

CHAPTER 152: ZONING

Section

General Provisions

- 152.001 Title
- 152.002 Purpose
- 152.003 Rules of construction
- 152.004 Definitions
- 152.005 Minimum standards
- 152.006 Conflict of laws
- 152.007 Amendment to zoning code
- 152.008 Mandatory referral prior to passage
- 152.009 Existing agreements
- 152.010 Completion of projects where permit already issued
- 152.011 Compliance with regulations required
- 152.012 Requirement of building permit
- 152.013 Owner responsible for compliance
- 152.014 Lot use; public street access

Zoning Districts

- 152.025 Districts
- 152.026 Zoning map
- 152.027 District boundaries adopted by reference
- 152.028 Zoning of streets, alleys, public-ways, waterways and rights-of-way
- 152.029 Adoption of use regulation schedules
- 152.030 Schedule of permitted and special uses by district
- 152.031 Schedule of lot specifications and restrictions by district
- 152.032 Satellite television equipment and dish restrictions
- 152.033 Adult bookstore; adult entertainment business

Non-Conforming Buildings and Uses

- 152.045 Continuance of use permitted
- 152.046 Discontinuance of non-conforming use
- 152.047 Change of use
- 152.048 Repairs and alterations; extension; restoration
- 152.049 District changes

Supplemental Regulations

- 152.060 Application of supplemental regulations
- 152.061 Special uses identified; requirements for special use permit
- 152.062 Sign regulations
- 152.063 Requirements for off-street parking and loading
- 152.064 Sanitation
- 152.065 Excavation of clay, sand or gravel

- 152.066 Stripping of top soil
- 152.067 Mobile home restrictions; exceptions
- 152.068 Mobile home parks
- 152.069 Automobile salvage and junk yards
- 152.070 Temporary structures; permit
- 152.071 Community development projects
- 152.072 Fences; property barriers
- 152.073 Boat storage
- 152.074 Livestock

Administration

- 152.085 Building Inspector; powers and duties
- 152.086 Site plan approval

Zoning Board of Appeals

- 152.100 Organization of Board; rules of procedure
- 152.101 Zoning Board of Appeals procedure
- 152.102 Permitted actions by the Zoning Board of Appeals
- 152.103 Special use permits

- 152.999 Penalty

GENERAL PROVISIONS

§ 152.001 TITLE.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Village of Franklinville, Cattaraugus County, New York".

(Prior Code, § 12-1-2) (Ord. passed 3-14-2022)

§ 152.002 PURPOSE.

For the purpose of promoting the public health, safety, morals, comfort and general welfare; conserving and protecting property and property values; securing the most appropriate use of land; lessening or avoiding congestion in the public streets and highways; and facilitating adequate but economical provision of public improvements, all in accordance with a comprehensive plan, the Village Board finds it necessary and advisable to regulate the location, size and use of buildings and other structures percentages of lot area which may be occupied; setback building lines; sizes of yards, courts and other open spaces; and the use of land for trade, industry, residences, recreation or other purposes, and for that purpose, divides the incorporated area of the village into districts or zones.

(Prior Code, § 12-3-1) (Ord. passed 3-14-2022)

§ 152.003 RULES OF CONSTRUCTION.

(A) *Construction.* In the construction of this chapter, the rules and definitions contained in this section and §152.004 below shall be observed and applied except when the context clearly indicates otherwise.

(B) *Rules.* Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural, the singular. The word **SHALL** is mandatory; the word **MAY** is permissive. The word **LOT** shall include the words **PLOT**, **PIECE** and **PARCEL**; the word **BUILDING** includes all other structures of every kind regardless of similarity to buildings; and the phrase **USED FOR** shall include the phrases **ARRANGED FOR**, **DESIGNED FOR**, **INTENDED FOR**, **MAINTAINED FOR** and **OCCUPIED FOR**.

(Prior Code, §§ 12-4-1, 12-4-2) (Ord. passed 3-14-2022)

§ 152.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE or USE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

AGRICULTURE. Land, including necessary buildings and structures, that has as its principal use the raising or keeping of livestock or the growing of crops in the open.

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

AREA, BUILDING. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

AUTOMOTIVE REPAIR. The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning of vehicles.

BILLBOARD. Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located.

BOARD OF TRUSTEES. The Village Board of Trustees of the Village of Franklinville, County of Cattaraugus, New York.

BOARDING HOUSE. A dwelling in which more than three persons individually or as families are housed or lodged for hire with or without meals. A **ROOMING HOUSE** or a **FURNISHED ROOMING HOUSE** shall be deemed a **BOARDING HOUSE**.

BUILDABLE AREA. The space remaining on a zoning lot after the minimum open space requirements of this chapter have been complied with.

BUILDING. Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING PERMIT. The permit issued by the Building Inspector authorizing the construction, extension or use of buildings.

BUILDING SETBACK LINE. A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this chapter.

COVERAGE. That percentage of the plot or lot area covered by the building area.

DUMP. A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING. A building or structure or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, but not including hotels, motels, boarding or other such use of a transient nature.

DWELLING, ACCESSORY USE, COMMERCIAL. One or two dwelling units or a multiple dwelling in a building or structure with commercial space, area or in a commercial district. At least 50% of the area on the first floor on the street front shall remain commercial nonresidential in such manner that 100% of the first floor facing the street shall be commercial non-residential. See § 152.029 district use regulations, B-1 commercial district special use table.

DWELLING, MULTIPLE. A dwelling which is either rented, leased, let or hired out, to be occupied or is occupied as the temporary or permanent residence or home of three or more families living independently of each other, including but not limited to the following: a tenement, flat house, maisonette apartment, apartment house, apartment hotel, tourist house, bachelor apartment, studio apartment, duplex apartment, kitchenette apartment, hotel, lodging house, rooming house, boarding house, boarding and nursery school, furnished room house, club, sorority house, fraternity house, college and school dormitory, convalescent, old age or nursing homes or residences. It shall also include a dwelling, two or more stories in height, and with five or more boarders, roomers or lodgers residing with any one family. In addition to the zoning laws of the village, a multiple dwelling must also comply with the provisions of N.Y. Mult. Dwelling Law Art. 1 *et seq.* and the definitions set forth therein.

DWELLING, SINGLE-FAMILY. A building or structure that contains one dwelling unit.

DWELLING, TWO-FAMILY. A building or structure that contains two dwelling units.

DWELLING UNIT. A building or portion thereof providing complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking and toilet facilities.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.

FAMILY. One or more persons living together in one dwelling unit and maintaining a common household, including

domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this chapter as an accessory use.

FARM. An area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and for the packing or storage of the products produced on the premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of garbage or offal to swine or other animals, the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals such as mice, rats, rabbits and the like.

FENCE. A linear structure constructed using maintenance-free material, having a life span of 20 years or more.
MAINTENANCE-FREE MATERIAL shall include chain-link, stone or concrete wall, vinyl, PVC and pressure-treated lumber. Rough-cut lumber or other untreated wood material is not deemed **MAINTENANCE-FREE**.

FLOOR AREA, GROSS. For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to the use, including accessory storage areas located within selling or working space, such as counters, racks or closets, any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

GASOLINE or FILLING STATION. Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including major repairs, collision service or painting.

HOME OCCUPATION.

(1) An accessory use of a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of the secondary use.

(2) No **HOME OCCUPATION** shall be permitted without a special use permit of the Village Board.

(3) The Village Board is authorized to impose limitations on any proposed home occupation to ensure that there will be no interference with the normal peace and quiet of the neighborhood and its setting.

(4) The limitations must be reasonable, and may vary depending on the nature of the **HOME OCCUPATION**.

(5) The limitations may include, but are not necessarily confined to:

- (a) Establishing a certain percentage of floor area to the occupation;
- (b) Limiting the carrying of stock or merchandise;
- (c) Limiting noise, fumes or dust;
- (d) Controlling parking or access of commercial vehicles; and
- (e) Any other reasonable limitation.

HOTEL, MOTEL, INN, TOURIST or AUTO COURT. An establishment containing lodging accommodations designed for use by transients, or travelers or temporary guests, with no provision in the accommodations for cooking in any individual room or suite.

INSPECTOR, BUILDING. The administrative officer appointed by the Village Board of Trustees to enforce the provisions of this chapter.

JUNK YARD. A lot, land or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and or sale of waste, scrap metal, paper, lumber, rags or similar materials, but not including pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment or clothing; purchase or storage of used motor vehicles or salvaged machinery to be used for the purpose for which originally manufactured.

LINE, STREET. The dividing line between the street and the lot.

LOADING AND UNLOADING SPACE, OFF-STREET. An open hard-surface area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interferences with public streets and alleys. The space shall not be less than 12 feet in width, 65 feet in length and 14 feet in height, exclusive of access aisle and maneuvering space.

LOT. 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.

LOT AREA. The net area contained within lots lines.

LOT COVERAGE. The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

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

lines.

LOT LINES. The property lines bounding a lot. The front **LOT LINE** shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street **LOT LINE** as the front **LOT LINE**.

LOT OF RECORD. Any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Cattaraugus County.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

LOT, WIDTH. The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

MANUFACTURING. The making of goods and articles by hand or machine process. Restricted **MANUFACTURING** shall be considered to be any manufacturing or industrial processing which by the nature of the materials, equipment and process utilized is to a considerable measure, clean, quiet and free of any objectionable or hazardous element. All **MANUFACTURING** permitted in any district shall comply with the performance requirements set forth herein.

