterior surfaces of the building and an accurate survey of the site locating all trees having a diameter of at least eighteen (18) inches in circumference at a height of four (4) feet above the base of the trunk. The term “building,” as used in this Article shall include an enclosed structure. [Amended by LL 6-2007, 11/19/07]

2. Where the plans require compliance with the State Environmental Quality Review Act (SEQR), the appropriate proceedings must be completed pursuant to part 617 of the NYCRR and any other applicable regulations before approval may be granted and if the Architectural Review Board is not the lead agency, a copy of the final determination must be filed with the Board before the plans shall be deemed ready for submission.
3. In addition to any other requirements established by the Board for final approval of such plans, the following items shall be submitted to the Board at least fifteen (15) days prior to its next regularly scheduled meeting [Amended by LL 6-2007, 11/19/07]:
 - a. Final revised plans, signed by the owner and containing the signed seal of a licensed architect.

Printed upon or appended to this set of plans will be the agreed upon specifications in regard to building materials and other materials pertinent to the exterior design of the structure.

- b. Such plans shall show all elevations of new structures or buildings and, in the case of reconstruction, alterations or additions, shall show all affected elevations.
 - c. An overall plan for proposed landscaping in regard to the site location of the subject structure of building will be required if the landscaping causes the alteration of the existing topography of the land or other environmental features which would have an adverse impact on neighboring structures or the overall pre-existing appearance of the neighborhood.
 - d. The Board may, in case it deems appropriate, waive one or more of the requirements of subsection 3(a), (b) or (c) above, taking into consideration the nature and extent of the construction proposed, its location and the undue hardship which the applicant may suffer by strict compliance with these requirements.
[Added by LL 6-2007, 11/19/07]
4. No building permit for any building or structure subject to this Chapter as set forth in Paragraph 1 shall be issued unless it shall first have been approved by a vote of at

least a majority of the members of the Board.

5. Final approved maps or plans, materials and specifications may not be altered in any way without the express prior approval of the Board. Any requested changes of the approved plans or maps must be submitted for review at least fifteen (15) days prior to the next regularly scheduled meeting of the Board and no construction work involving such changes shall be commenced or continued until approval of the Board is granted. The Building Inspector shall, in cases of violation of this procedure, order all work to be halted and, if necessary, revoke the building permit until such time that amended plans or maps are approved by the Board. This section may also be enforced by the Board of Trustees by means of injunction. If the Village proceeds by injunction and is successful, reasonable attorneys' fees, engineering fees and other expert witness fees shall be paid by defendant. [Amended by LL 6-2007, 11/19/07]

E. Standards for Board Action.

1. In considering an application, the Board shall take into account natural features of the site and surroundings, exterior design and appearances of existing structures, and the character of the neighborhood and its peculiar suitability for particular purposes, with a view to

- conserving the values of property and encouraging the most appropriate use of land.
2. The Board may approve any application to it upon finding that the building or structure for which the permit was requested, if constructed, erected, reconstructed, or altered in accordance with the submitted plan, would be in harmony with the purpose of this Chapter, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or striking visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability and reduce the value of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent the most appropriate utilization of the site or of adjacent land, and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community.
 3. In approving any application, the Board may impose appropriate conditions and safeguards designed to prevent the harmful effects set forth in Paragraph 2 of Subdivision A hereof.
 4. The Board may disapprove any application for a permit, provided that the Board has afforded the applicant an opportunity to confer upon suggestions for change of the

plan or map, and provided that the Board finds and states that the structure or building for which the permit was requested would, if erected, constructed, reconstructed, or altered as indicated, provoke one or more of the harmful effects set forth in Paragraph 2 of Subdivision A hereof by reason of:

- a. Monotonous similarly to any other structure or building located or proposed to be located on the same subdivision or located within one thousand (1000) feet in respect to one or more of the following features of exterior design and appearance [Amended by LL 6-2007 11/19/07]:
 - (1) Substantially identical facade, disregarding color;
 - (2) Substantially identical size and arrangement of either doors, windows, porticos, porches or garages or other openings or breaks or extensions in the facade, including reverse arrangements; or
 - (3) Other substantially identical features, such as, but not limited to, setbacks from street lines, heights, widths and lengths of elements of building design, and exterior materials and treatments.