MOBILE HOME. A vehicle or portable structure used for dwelling or sleeping purposes. A dependent mobile home is one which does not have a flush toilet and a bath or shower.

MOBILE HOME PARK. A plot or parcel of ground containing a minimum of two acres which is manifestly arranged and furnished to provide the space, facilities and access for mobile homes as required herein.

NON-CONFORMING USE. A building, structure or use of land existing at the time of enactment of this chapter, and which does not conform to the regulations of the district or zone in which it is situated.

PRINCIPAL USE. The main use of land or buildings as distinguished from a subordinate or accessory use.

PUBLIC USE. Public parks, schools and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

PUBLIC UTILITY. Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation or water.

RETAIL BUSINESS. Establishment where goods or services are sold or leased to consumers or businesses, excluding smoke shops, adult bookstores, adult entertainment establishments, licensed adult-use cannabis retail dispensaries and adult-use cannabis on-site consumption sites.

SEMI-PUBLIC USE. Churches, parochial schools, colleges, hospitals and other institutions of an educational, religious, charitable or philanthropic nature.

SHORT-TERM RENTAL. Any allowed dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or other consideration for a period of less than 30 consecutive days. Motels, hotels, inns and bed and breakfasts are excluded from this definition.

SIGN. Any advertisement, announcement, direction or communication produced in whole or part by the construction, erection, affixing or placing of a structure on any land or other structure, or produced by painting or posting on or placing any printed, lettered, figured or colored material on any structure or surface, but not including signs placed or erected by a village, town, city, county or state agency for the purpose of showing street names, directions, regulations or for other public purpose.

SMOKE SHOP. A retail or wholesale establishment which maintains more than 15% of its retail floor space for the display, sale, distribution, delivery, offering, furnishing or marketing of tobacco, tobacco products, tobacco accessories, and/or accessories, marijuana, marijuana products, marijuana accessories, vape, vape or vaping products, and/or vape or vaping accessories, and/or any uses, products or accessories similar to those set forth in this definition.

SPECIAL USE. Any use of land or buildings, or both, described and permitted herein, subject to the provisions of § 152.103 below.

SPECIALIZED ANIMAL RAISING AND CARE. The use of land and/or buildings for the raising and care of rabbits, dogs, birds, horses or other domestic animals of a similar nature.

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

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

STRUCTURAL ALTERATIONS. Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders.

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

USE. The purpose for which land or a building thereon is designed, arranged or intended or for which it is occupied or maintained, let or leased.

UTILITY SHEDS. A structure for storage of only goods used in outside building or ground maintenance or repair, containing no more than 144 square feet, having a maximum height of ten feet, and located no closer than three feet to the back or side lot line and no closer to the street than the back side of the principal building on the lot, shall be allowed upon the issuance of a permit by the Building Inspector.

YARD. An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT. An open unoccupied space on the same lot with a building situated between the street line and a line connecting the parts of the building setting back from and nearest to the street line, and extending to the side lines of the lot.

YARD, REAR. A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

YARD, SIDE. The part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

ZONING BOARD OF APPEALS. The Zoning Board of Appeals of the Village of Franklinville, County of Cattaraugus, New York.

ZONING MAP. The map or maps incorporated into this chapter as a part hereof, designating Zoning Districts.

(Prior Code, § 12-4-3) (Ord. 1-1984, passed 1-23-1984; Ord. 1-2001, passed 5-2-2001; Ord. 2-2002, passed 2-26-2002; Ord. 1-2004, passed 8-9-2004; Ord. passed 3-14-2022; Ord. 3-2023, passed 7-10-2023; Ord. 8-2024, passed 10-28-2024; Ord. 1-2025, passed 1-13-2025)

§ 152.005 MINIMUM STANDARDS.

The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

(Prior Code, § 12-5-1(a)) (Ord. passed 3-14-2022)

§ 152.006 CONFLICT OF LAWS.

Where the conditions imposed by any provision of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

(Prior Code, § 12-5-1(b)) (Ord. passed 3-14-2022)

§ 152.007 AMENDMENT TO ZONING CODE.

All amendments to this chapter shall be in accordance with the provisions of the N.Y. Vil. Law Art. ~~16~~ *et seq.* applicable thereto.

(Prior Code, § 12-12-1) (Ord. passed 3-14-2022)

§ 152.008 MANDATORY REFERRAL PRIOR TO PASSAGE.

In accordance with the laws of the state, all referrals required by NY General Municipal Law §239-m and NY General Municipal Law §239-n, shall be referred to the County Planning Board for review and comment prior to their adoption or approval by the appropriate village authority.

(Prior Code, § 12-13-1) (Ord. passed 3-14-2022)

§ 152.009 EXISTING AGREEMENTS.

This chapter is not intended to abrogate any easement, covenant or any other private agreement provided that where the regulations of this chapter are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements, the requirements of this chapter shall govern.

(Prior Code, § 12-5-1(c)) (Ord. passed 3-14-2022)

§ 152.010 COMPLETION OF PROJECTS WHERE PERMIT ALREADY ISSUED.

Nothing in this chapter shall be deemed to require any change in the plans, construction or designated uses of any building for which a permit was duly issued and on which actual construction was lawfully begun prior to the adoption of this chapter and upon which building construction has been diligently carried on. **ACTUAL CONSTRUCTION** is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, except that where a basement or cellar is being excavated, the excavation shall be deemed to be actual construction, or where demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, the demolition and

removal shall be deemed to be actual construction; provided that actual construction work shall be diligently carried on and the building completed within 18 months from the time this chapter becomes effective. Similarly, whenever a district shall be changed hereafter, the provisions of this section, with regard to previously issued building permits, shall apply to building permits issued for construction in the changed district prior to the time the amendment affecting the change becomes effective.

(Prior Code, § 12-5-1(d)) (Ord. passed 3-14-2022)

§ 152.011 COMPLIANCE WITH REGULATIONS REQUIRED.

Except as hereinafter provided:

(A) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located;

(B) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which the building is located;

(C) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building; and

(D) No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make the area, dimension or capacity less than the minimum required under this chapter. If already less than the minimum required under this chapter, the area, dimension or capacity shall not be further reduced.

(Prior Code, § 12-5-2(a)) (Ord. passed 3-14-2022)

§ 152.012 REQUIREMENT OF BUILDING PERMIT.

(A) In addition to the site plan approval required as a provision of this chapter, if applicable, no building or structure shall be erected, added to or structurally altered until a building permit therefor has been issued by the Building Inspector.

(B) All applications for permits shall be in accordance with the requirements of the Building Code. In the event that no building code exists, there shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale and showing the actual dimensions of the lot to be built upon, the exact size and style of buildings to be erected, estimated construction costs and value and other information as may be necessary to determine and provide for the enforcement of this chapter. One copy of the layout shall be returned when approved by the Building Inspector together with the permit, to the applicant upon the payment of a fee.

(Prior Code, § 12-5-2(b)) (Ord. passed 3-14-2022)

§ 152.013 OWNER RESPONSIBLE FOR COMPLIANCE.

The final responsibility for the conforming of buildings and use to the requirements of this chapter shall rest with owner or owners of the building or use and the property on which it is located.

(Prior Code, § 12-5-2(c)) (Ord. passed 3-14-2022)

§ 152.014 LOT USE; PUBLIC STREET ACCESS.

(A) *Lot area and dimension.*

(1) *Contiguous parcels.* When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for the use.

(2) *Lots or parcels of land of record* Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this chapter, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards, courts or usable open spaces are not less than 75% of the minimum required dimensions of areas.

(B) *Access to public street.* Except as otherwise provided for in this chapter, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or platted street unless a permanent easement of access to a public street was of record prior to the adoption of this chapter.

(Prior Code, § 12-5-3, 12-5-4) (Ord. passed 3-14-2022)

ZONING DISTRICTS

§ 152.025 DISTRICTS.

For the purpose and provisions of this chapter, the village is hereby divided into the following types of districts:

- (A) A-1 Agricultural District;
- (B) S-1 Special District;
- (C) R-1 Single-Family Residential District;
- (D) R-2 Multiple-Family Residential District;
- (E) R-3 Residential/Commercial District;
- (F) B-1 Commercial District; and
- (G) I-1 Industrial District.

(Prior Code, § 12-6-1) (Ord. passed 3-14-2022)

§ 152.026 ZONING MAP.

The boundaries of the aforesaid zoning districts are hereby established as shown on the map entitled, “Zoning District Map of the Village of Franklinville, New York, dated May 3, 1963,” which map accompanies and is made a part of this chapter and shall have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

(Prior Code, § 12-6-2) (Ord. passed 3-14-2022)

§ 152.027 DISTRICT BOUNDARIES ADOPTED BY REFERENCE.

The district boundaries are adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Prior Code, § 12-6-3) (Ord. passed 3-14-2022)

§ 152.028 ZONING OF STREETS, ALLEYS, PUBLIC-WAYS, WATERWAYS AND RIGHTS-OF-WAY.

Where the center line of a street, alley, public-way, waterway or railroad right-of-way serves as a district boundary, the zoning of those areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the center line.

(Prior Code, § 12-6-4) (Ord. passed 3-14-2022)

§ 152.029 ADOPTION OF USE REGULATION SCHEDULES.

The requirements and limitations set forth in this subchapter in tables entitled “schedule of permitted and special uses by district” and “schedule of lot specifications and restrictions by district”, with all explanatory matter thereof, are hereby made a part of this chapter and shall apply in the respective districts as indicated.

(Prior Code, § 12-7-1) (Ord. passed 3-14-2022)

§ 152.030 SCHEDULE OF PERMITTED AND SPECIAL USES BY DISTRICT.

(A) The uses which are permitted in the specified zoning districts and for which the Building (Zoning) Inspector may issue a permit, after Site Plan Approval, if applicable, and the special uses requiring the approval and a permit from the Village Board of Appeals are set forth in the following table entitled "schedule of permitted and special uses by district".

(B) Uses not expressly listed under this section shall not be permitted except by amendment to this chapter.

<i>A-1 Agricultural</i>	<i>S-1 Special District</i>	<i>R-1 Residential District</i>
<i>Permitted Uses</i>		
<i>A-1 Agricultural</i>	<i>S-1 Special District</i>	<i>R-1 Residential District</i>
<i>Permitted Uses</i>		
Agriculture	No permitted uses	Single-family residences
Plant cultivation	Parks	
Forestry	Essential services	
Public uses	Accessory uses	
Public utilities		

Essential services		
Accessory uses		
Single-family residences		
Special Uses Requiring Board of Appeals Approval		
Golf courses	Agriculture	Golf courses
Cemeteries	Forestry	Cemeteries
Radio and television towers	Parks	Home occupations
Feed and grain storage facilities	Essential services	Agriculture
Semi-public uses	Accessory uses	Public uses
Seasonal farm produce roadside stands		Semi-public uses
Commercial recreation facilities		
Private recreation facilities		
Excavation of natural products (See § 152.065)		

R-2 Residential District	R-3 Residential-Commercial District
Permitted Uses	
R-2 Residential District	R-3 Residential-Commercial District
Permitted Uses	
Single-family residences	Single-family residences
Two-family residences	Two-family residences
Parks	Multiple dwellings
Public uses	Tourist homes
Semi-public uses	Parks
Essential services	Public uses
Accessory uses	Semi-public uses
	Essential services
	Accessory uses
Special Uses Requiring Board of Appeals Approval	
Multiple dwellings	Home occupations
Home occupations	Retail businesses
Rest homes, nursing homes and sanitariums	Motels
Nursery schools	Mobile home parks
Child care clinics	
Medical centers	
Tourist homes	
Professional activities	
Short-term rentals	

B-1: Historic Business District	B-2: Commercial/Residential District	B-3: General Business District
B-1: Historic Business District	B-2: Commercial/Residential District	B-3: General Business District
Permitted Uses:		
Accessory structures or accessory uses	Accessory structures or accessory uses	Accessory structures or accessory uses
Apartments over first floor commercial establishments	Apartments over first floor commercial establishments	Animal hospitals or clinics
Banks	Banks	Banks
Business services	Business services	Business services
Entertainment facilities	Entertainment facilities	Commercial recreation facilities

Essential services	Essential services	Entertainment facilities
Offices	Hotels, motels or inns	Essential services
Personal services	Mortuaries	Hotels, motels or inns
Professional activities	Offices	Mortuaries
Public uses	Parks	Multiple dwellings
Residential apartments on all floors except first floor	Personal services	Offices
Restaurants	Public uses	Personal services
Retail businesses	Public utilities	Professional activities
Semi-public uses	Residential apartments on all floors except first floor	Public uses
	Restaurants	Public utilities
	Retail businesses	Residential apartments on all floors except first floor
	Semi-public uses	Restaurants
	Single family residences	Retail businesses
	Two-family residences	Semi-public uses
Special Uses:		
Bars, pubs or taverns	Wholesale businesses	Apartments over first floor commercial establishments
Clubs	Automotive sales and/or automotive repair	Automotive sales and/or automotive repair
Home occupations	Bars, pubs or taverns	Bars, pubs or taverns
Hotels, motels or inns	Car wash	Childcare facilities
Outdoor advertising	Childcare facilities	Clubs
Short-term rentals	Clubs	Commercial schools
	Commercial schools	Drive-in commercial uses
	Home occupations	Gas stations
	Multiple dwellings	Lumber and building material sales
	Nursery schools	Nursery schools
	Outdoor advertising	Outdoor advertising
	Parking lot	Parking lot
	Professional activities	Religious use/place of worship
	Religious use/place of worship	Rest homes, nursing homes, sanitariums
	Rest homes, nursing homes, sanitariums	Short-term rentals
	Short-term rentals	Single family residence
	Tourist homes	

I-1 Industrial District
Permitted Uses
I-1 Industrial District
Permitted Uses
Restricted manufacturing
Research and testing facilities
Food processing
Offices
Agriculture
Public uses
Public utilities

Essential services
Accessory uses
<i>Uses Allowed by Special Use Permit</i>
Adult bookstore
Adult entertainment establishment
General manufacturing
Wholesale businesses
Lumber and building material storage and sales
Fuel oil and gasoline storage
Feed and grain storage
Warehouses
Licensed adult-use cannabis retail dispensaries
Adult-use cannabis on-site consumption sites
Smoke shop

(Prior Code, § 12-7-2) (Ord. 1-2001, passed 5-2-2001; Ord. 2-2002, passed 2-26-2002; Ord. passed 3-14-2022; Ord. 3-2023, passed 7-10-2023; Ord. 5-2024, passed 10-28-2024; Ord. 8-2024, passed 10-28-2024; Ord. 1-2025, passed 1-13-2025; Ord. 3-2025, passed 7-14-2025)

§ 152.031 SCHEDULE OF LOT SPECIFICATIONS AND RESTRICTIONS BY DISTRICT.

The lot, yard, height and area requirements and limitations set forth in the following table entitled “Schedule of lot specifications and restrictions by district”, with all explanatory matter thereon, is hereby made a part of this chapter and shall apply in the respective districts as indicated.

(A) Agricultural A-1:

- (1) Minimum lot area:
 - (a) Per dwelling unit: 18,000 square feet; and
 - (b) Other: ten acres.
- (2) Minimum residential lot width: 100 feet.
- (3) Minimum yard dimensions:
 - (a) Front - 1*: 50 feet;
 - (b) Side:
 1. Residential: 50 feet total; 20 feet minimum; and
 2. Non-residential: 50 feet each side.
 - (c) Rear: 50 feet.
- (4) Maximum height: 35 feet;
- (5) Maximum percent of lot coverage: 25%; and
- (6) Minimum floor area for residential structures (per family): 1,000 square feet.

(B) Special S-1:

- (1) Minimum lot area:
 - (a) Per dwelling unit: residences not permitted; and
 - (b) Other: all uses: minimum five acres.
- (2) Minimum residential lot width;
- (3) Minimum yard dimensions:
 - (a) Front - 1*: 100 feet; and
 - (b) Side:
 1. Residential; and

2. Non-residential: 50 feet each side.

(c) Rear: 100 feet.

(4) Maximum height: 35 feet;

(5) Maximum percent of lot coverage: 25%; and

(6) Minimum floor area for residential structures (per family): residences not permitted.

(C) Residential R-1:

(1) Minimum lot area:

(a) Per dwelling unit: 18,000 square feet; and

(b) Other: 18,000 square feet.

(2) Minimum residential lot width: 100 feet;

(3) Minimum yard dimensions:

(a) Front - 1*: 50 feet;

(b) Side:

1. Residential: 50 feet total; 20 feet minimum; and

2. Non-residential: 25 feet each side.

(c) Rear: 50 feet.

(4) Maximum height: 25 feet;

(5) Maximum percent of lot coverage: 25%; and

(6) Minimum floor area for residential structures (per family): 1,000 square feet.

(D) Residential R-2:

(1) Minimum lot area:

(a) Per dwelling unit: 5,000 square feet; and

(b) Other: 5,000 square feet.

(2) Minimum residential lot width: 50 feet;

(3) Minimum yard dimensions:

(a) Front - 1*: 30 feet;

(b) Side:

1. Residential: 15 feet total; seven feet minimum; and

2. Non-residential: ten feet each side.

(c) Rear: 30 feet.

(4) Maximum height: 25 feet;

(5) Maximum percent of lot coverage: 40%; and

(6) Minimum floor area for residential structures (per family): 800 square feet.

(E) Residential-Commercial R-3:

(1) Minimum lot area:

(a) Per dwelling unit: 5,000 square feet; and

(b) Other: 5,000 square feet.

(2) Minimum residential lot width: 50 feet;

(3) Minimum yard dimensions:

(a) Front - 1*: 48 feet from the center line of the street or highway;

(b) Side:

1. Residential: 15 feet total; 7 feet minimum; and

2. Non-residential: ten feet each side 2*.

(c) Rear: 30 feet 2*.

(4) Maximum height: 25 feet;

(5) Maximum percent of lot coverage: 40%; and

(6) Minimum floor area for residential structures (per family): 650 square feet for a one bedroom unit; 800 square feet for a unit having more than one bedroom.