- b. Striking dissimilarity, visual discord or inappropriateness with respect to other structures of buildings located or proposed to be located in the same subdivision or located within one thousand (1000) feet of the site of the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance [Amended by LL 6-2007 11/19/07]:
 - (1) Facade, disregarding color;
 - (2) Size and arrangement of doors, windows, porticos, porches or garages or other openings, breaks or extensions in the facade; or
 - (3) Other significant design features such as, but not limited to, heights, widths, length of elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas, fences, service and areas.

- c. Visual offensiveness or other poor qualities of exterior design, including, but not limited to, excessive divergences of the height or levels of any part of the structure or building from the grade of

terrain, harmony or discord of color, or incompatibility of the proposed structure, building, refurbishing, reconstruction, alteration or addition with the terrain on which it is to be located, the failure of the exterior design to complement and enhance the natural beauty of it site, in regard to landscape, topography, surrounding structures and the scenic character of roadways when visible from said roadways.

F. Guidelines [Added by Local Law 6-2007, 11/19/07]

1. These guidelines are intended to facilitate the design review process by encouraging certain design characteristics which are deemed appropriate in achieving the standards set forth in § 30.64(E). In rendering its judgments, the Board remains at liberty to depart from and may invoke standards which are not encompassed within these guidelines.
2. Massing.
 - a. Large undifferentiated volumes and/or wall surfaces should be avoided.
 - b. Abrupt transitions between volumes of a building should be avoided.
 - c. In single-family dwellings, pitched roofs are

preferred over flat roofs.

- d. Pitched roofs should consist of at least two sloped surfaces, except when adjoining higher vertical surfaces (i.e., shed roofs). Neither sloped surface should be less than 1/3 the length of the longer side.
 - e. Pitched roofs shall have a minimum pitch of 1:3, except at dormers.
3. Materials
- a. Designs should rely on a limited palette of materials. It is preferred that one material, such as brick or wood, be used for the body of the building. These surfaces should be relieved by their trim, trim colors and decorative elements such as shutters, molding or other decorative ornamentation.
 - b. The Board strongly encourages the use of durable and enduring materials with proven performance. In particular, cladding and roof systems will be reviewed for durability and the quality of their technical design as well as their appearance.
4. The use of evergreen plant material (e.g., pine, cedar, hemlock, holly, laurel, yew, pachysandra, myrtle, etc.) is encouraged to ensure that any planned visual buffers function effectively year-round.

5. If located in a front elevation of a residential building, the door or doors of a garage shall not have a total horizontal dimension which exceeds 50% of the horizontal dimension of the front elevation of the residential building.
6. Exterior mechanical equipment should be indicated on all drawings and should be properly shielded from view of all streets and adjacent properties.
7. The Board encourages the use of colors, singly or in combination, which are consistent with the visual character of the existing buildings and landscape of the Village. Strident color schemes or colors which compete with those of the natural landscape are strongly discouraged.
8. Style.
 - a. In general, adjacent structures shall not be identical nor mirror images of one another.
 - b. The massing and style chosen for buildings should be suitable and appropriate within the context of adjacent existing buildings.
 - c. Within any submitted design, the massing, size and shape of all openings, decorative trim and

ornamentation should be stylistically consistent.

G. Appeal.

Any applicant aggrieved by the action of the Architectural Review Board in disapproving an application, and of the denial of a building permit because of such disapproval, may request within 30 days of the filing of the disapproval by the Board of Architectural Review that the Board make formal findings of fact. In the event of such a request, the Board shall make such findings of fact within fifteen (15) days after the request is filed in the Village Clerk's office and shall thereafter provide the applicant with an opportunity to answer the findings by a submission of formal proof, and shall reconsider the application on the basis of such answer. If the application is disapproved after such reconsideration, the applicant may appeal to the Board of Trustees, within thirty (30) days after the filing in the office of the Village Clerk of the decision of the Board after reconsideration. [Amended by LL 6-2007, 11/19/07]

H. Fees.

All applicants who submit an application to the Architectural Review Board shall pay a fee to the Village Clerk as provided in the Village's Fees and Deposits Law. In the event an

applicant shall substantially change and/or submit new architectural renderings to the Architectural Review Board, the applicant shall submit an additional fee as provided in the Village's Fees and Deposits Law. [Amended by LL 6-2007, 11/19/07]

§ 300.65 Certificates of Occupancy.