(F) Commercial B-1:

(1) Minimum lot area:

(a) Per dwelling unit: residences not permitted; and

(b) Other: 5,000 square feet.

(2) Minimum residential lot width:

(3) Minimum yard dimensions:

(a) Front - 1*: 48 feet from the center line of the street or highway;

(b) Side:

1. Residential; and

2. Non-residential: 2*.

(c) Rear: 2*.

(4) Maximum height: 50 feet;

(5) Maximum percent of lot coverage: 60%; and

(6) Minimum floor area for residential structures (per family or dwelling unit: 650 square feet for a one-bedroom dwelling unit; 800 square feet for a unit having more than one bedroom; a multiple dwelling shall comply with the requirements of the Multiple Residence Law of the state.

(G) Industrial I-1:

(1) Minimum lot area:

(a) Per dwelling unit: residences not permitted; and

(b) Other: one acre.

(2) Minimum residential lot width;

(3) Minimum yard dimensions:

(a) Front - 1*: 75 feet;

(b) Side:

1. Residential; and

2. Non-residential: 50 feet each side.

(c) Rear: 50 feet.

(4) Maximum height: 60 feet;

(5) Maximum percent of lot coverage: 25%; and

(6) Minimum floor area for residential structures (per family): residences not permitted.

*1 Along any U.S. or State Highway and any designated primary County Highway, no residential or accessory building shall be located within 75 feet of the existing or proposed right-of-way line in Districts A-1, R-1, R-2 and I-1. In Districts S-1, R-3, and B-I, the values shown in divisions (A) through (G) above shall apply.

*2 New commercial uses shall not be located or conducted within 25 feet of any lot line of any other lot in a Residential District.

(Prior Code, § 12-7-5) (Ord. 2-1994, passed 6-15-1994; Ord. 2-2002, passed 2-26-2002; Ord. passed 3-14-2022)

No television satellite equipment and dishes shall be located on any property within the village within 40 feet of the curb line that parallels the adjacent street. In the event there is no curbing, then the 40 feet shall be measured from a point three feet from the edge of the paved portion of any street or highway within the village.

(Prior Code, § 12-7-5) (Ord. 1-1985, passed 6-10-1985; Ord. passed 3-14-2022)

§ 152.033 ADULT BOOKSTORE; ADULT ENTERTAINMENT BUSINESS.

Adult bookstores and adult entertainment establishments, as defined herein, may be approved in the Industrial District south of Elm Street, West of West Avenue, West of Pennsylvania Avenue to the southern and western village limit by the Village Board following a public hearing and provided that the minimum standards and provisions specified below are maintained:

- (A) The proposed use shall be operated in a manner that is consistent with N.Y. Penal Law Part 1et seq. relating to exposure, obscenity or lewdness;
- (B) An adult bookstore or adult entertainment use shall not be operated within 500 feet of:
 - (1) A church, synagogue or place of worship;
 - (2) An historic district or historic building;
 - (3) A public or private elementary or secondary school, day care, preschool or other uses of a similar nature;
 - (4) A boundary of any residential district; or
 - (5) A public park, municipal building or community center.
- (C) No adult use defined in this section shall be operated within 1,000 feet of another adult bookstore or adult entertainment establishment or on the same lot or parcel of land;
- (D) An adult bookstore or adult entertainment establishment shall not be operated in the same building, structure or portion thereof containing another adult bookstore or adult entertainment establishment;
- (E) For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure as part of the premises where an adult bookstore or adult entertainment establishment is conducted to the nearest property line of the premises of any of the uses specified in divisions (B)(1) through (5) above, identified above or to another adult bookstore or adult entertainment establishment;
- (F) All adult bookstores or adult entertainment establishments shall be conducted in an enclosed building regardless of location or distance;
- (G) No exterior sign shall contain any photographic or artistic representation of the human body. Signage must conform to § 152.062(B). No larger than 12 square feet in area. Advertising via mobile signs or upon vehicles is prohibited;
- (H) All building openings, entries, windows, doors and the like, associated with an adult bookstore or adult entertainment establishment shall be located, covered or screened in such a manner as to prevent a view into the interior of the building from any public right of way or adjacent property. Sound within the building shall not be audible to a person passing by outside the building;
- (I) No adult bookstore or adult entertainment establishment use shall be established in any building which is used in part for residential purposes;
- (J) No residential use shall be established in any building which contains an approved adult bookstore or adult entertainment establishment use; and
- (K) Adequate landscaping shall be provided to minimize the visual impact on adjacent sites of any structure containing an adult use.

(Ord. 1-2001, passed 5-2-2001; Ord. passed 3-14-2022)

NON-CONFORMING BUILDINGS AND USES

§ 152.045 CONTINUANCE OF USE PERMITTED.

Except as otherwise provided herein, any lawfully established use of a building or land existing at the time of the enactment of this chapter or amendments thereto may be continued although the use does not conform with the provisions of this chapter.

(Prior Code, § 12-8-1) (Ord. passed 3-14-2022)

§ 152.046 DISCONTINUANCE OF NON-CONFORMING USE.

(A) Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this chapter, the premises shall not thereafter be used or occupied by a non-conforming

use.

(B) Whenever a non-conforming use of a building or structure or part thereof, has been discontinued, as evidenced by vacancy, for a period of 12 consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a non-conforming use, the use shall not after being discontinued or abandoned, be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district.

(C) Where no enclosed building is involved, voluntary discontinuance of a non-conforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a nonconforming manner.

(D) Non-conforming trailers or mobile homes located on a lot in any district once removed, shall not be relocated on the lot or replaced with another trailer or mobile home.

(Prior Code, § 12-8-2) (Ord. passed 3-14-2022)

§ 152.047 CHANGE OF USE.

The non-conforming use of any building, structure or portion thereof may be changed, with the approval of the Board of Appeals, to a use of a more restricted classification, and when so changed shall not thereafter be changed to a less restricted classification.

(Prior Code, § 12-8-3) (Ord. passed 3-14-2022)

§ 152.048 REPAIRS AND ALTERATIONS; EXTENSION; RESTORATION.

(A) Normal maintenance of a non-conforming building is permitted. However, the building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 25% of the assessed value of the building unless changed to a conforming use.

(Prior Code, § 12-8-4)

(B) A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building, designed or manifestly arranged for the use, which existed prior to the enactment of this chapter shall not be deemed the extension of the nonconforming use.

(Prior Code, § 12-8-5)

(C) No building damaged by fire or other causes to the extent of more than 50% of its real value, computed through the use of the current assessed valuation and equalization rate, shall be repaired or rebuilt except in conformity with the regulations of this chapter. Application for a permit to rebuild or restore the damaged portion of any non-conforming building, as described in this section, shall be filed within six months of the day of the damage. If approved, the permit for the rebuilding or restoration shall be granted for a period of two years and shall not be renewable.

(Prior Code, § 12-8-6) (Ord. passed 3-14-2022)

§ 152.049 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.

(Prior Code, § 12-8-7) (Ord. passed 3-14-2022)

SUPPLEMENTAL REGULATIONS

§ 152.060 APPLICATION OF SUPPLEMENTAL REGULATIONS.

In addition to all other requirements set forth in this chapter, the following supplementary regulations shall apply, except as herein specified, in all zoning districts created by this chapter and all amendments hereto.

(Prior Code, § 12-9-1) (Ord. passed 3-14-2022)

§ 152.061 SPECIAL USES IDENTIFIED; REQUIREMENTS FOR SPECIAL USE PERMIT.

(A) *Intent.* The intent of the site plan review process is to preserve and enhance the character of a neighborhood, achieve compatibility with adjacent development, mitigate potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improve the overall visual and aesthetic quality of the village, and increase the capability of the Zoning Code to adapt to a variety of unique circumstances.

(B) *Applicability.* Site plan review shall be required in accordance with New York State Village Law. No building permit may be issued, or site improvement work commence, until site plan approval has been granted.

(C) Site plan review shall be required for the following actions:

- (1) New construction, excluding interior renovations and exterior handicap access facilities.
- (2) Demolition of existing structures greater than 500 square feet.
- (3) Exterior alterations for which a building permit is required.
- (4) New or expanded parking areas.

(D) The following actions are exempt from site plan review:

- (1) Construction of a single- or two-family dwelling on a single lot.
- (2) Construction of permitted accessory structures to single- and two-family dwellings.
- (3) Ordinary repair or maintenance or interior alterations to existing structures or uses.
- (4) Maintenance or replacement of existing sign structures or placement of signs in all districts.

(E) *Application requirements.*

(1) A licensed professional engineer or registered land surveyor shall prepare all site plan materials unless otherwise approved by the Village Board.

(2) Description or narrative of all proposed uses and structures, including but not limited to hours of operation, number of employees, maximum seat capacity, and proposed number of off-street vehicle and bicycle parking spaces.

(3) A site plan drawn at a scale of one inch equals 20 feet or such other scale as the Village Board may deem appropriate, on standard 24 inch by 36 inch sheets, with continuation on 8 ½ inch by 11 inch sheets as necessary for written information.

(4) A certified land survey showing the boundaries of the applicant's property under consideration in its current state plotted to scale with the north point, scale, and date clearly indicated, or other document deemed acceptable by the reviewing board.

(5) Plans indicating the following with regard to the property in question, where applicable.

(a) The location of all properties, their ownership, uses thereon, subdivisions, streets, easements, and adjacent buildings within 300 feet of the property in question.

(b) The location and use of all existing and proposed structures on the property in question, including all dimensions of height and floor area, exterior entrances, and anticipated future additions and alterations.

(c) The location of all existing and proposed topography features, including but not limited to, site grading, open spaces, woodlands, watercourses, steep slopes, wetlands, floodplains, and watersheds.

(d) The location of existing and proposed landscaping, screening, walls, and fences, including information regarding the size and type of plants and building materials proposed.

(e) The location of existing and proposed public and private streets, off-street parking areas, loading areas, driveways, sidewalks, ramps, curbs, and paths. Such plans shall include considerations for vehicular, pedestrian, and bicycle traffic circulation, parking, and access.

(f) The location of existing and proposed utility systems including sewage or septic, water supply, telephone, cable, electric, and stormwater drainage.

(g) Stormwater drainage systems shall include existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

(h) The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.

(i) The location, height, size, material, and design of all existing and proposed signs.

(j) Elevations at a scale of one-quarter inch equals one foot for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color or materials to be used.

(k) Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.

(l) A schedule for completion of each construction phase for buildings, parking, and landscaped areas.

(m) Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.

(6) Full EAF pursuant to New York State Environmental Quality Review Act.

(7) The Village Board may request additional information for a complete assessment of the site plan.

(8) A letter from applicant stating that applicant will pay all village review fees (engineering, technical, legal) associated

with the site plan application.

(F) The Village Board may waive any of the previously listed requirements with the determination that they are unnecessary for a complete assessment of the project.

(G) The Village Board may also request additional information beyond what is listed in this section and may ask that it be presented in graphic form accompanied by a written text, and/or prepared by a licensed professional if such additional materials are deemed necessary for a complete assessment of the site plan.

(Prior Code, § 12-9-2) (Ord. passed 3-14-2022)

§ 152.062 SIGN REGULATIONS.

(A) *Intent and purpose.* The intent and purpose of this section of the zoning ordinance addressing signs is:

- (1) Upon the adoption of this law, all new signs must comply with the revised signage law;
- (2) To set forth minimum standards regulating the design, erection, display and maintenance of signs based on the use of land and intensity of development permitted in the village; to reduce hazards caused by signs overhanging or projecting onto public right-of-way, and by signs that impede or distract traffic or otherwise interfere with public safety;
- (3) To acknowledge that the reasonable display of signs is appropriate as a public service and necessary to the conduct of competitive commerce and industry;
- (4) Fines will be incurred for non-compliance. Fees to be determined from time to time by resolution of the Village Board of Trustees;
- (5) To enhance and protect the natural beauty, historic and aesthetic qualities and neighborhood values throughout the village; to insure the tasteful display of signs in the high density commercial and residential area along Route 16 and to secure economic stability in property values.

(B) *General standards.* The following general standards shall be adhered to for all signs.

- (1) Signs shall be maintained in a safe, legal, and non-deteriorated condition at all times.
- (2) Frames, poles, braces, supports, etc. must be kept painted and maintained free of weeds, brush and debris.
- (3) Removal and maintenance of signs.
 - (a) The Code Enforcement Officer (herein CEO) may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.
 - (b) Unsafe and unlawful signs must be removed or altered within five days after notification by the CEO. In addition to any costs incurred pursuant to this division, the violator may be subject to penalties defined by these codes as well as other penalties to the maximum extent allowed by state law.
 - (c) Other damaged or deteriorated signs must be repaired or replaced within 30 days. In addition to any costs incurred pursuant to the provisions of this division, the violator may be subject to penalties defined by these codes as well as other penalties to the maximum extent allowed by state law.
 - (d) When the sign display is no longer appropriate as a result of, but not limited to the sale, transfer, conversion or demise of a business, product, or person, the sign shall be removed within seven days.
 - (e) Any non-conforming, abandoned, unsafe or illegal sign existing on or after the effective date of this section shall be removed or repaired, as applicable, by the owner of the premises upon which such sign is located after written notice as provided herein. Upon removal of any wall sign the surface area of the facade shall within 30 days of removal be restored to a condition substantially equivalent to the remaining portion of the face in appearance. The CEO, upon determining that any such sign exists, shall notify the owner and beneficial user of such sign in writing, to remove, or repair the said sign within the time limits indicated in division (3)(a) through (d) above from the date of such notice. Upon failure to comply with such notice within the prescribed time, the CEO shall remove or cause removal of such sign, and shall assess all costs and expenses incurred in the said removal against the property on which such sign is located.
 - (f) If any sign is damaged or deteriorated beyond 25% as determined by the CEO, the sign must be removed.
- (4) Village approval shall in no way eliminate the need for a permit from the New York State Department of Transportation (D.O.T.), when sign is visible to traffic on a state primary route (e.g. Route 16).
- (5) Although there is requirement that all signs must be professionally made and lettered, it is expected that all signs will be attractive and not emanate a "homemade" or amateurish appearance.
- (6) Signs not requiring a permit will not be charged a permit fee. A permit fee in the amount to be determined from time to time by the Village Board.
- (7) Off premise signs will be limited to no more than a total of three.
- (8) At this time, the Sign Committee is the Village Planning Board.

(C) *Signs not permitted.* The following signs will not be permitted in the Village of Franklinville:

(1) Signs that constitute a traffic hazard. No sign or other advertising structure as regulated by any of the provisions of this section shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or which makes use of the words, "STOP", "LOOK", "DRIVE-IN", "DANGER" or other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.

(2) If the CEO's inspection finds that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of any of the provisions of this chapter, notice shall be given in writing by the CEO to the beneficial user and if owner fails to remove or alter the structure so as to comply with the standard herein set forth within five days after such notice, such sign or other advertising structure may be removed or altered to comply by the CEO at the expense of the owner of the property upon which it is located. The CEO may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

(3) Indecent, pornographic, or defamatory signs that malign or belittle, any of the following, but not limited to, a person, product, institution, practice or belief.

(4) Signs that contain, flashing, moving, or animated parts.

(5) Signs in excess of 96 square feet (equivalent of 3 - 4 feet x 8 feet).

(6) Signs on the top of a roof of any building. Roof signs are to be discouraged. However, on the buildings with multi-level roofs, signs may be permitted on the lower roof provided the 20-foot maximum height is not violated.

(7) Signs painted on sidewalks, streets, or curbs.

(8) Signs higher than the building identified or 20 feet from ground to the top of the sign, whichever is less.

(9) Signs with more than two uprights for a sign with two faces, three uprights for a three- faced sign, or four uprights for a sign with four faces (i.e. square or rectangular).

(10) Vehicles on public property, solely for the purpose of displaying an advertisement, with the exceptions in the cases, but not limited to buses, taxis, sanitation trucks and commercial vehicles engaged in their ordinary business.

(D) *Signs not requiring a permit.* The following types of signs shall not require a permit, provided that any such sign is not illuminated and that no more than one such sign shall be located on each street or road line of a lot:

(1) Temporary signs, consisting of:

(a) Signs of a temporary nature for special events, such as special event posters, political posters, including lawn/estate sales, yard sales, garage sales, banners, and similar signs, provided that such signs do not overhang a public right-of-way and are not attached to trees or utility poles and that consent of the property owner or occupant is obtained. Each such sign must specify the name and address of the person or organization responsible for its removal and shall be removed within 24 hours after the advertised event or within 30 days from installation, whichever is earlier.

(b) Any signs of temporary nature, including painted or lettered directly on a window or other necessary part of a building when the sign is inside of the building.

(2) Signs required by law or needed for official government business or public safety and installed by local, state or federal authority.

(3) Non-illuminated real estate signs not exceeding six square feet in area which advertise the sale, rental or lease of the premises upon which signs are located.

(4) Nameplates not exceeding one square foot in area, containing only the name of the building and name of agent.

(5) Bulletin boards not exceeding 15 square feet in area, erected upon the premises of a church, funeral home or public institution for the purpose of displaying the name of the institution and its activities or services.

(6) Signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding 16 square feet in area, for the designation of one individual or firm. For multiple designations, the sign may be up to 32 square feet in area. In no event will more than one sign per location be allowed, and it must be removed within 48 hours after the receipt of the certificate of occupancy.

(7) Memorial signs or tablets, names of buildings and dates of erection, provided that such signs do not exceed two square feet in area.

(8) Permanent signs to be painted or lettered directly on a window or other necessary part of a building shall require application, review and approval by the CEO and/or Sign Committee consistent with the size requirements of this section.

(9) Neon signs in the window of a retail establishment not larger than four square feet or 25% of the window area, whichever is less, provided that the sign is lit only during the business hours.

(10) Sandwich board signs meeting the following criteria:

(a) No sandwich board sign shall be larger than six square feet in area for each face or 48 inches in height or width. Such signs shall not be higher than four feet above the adjacent sidewalk or curb.

(b) Sandwich board signs shall be designed and located so as not to be an obstruction on any public space or walkway.

(c) Sandwich board signs shall not be illuminated and may be displayed only between sunrise and sunset. While on display, such signs shall be securely fastened so as to prevent accidental tipping or blowing over.