A. Required.

No structure hereafter erected shall be used and no land shall be used or changed in use until a certificate of occupancy therefor has been issued by the Building Inspector.

It shall be the duty of the Building Inspector to issue a Certificate of Occupancy as promptly as practicable, and in any case within ten days after an application for such certificate shall have been filed in his or her office by any owner, after having determined that the building and premises and the proposed use thereof conform with all requirements of this Chapter and of the State Uniform Fire Prevention and Building Code. Each application for a Certificate of Occupancy shall be accompanied by a fee in the amount required by the Village Board of Trustees.

B. Alterations.

No structure hereafter altered shall continue to be used for more than thirty (30) days after the alteration is completed unless a Certificate of Occupancy shall have been issued by the Building Inspector.

C. Noncompliance with Chapter.

Except upon a written order of the Board of Appeals, no such Certificate of Occupancy shall be issued for any structure or use of land, or for the alteration of any structure, where such structure, use, or alteration would be in violation of any of the provisions of this Chapter.

§ 300.66 Application and forms.

Applications for building permits and certificates of occupancy shall be made upon such forms, and shall be accompanied by such layout or plot plans, as shall be prescribed by the Building Inspector to facilitate enforcement of this Chapter in conjunction with the State Uniform Fire Prevention and Building Code in the Village of Old Brookville.

§ 300.67 Board of Appeals.

A. Creation, appointment and organization.

A Board of Appeals is hereby created. It shall consist of five (5) members, one of whom shall be appointed chairman and another deputy chairman who shall act in the absence or inability of the chairman for a period of three (3) years. The Mayor subject to the approval of the Board of Trustees shall appoint the members for a term of five (5) years except that the terms of the first five (5) members shall have terms from one to five (5) years as provided in Village Law § 7-712. In case of a vacancy, the successor shall be appointed to serve for the unexpired portion of the term of his or her predecessor.

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof,

and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Village Clerk and shall be a public record.

B. Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by law and by this Chapter, which are more particularly specified as follows:

1. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
2. Appeals. To hear all appeals from any of the decision of the Building Inspector, the Architectural Review Board or any other appeals pertaining to this Chapter not otherwise provided for in this Chapter or by law.
3. Variances. Upon such appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter, to vary or modify the application of any of the regulations or

provisions of this Chapter relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.

C. Procedure.

The Board of Appeals shall act in strict accordance with the procedure specified by law and by this Chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of this Chapter involved, and shall exactly set forth the interpretation that is claimed the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. At least twenty (20) days before the date of the hearing required by law on an application or appeal to the Board of Appeals, the secretary of said Board shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such report the Planning Board shall be deemed to have approved

the application or appeal.

Every decision of the Board of Appeals shall be by resolution, in accordance with New York State Village Law § 7-712-a(9) as amended by Local Law 1-2008 of the Village.

§ 300.68 Fees

Fees for building permits, certificates of occupancy and other related matters are set forth in the General Fees and Deposits Law of the Village of Old Brookville.

ARTICLE VII

AMENDMENTS AND INTERPRETATION

§ 300.71 Amendments.

The Board of Trustees may, from time to time, on its own motion, or on petition or on recommendation of the Planning Board, amend, supplement, change, modify or repeal the regulations and provisions of this Chapter after public notice and hearing as provided by the Village Law.

§ 300.72 Interpretation.

This Chapter shall be liberally construed to effectuate the purposes for which it is enacted.

ARTICLE VIII

PENALTIES

§ 300.100 Violations and penalties.

A. Any person whether as owner, lessee, architect or builder or the agent or employee of any of them who violates or is accessory to the violation of any provision of this Chapter or any regulation made under the authority conferred by this Chapter or who shall erect, construct, alter, enlarge, convert or move any building or structure without a building permit or in violation of any statement or plans submitted and approved under the provisions of this Chapter, or who shall use any building, structure or land in violation of this Chapter or any regulation made under the authority conferred by this Chapter or in violation of the provisions of any building permit or certificate of occupancy or without a building permit or certificate of occupancy where one is required by this Chapter shall be guilty of a violation of the Penal Law and shall be liable to a penalty not exceeding in the case of any one violation Two Hundred Fifty Dollars (\$250.00) or imprisonment not exceeding fifteen (15) days or by both such fine and imprisonment.

B. Injunctive relief.

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this Chapter, the proper local authorities of the Village, in addition to other remedies,

may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, sue or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.