(E) *Signs requiring a permit with approval of the CEO. The CEO may refer to The Planning Committee for their approval in certain instances.* Upon proper application and payment of the required fee, the CEO may issue sign permits for:

(1) Ground signs (other than a real estate developer's offering) which meet the following criteria:

(a) Does not exceed 32 square feet in area.

(b) Set back behind the right-of-way line from the road.

(c) Only one sign per location is allowed. A location is defined as follows:

1. As an entranceway to, or roadway bordering on, but not limited to, a plaza, office complex, commercial multi-story building. All products and services available at this location must utilize the one sign. This requirement does not preclude the use of small traffic signs or appropriate wall signs for identifying the occupants or services available in a particular portion of the complex.

(d) For safety and appearance, no guide wires will be allowed.

(e) All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon, any sign shall be safely and securely built, or attached to the sign structure.

(f) Lighting shall be permitted on ground signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.

(2) Wall signs (other than real estate developer's offering) which meets the following criteria:

(a) Does not exceed 32 square feet in area.

(b) Structure on which mounted is set back behind the right-of-way line from the road.

(c) No wall sign shall cover, wholly or partially, any wall opening.

(d) No wall sign shall project beyond the ends or top of the building wall to which it is attached, nor be set out more than one foot from the face of the building to which it is attached.

(e) All letters, figures, characters, or representatives in cut-out or irregular form, maintained in conjunction with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure.

(f) No wall sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from any door, window or fire escape.

(3) Movable or lighted mobile signs (other than a sandwich board). Recognized civic organizations, which have been in existence one year or more, may be issued a permit to advertise a special community event for a period not to exceed one week prior to the event, and must be removed within 24 hours after the event.

(4) Temporary cloth signs, banners, streamers advertising routine non-special event business activities shall require application, review and approval by the CEO for a sign permit as provided in this chapter. Temporary cloth, banner or streamer signs exceeding 32 square feet shall be reviewed and approved by the Sign Committee (Planning Board). No temporary cloth, banner, streamer sign shall remain in place more than 30 days from installation.

(5) Temporary cloth signs, banners, streamers, etc., may be suspended over, or placed on public property after review and approval by the Planning Board. The Planning Board may require reasonable liability insurance coverage for such installation. Such temporary signs shall be removed within 24 hours after the advertised event or at the end of the season if a seasonal event is advertised.

The regular permit fee and permit process is waived for signs in this category. Such signs, banners, streamers/flags to be suspended over a public property (sidewalk) shall hang no lower than eight feet above the public property. Temporary cloth signs, banners or stream type signs not suspended over or placed on public property and exceeding 32 square feet in size shall be reviewed and approved by the Sign Committee (Planning Board) before authorizing the CEO to issue a sign permit.

(6) Ground signs (other than a real estate developer's offering) in excess of 32 square feet (but not to exceed 96 square feet) and containing one or more variances from the standards listed in this section.

(7) Wall signs (other than real estate developer's offering) same as ground signs.

(8) Developer's offering. A permit for a subdivision or planned unit development (PUD) offering sign whether put in place by a real estate developer, contractor or owner, may be issued for a period of six months. The permit may be renewed without payment of an additional fee. These signs, which are expected to be erected for a limited time only, must meet all applicable sign requirements.

(9) Signs painted on buildings (including murals, and paintings).

(10) All projecting signs. Every projecting sign shall be placed so that its lowest point shall be at least eight feet above ground level and the distance of the vertical edge nearest the building shall not exceed three feet from the face of the wall to which it is attached, or shall any sign or part thereof extend nearer the curb line than one foot.

(a) All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with attached to, or superimposed upon, any sign shall be safely and securely built or attached to the sign structure.

(b) No projecting sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from any door, window or fire escape.

(c) Lighting shall be permitted on projecting signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.

(d) Projecting signs exceeding 50 pounds in weight shall not be attached to or supported by frame buildings or the wooden framework of a building. No projecting sign shall be secured with wire, stripes of wood or nails nor shall any projecting sign be hung or secured to any other sign.

(11) Hanging signs.

(a) Every hanging sign shall be placed so that its lowest point shall be at least eight feet above grade level.

(b) All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with attached to, or superimposed upon, any sign shall be safely and securely built or attached to the sign structure.

(c) Lighting shall be permitted on projecting signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.

(d) Hanging signs exceeding 50 pounds in weight shall not be attached to or supported by frame buildings or the wooden framework of a building. No projecting sign shall be secured with wire, strips of wood or nails nor shall any projecting sign be hung or secured to any other sign.

(12) Awnings and canopies.

(a) Shall not exceed beyond a point 12 inches inside the curb line.

(b) The lowest portion thereof shall not be less than eight feet above grade level.

(c) Construction of canopies. Canopies shall be constructed of cloth, metal hood, or other approved materials. The framework of all canopies shall be approved by the CEO.

(d) Construction of awnings. Awnings shall be constructed of cloth or metal. However, all frames and supports shall be of metal. Every awning shall be securely attached to and supported by the building.

(e) Advertising. No advertising shall be placed on any awning or canopy, except the name of the owner and the business, industry or pursuit conducted within the premises. Said advertising may be painted or otherwise permanently placed in a space not exceeding eight inches in height on the front and side portions thereof.

(13) News racks and vending machines.

(a) Purpose.

1. The uncontrolled placement of news racks and/or vending machines in a public right-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings and persons performing essential utility, traffic control and emergency services.

2. News racks and/or vending machines located as to cause an inconvenience or danger to persons using public right-of-way, and unsightly news racks and/or vending machines located therein, constitute public nuisances.

3. The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health and general welfare of persons in the village.

(b) Word usage and definitions. For the purposes of this division, the following words and phrases shall have the meanings given herein.

CEO. Code Enforcement Officer.

DISTRIBUTOR. Any person responsible for the installation, use or maintenance of a newsrack in a public street.

NEWS RACK. Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers, periodicals or other printed matter.

ROADWAY. That portion of highway improved, designed or ordinarily used for vehicular travel, exclusive of the curb or shoulder.

SIDEWALK. That portion of a street between the curb lines or lateral lines of a roadway and the adjacent property lines, intended for use by pedestrians.

SIGN.

a. Any structure, display, device or representation which is designed or used to advertise or call attention to any thing, person, business, realty subdivision or development, activity or place and is visible from a highway, street or other public right-of-way. This definition is not to be restricted to traditional and familiar forms but will include any new and evolving technologies such as, but not limited to, laser lights.

b. This definition shall not include holiday decorations; the noncommercial use of any flag, emblem, insignia or other display of any nation or political subdivision; traffic, safety, or similar regulatory devices; scoreboards; or customary displays of merchandise or objects and materials placed behind a store window.

STREET. The entire width between the boundary lines of the right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and it includes any alley or public grounds in the village.

VENDING MACHINE. A machine for storing a quantity of a small article, as candy bars, soft drinks, or packs of cigarettes, and dispensing one when a coin or coins are inserted.

(c) Permit required. It shall be unlawful for any person, firm or corporation to erect, place, maintain or operate on any public street or sidewalk or in any other public way or place in the village any newsrack without first having obtained a permit from the Village Building Inspector/Code Enforcement Officer specifying the exact location of such newsrack. One permit may be issued to include any number of newsracks and shall be signed by the applicant.

(Prior Code, § 12-9-3) (Am. Ord. 1-2009, passed 2-9-2009; Ord. passed 3-14-2022)

§ 152.063 REQUIREMENTS FOR OFF-STREET PARKING AND LOADING.

(A) Notwithstanding anything contained herein to the contrary, there shall be no off-street parking and no loading requirements for properties located at and described as:

<i>ADDRESS</i>	<i>SBL NO.</i>
<i>ADDRESS</i>	<i>SBL NO.</i>
14 Park Square	40.062-4-11.1
16-18 Park Square	40.062-4-12
22 Park Square	40.062-4-15
26 Park Square	40.062-4-16
28 Park Square	40.062-4-17
30 Park Square	40.062-4-18
32 Park Square	40.062-4-19
34 Park Square	40.062-4-20
Elm Street	40.062-4-21.1
Elm Street	40.062-4-21.2
5 Elm Street	40.062-4-22
7 Elm Street	40.062-4-23
9 Elm Street	40.062-4-24
2 Park Square	40.063-4-1
4 Park Square	40.063-4-2
8 Park Square	40.063-4-3
10 Park Square	40.063-4-4
1 Pine Street	40.063-4-5
5 Pine Street	40.063-4-7
6 Elm Street	40.070-3-13
8 Elm Street	40.070-3-14
2 Elm Street	40.070-3-15
8 South Main Street	40.071-1-49
6 South Main Street	40.071-1-50
4 South Main Street	40.071-1-51
South Main Street	40.071-1-52
1 Park Square	40.071-1-1
3 Park Square	40.071-1-2

5 Park Square	40.071-1-3
7 Park Square	40.071-1-4

(B) In all districts, unless exempted as provided in division (A) of this section, in connection with every residential, commercial, industrial, institutional or other use, there shall be provided at any time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

(1) Each off-street parking space shall have an area of not less than 160 square feet exclusive of access drives or aisles and shall be of usable shape and condition. A driveway of a minimum of eight feet wide and 40 feet long, accessible to a single-family residence, may be used to provide two parking spaces. All open off-street parking spaces, except when accessory to single-family dwellings, shall be improved with a compact macadam base and surfaced with all-weather dustless material;

(2) There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut on a private or public access drive, an access drive of not less than eight feet in width in the case of a dwelling and not less than 18 feet in width in all other cases leading to the parking area shall be required;

(3) The number of off-street parking spaces to be provided shall not be less than the following:

Use	Parking Spaces Required
Use	Parking Spaces Required
Residential	Two per housekeeping unit
Rental units	Two per rented unit
Church or school	One for each four seats in principal gathering room
Restaurant	One for every four seats
Golf course	Six for each hole
Private club or lodge	One for each ten members
Country club	One for each five members
Theater	One for every four seats
Offices, clinics, wholesale establishments and business services	One for every 300 square feet of floor space
Retail store or personal service establishment	One for every 100 square feet of floor space
Industrial uses	One for each two employees on the maximum working shift
Hospital	One for every three beds and one for each two employees
Sanitarium convalescent home	One for every three beds and one for each two employees
Dance hall, assembly or exhibition hall, night club, café or similar recreation establishment	One for each 100 square feet of floor area
Bowling alley	Five for each alley
Mortuary or funeral home	One for each 75 square feet of floor area
Public swimming pool	One for each 40 square feet of pool area

(4) Except in the case of a driveway to a single-family residence, no parking space nor portion thereof established on the same zoning lot with a building shall be located within a required front yard. No parking spaces nor portion thereof established on a zoning lot without a building shall be located closer to any street line than the front yard set back required for the district in which the parking lot is located; and

(5) Every building having a gross floor area of 10,000 square feet or more, requiring the loading or unloading of trucks, shall provide and maintain at least one off-street loading space plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof. Each loading space shall be not less than 12 feet in width, 65 feet in length and 14 feet in height.

(Prior Code, § 12-9-4) (Ord. passed 3-14-2022; Ord. 5-2023, passed 9-11-2023)

§ 152.064 SANITATION.

(A) The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the Village Board and the County Department of Health. Any new or modified facilities for the treatment, storage or disposal of sewage, including excreta, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of the State and County Department of Health.

(B) Careful consideration shall be given to the location and construction of private water supplies to assure adequate protection of the supplies.

(Prior Code, § 12-9-5) (Ord. passed 3-14-2022)

§ 152.065 EXCAVATION OF CLAY, SAND OR GRAVEL.

A special permit for the excavation of clay, sand or gravel for commercial purposes in an Agricultural Zone only may be granted by the Village Board with the approval of the Village Planning Board, provided:

- (A) The final slope of any material in any excavation does not exceed the normal angle of repose of any such material;
- (B) Neither the base nor the top of any such slope is nearer than 50 feet to any street or lot line nor more than 50 feet above or below the level of the street or lot line nearest thereto;
- (C) The size and weight of vehicles and loads used in removal of the products be specified by the Board of Appeals as necessary for protection of the surface of the residential streets; and
- (D) That a bond, in such sum as the Board of Appeals shall determine and satisfactory to the Village Attorney as to form and sufficiency of guarantee, is executed by the applicant to assure that at the expiration of the permit the property will be suitably graded so as to minimize and conceal so far as practicable the efforts of the excavation.

(Prior Code, § 12-9-6) (Ord. passed 3-14-2022)

§ 152.066 STRIPPING OF TOP SOIL.

No person shall strip, excavate or otherwise remove top soil for sale or use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a six-foot building or paved parking area on the premises and excavation or grading incidental thereto.

(Prior Code, § 12-9-7) (Ord. passed 3-14-2022) Penalty, see § 152.999

§ 152.067 MOBILE HOME RESTRICTIONS; EXCEPTIONS.

(A) *Restrictions.* Except as provided herein, no mobile home, trailer or other habitable vehicle shall be permitted to locate in the village in other than an approved mobile home park in a "R-3" Residential-Commercial District.

(B) *Exceptions.*

(1) The maintenance and use of an approved mobile home existing in the village on the effective date of this chapter may be continued providing the mobile home is not removed from the premises or altered through the addition of accessory structures.

(2) Individual trailers or mobile homes used solely for purposes of vacation travel or recreation, owned by residents of the village, may be stored on the property of the owner provided that no residence is taken therein or business conducted therewith, and further provided the vehicle, while stored, is effectively screened from general view.

(Prior Code, § 12-9-9) (Ord. passed 3-14-2022)

§ 152.068 MOBILE HOME PARKS.

Where permitted in an "R-3" Residential-Commercial District, a mobile home park shall conform to the following requirements:

- (A) Shall be located on a well-drained site properly graded to insure rapid drainage;
- (B) Shall contain a minimum of two acres;
- (C) Mobile home spaces shall be provided consisting of a minimum of 1,800 square feet for each space which shall be at least 32 feet wide and clearly defined;
- (D) There shall be at least a 15 foot clearance between individual mobile homes housed and between mobile homes and any permanent structure on or adjacent to the park;
- (E) All mobile homes shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street or highway;
- (F) An adequate and tested supply of pure water for drinking and domestic purposes shall be supplied to all mobile home spaces within the park;
- (G) A combined sewage treatment and disposal system shall be provided as recommended and approved by the County Health Department;
- (H) Adequate garbage disposal facilities, as approved by the County Health Department, shall be provided;
- (I) The service facilities and buildings as required by state and county health departments shall be included and maintained in the park;

(J) Every park shall have a fire protection plan approved by the fire department having local jurisdiction; and

(K) Every park operator shall keep a complete register of occupants which shall be available for inspection at all times by law enforcement and health officials.

(Prior Code, § 12-9-10) (Ord. passed 3-14-2022)

§ 152.069 AUTOMOBILE SALVAGE AND JUNK YARDS.

The development, extension, maintenance or use of an automobile salvage yard or junk yard shall be prohibited in the village.

(Prior Code, § 12-9-11) (Ord. passed 3-14-2022)

§ 152.070 TEMPORARY STRUCTURES; PERMIT.

(A) Temporary buildings or trailers, other than buildings or trailers for living purposes to be used in connection with construction work only, may be permitted in any district during the period that the construction work is in progress, but the temporary buildings shall be removed upon the completion of the work.

(B) Permits for temporary, nonresidential, buildings shall be used for a one-year period and must be renewed for continued use.

(Prior Code, § 12-9-12) (Ord. passed 3-14-2022)

§ 152.071 COMMUNITY DEVELOPMENT PROJECTS.

(A) In any Agricultural or Residential District there may be developed, with the approval of the Village Planning Board, residential community development projects.

(B) In those projects a greater freedom of design may be permitted with respect to the use of land, area of lots and depth of yards, even though compliance in all respects to the provisions of this chapter is not maintained, providing:

- (1) A complete plan for the area has been approved by the Village Board and the County Health Department;
- (2) The tract of land to be developed is not less than 15 acres in area;
- (3) The adjacent property will not be adversely affected;
- (4) The plan is consistent with the intent and purposes of this chapter; and
- (5) The average lot area is not less than the lot acre requirements in which the plan is located.

(Prior Code, § 12-9-13) (Ord. passed 3-14-2022)

§ 152.072 FENCES; PROPERTY BARRIERS.

(A) A building permit shall be required for the construction or reconstruction of all fences or property barriers.

(B) A property owner may construct a fence on the owner's property only in accordance with the following specifications.

- (1) (a) The fence must be constructed using maintenance-free material having a life span of 20 years or more.
(b) Maintenance-free material shall include chain-link, stone or concrete wall, vinyl, PVC and pressure treated lumber.
(c) Rough-cut lumber or other untreated wood material is not deemed maintenance-free.
- (2) Line fences may be erected on the property line, but shall not encroach upon the property of another.
- (3) No fence shall exceed a height of eight feet.

(4) No fence shall be erected within three feet of any village-maintained sidewalk and the first eight feet of fence on either side of the owner's driveway, alley or sidewalk shall not exceed a height of four feet.

(5) No fence fronting a public street or highway, and running approximately parallel thereto, shall exceed four feet in height.

(6) Any fence running approximately perpendicular to a publicly maintained sidewalk, street or highway shall have a maximum height of four feet for the first eight feet of the fence in closest proximity to the sidewalk, street or highway.

(7) Shrubs and other trees placed as a continuous barrier shall conform in height and distance to the standards set forth above, except the center of the shrub or plant shall be placed from any publicly-maintained sidewalk at a distance of three feet plus one-half the mature diameter of the shrub or plant.

(Prior Code, § 12-9-14) (Ord. 1-2004, passed 8-9-2004; Ord. passed 3-14-2022)

§ 152.073 BOAT STORAGE.

Boats of any nature owned by a resident of the village may be stored on the property of the owner provided the boat, while stored, is effectively screened from general view and further provided that no residence is taken therein or business conducted therewith.

(Prior Code, § 12-9-15) (Ord. passed 3-14-2022)

§ 152.074 LIVESTOCK.

With the exception of existing farm facilities which have been constructed and used for the purpose of housing or feeding livestock prior to the adoption of this chapter, or a contiguous extension thereof, no facilities for the permanent housing or feeding of livestock shall be permitted within 200 feet of any residential district.

(Prior Code, § 12-9-16) (Ord. passed 3-14-2022)

ADMINISTRATION

§ 152.085 BUILDING INSPECTOR; POWERS AND DUTIES.

(A) This chapter shall be enforced by a Building Inspector who shall be appointed annually by the Board of Trustees.

(B) The powers and duties of the Building Inspector shall be:

(1) Examine and approve applications pertaining to the use of land, buildings or structures when the applications conform with the provisions of this chapter;

(2) Issue all zoning and building permits and keep permanent records thereof;

(3) Conduct the inspections of buildings, structures and uses of land as are necessary to determine compliance with the provisions of this chapter;

(4) Receive, file and forward for appropriate action all applications for special use, variations and amendments to this chapter which may be filed in the zoning office;

(5) Maintain permanent and current records of the zoning ordinance, including all maps, amendments, special uses and variations; and

(6) Collect, receipt and account for all fees chargeable under the provisions of this chapter and pay all of the same into the village general fund.

(Prior Code, § 12-10-1) (Ord. passed 3-14-2022)

§ 152.086 SITE PLAN APPROVAL.

Except as provided herein, it shall be unlawful for an owner to use or to permit the use of any structure or land or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until an application is made to, and a site plan approval issued by, the Board of Trustees. Where the approval of the County Department of Health or other authority is required, a building permit shall not be issued until the approval has been granted in writing. A site plan approval hereafter granted under the provisions of this chapter shall expire two years from the date of issuance unless the proposed structure or change in use has been completed, unless the site plan approval has been extended by the Board of Trustees.

(Prior Code, § 12-10-2) (Ord. passed 3-14-2022)

ZONING BOARD OF APPEALS

§ 152.100 ORGANIZATION OF BOARD; RULES OF PROCEDURE.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA VARIANCE. The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

USE VARIANCE. The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

(B) *Appointment of members.* The Zoning Board of Appeals shall consist of five members. The Mayor shall appoint the Board of Appeals and the chairperson thereof, subject to the approval of the Board of Trustees. In the absence of a chairperson the Zoning Board of Appeals may designate a member to serve as acting chairperson. The Board of Trustees may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Board of Trustees for such purpose.

(C) *Board of Trustees ineligible.* No person who is a member of the Village Board of Trustees shall be eligible for membership on the Zoning Board of Appeals.

(D) *Terms of members first appointed.* The appointment of members to the Zoning Board of Appeals shall be of terms so fixed that one member's term shall expire at the end of the village official year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each official year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed by the Board of Trustees for a term which shall be equal in years to the number of members of the board.

(E) *Terms of members now in office.* Members now holding office for terms which do not expire at the end of a year shall, upon the expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the board.

(F) *Training and attendance requirements.*

(1) Each member of the Zoning Board of Appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subdivision. Such training shall be approved by the Board of Trustees and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.

(2) To be eligible for reappointment to such Zoning Board of Appeals such member shall have completed the training promoted by the village pursuant to this subdivision.

(3) The training required by this subdivision may be waived or modified by resolution of the Board of Trustees when, in the judgment of the Board of Trustees, it is in the best interest of the village to do so.

(4) No decision of the Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with this subdivision.

(G) *Vacancy in office.* If a vacancy shall occur otherwise than by expiration of term, the Mayor shall appoint the new member for the unexpired term.

(H) *Removal of members.* The Mayor shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Village Board of Trustees by local law.

(I) *Chairperson duties.* All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(J) *Alternate members.*

(1) The Board of Trustees may, by local law or as a part of the local law creating the Zoning Board of Appeals, establish alternate Zoning Board of Appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the Zoning Board of Appeals shall be appointed by the Mayor, subject to the approval of the Board of Trustees, for terms established by the Village Board of Trustees.

(2) The chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Zoning Board of Appeals. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.

(3) All provisions of this section relating to Zoning Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

(Ord. passed 3-14-2022)

§ 152.101 ZONING BOARD OF APPEALS PROCEDURE.

(A) *Meetings, minutes, records.* Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Zoning Board of Appeals 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 examinations and other official actions.

(B) *Filing requirements.* Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Village Clerk within five business days and shall be a public record.

(C) *Assistance to Zoning Board of Appeals.* Such board shall have the authority to call upon any department, agency or employee of the village for such assistance as shall be deemed necessary and as shall be authorized by the Board of

Trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

(D) *Hearing appeals.* The jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any local law adopted pursuant to this article. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the village.

(E) *Filing of administrative decision and time of appeal.*

(1) Each order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of the zoning local law shall be filed in the office of such administrative official within five business days from the day it is rendered, and shall be a public record.

(2) An appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official, by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

(F) *Stay upon appeal.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such local law, from whom the appeal is taken, certifies to the board of appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

(G) *Hearing on appeal.* The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the village at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Village of Franklinville prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

(H) *Time of decision.* The Zoning Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

(I) *Filing of decision and notice.* The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

(J) *Notice to park commission and county planning board or agency or regional planning council.* At least five days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the parties, to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the county planning board or agency or regional planning council 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 one of § 239-m of the General Municipal Law.

(K) *Compliance with State Environmental Quality Review Act.* The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in title 6, part 617 of the New York codes, rules and regulations.

(L) *Rehearing.* A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all Zoning Board of Appeals then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

(M) *Voting requirements.*

(1) *Decision of the Zoning Board of Appeals.* Except as otherwise provided in division (L) of this section, every motion or resolution of a Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Zoning Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency or regional planning council the voting provisions of § 239-m of the General Municipal Law shall apply.

(2) *Default denial of appeal.* In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Zoning Board of Appeals is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by division (H) of this section, the appeal is denied. The Zoning Board of Appeals may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in division (L) of this section.

(Ord. passed 3-14-2022)

§ 152.102 PERMITTED ACTIONS BY THE ZONING BOARD OF APPEALS.

(A) *Orders, requirements, decisions, interpretations, determinations.* The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

(B) *Use variances.*

(1) The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such local law, shall have the power to grant use variances, as defined herein.

(2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

(3) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(C) *Area variances.*

(1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such local law, to grant area variances as defined herein.

(2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(3) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(D) *Imposition of conditions.* The Zoning Board of Appeals, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Zoning Ordinance, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

(Ord. passed 3-14-2022)

§ 152.103 SPECIAL USE PERMITS.

(A) The Village Board may issue a special use permit for any of the special uses listed in §152.030 above, provided the special use complies with the general standards set forth in this section and with the special requirements enumerated elsewhere herein.

(B) Application for special use permits shall be made to the Village Board through the Building Inspector and shall be accompanied by an application for the necessary zoning and/or building permits, the prescribed fees and the preliminary plans and lot layouts as the Building Inspector may deem necessary.

(1) A special use permit shall only be granted when the proposed use is of such character, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent districts.

(2) A permit for a special use in a residential district shall only be granted when it is clearly obvious that the special use will not impair the use, enjoyment and value of adjacent residential properties and that any vehicular traffic generated therewith will not be hazardous or otherwise detrimental to the prevailing residential character of the neighborhood.

(3) A permit for a special use in a commercial or industrial district shall only be granted when it is clearly obvious that such use will be harmonious with the district in which its location is sought and will not create undue pedestrian or vehicular traffic hazards or any display of signs, noise, fumes or lights that will hinder the normal development of the district or impair the use, enjoyment and value of adjacent land and buildings and does not possess any of the following adverse conditions:

(a) *Fire hazards.* Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and suppression equipment and by such other safety devices as are normally used in the handling of the materials.

(b) *Radioactivity or electrical disturbance.* No activity shall emit dangerous radioactivity or electrical disturbance at any point where it may adversely affect other land uses in the village.

(c) *Noise.* Noise which is objectionable as determined by the Planning Board shall be muffled or otherwise controlled except that air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.

(d) *Vibration.* No vibration shall be permitted which is discernible without instruments on any adjoining property.

(e) *Smoke.* Smoke shall not be emitted for longer than eight minutes in any hour which is of a shade equal to or darker than No. 3 of the Standard Ringleman Chart as issued by the U.S. Bureau of Mines.

(f) *Odors.* No malodorous gas or matter shall be permitted which is discernible on any adjoining property.

(g) *Air pollution.* No pollution of air by flesh, dust, vapors or other substance shall be permitted which is harmful to health, animals, vegetation or other property, or which can cause excessive soiling.

(h) *Glare.* No direct or reflected glare shall be permitted which is visible from any property outside an industrial district or from any public thoroughfare.

(i) *Erosion.* No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.

(j) *Water pollution.* No pollution of water by chemicals or other substances shall be permitted which is unhealthful to animal or plant life as determined by the County Health Department.

(C) Upon finding that the general standards and the special standards set forth herein have been fully met, the Village Board may issue the special use permit and in so doing may impose any conditions that it may deem necessary to accomplish the reasonable application of the standards. Furthermore, it may deny any such application which in its judgment is not in accordance with the general or special standards. The Village Board may require, as a condition of the issuance of any special use permit, that it shall be periodically renewed, or the Board may issue a temporary special use permit, subject to adequate guarantees that the use covered will be terminated at the end of the period specified or the extension thereof as may be granted by the Village Board, provided that any such renewal or extension shall be subject to the same procedure as specified herein for the original issuance of the special permit involved and shall be in conformity with aforesaid general and special standards.

(Prior Code, § 12-11-4) (Ord. passed 3-14-2022)

§ 152.999 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.

(Ord. passed 3-14-2022)