

Article C: Zoning Districts

Sec. 13-1-40 Zoning Districts Designated.

- (a) For the purpose of this Chapter, the Village of Elmwood is hereby divided into the following seventeen (17) zoning districts:
- (1) R-1 Single-Family Residential District (Low Density)
 - (2) R-2 Single-Family Residential District (Medium Density)
 - (3) R-3 Two-Family Residential District
 - (4) R-4 Multiple-Family Residential District
 - (5) R-5 Mobile Home Park Residential District
 - (6) R-6 Residential Estate District
 - (7) C-1 Conservancy District
 - (8) B-1 General Commercial District
 - (9) B-2 Highway Commercial District
 - (10) B-3 Business Park District
 - (11) E-1 Extraction or Landfill Overlay District
 - (12) I-1 Industrial District
 - (13) A-1 Agricultural District
 - (14) PUD Planned Unit Development District
 - (15) WP Wellhead Protection Overlay District
 - (16) AEO Adult Entertainment Overlay District
 - (17) E-1 Mineral Extraction or Landfill Overlay District

Sec. 13-1-41 District Boundaries.

- (a) **Zoning Map.** The boundaries of the districts enumerated in Section 13-1-40 above are hereby established as shown on a map entitled "Zoning Map, Village of Elmwood, Wisconsin", as amended, which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Village President and the Village Clerk-Treasurer and shall be available to the public in the office of the Village Clerk-Treasurer.
- (b) **Boundary Lines.** The boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements and railroad rights-of-way; or such lines extended unless otherwise noted on the Zoning Map. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the Zoning Map are approximately bounded by lot lines, such lot line shall be construed to be the boundary of the district.

- (c) **Vacation.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (d) **Annexations and Consolidations.** Annexations to or consolidations with the Village subsequent to the effective date of this Chapter shall be placed in the A-1 Agricultural District unless the annexation ordinance temporarily placed the land in another district.

Sec. 13-1-42 R-1 Single-Family Residential District (Low Density). ^{District}

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units at a low dwelling unit per acre density. The primary emphasis of this District is new development areas.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-1 District:
 - (1) Single-family detached dwellings, served by public sewer, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of three (3) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Elmwood.
 - (3) One (1) private garage with not more than three (3) stalls for each residential parcel, per Section 13-1-140 specifications.
 - (4) Accessory uses and buildings as follows:
 - a. Gardening, tool and storage sheds incidental to the residential use, not to exceed four hundred (400) square feet.

- b. Off-street parking facilities.
 - c. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
 - d. Signs as permitted by Village ordinances.
- (5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
- (6) Foster family care.
- (7) Home occupations and professional home offices. (See Section 13-1-72.)
- (8) Family day care, limited to eight (8) children. Family day care homes shall be subject to state licensing requirements.
- (9) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-1 District:
- (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
 - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (3) Bed and breakfast inns [7011]. (See Section 13-1-71.)
 - (4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
 - (5) Public utility structures, except those incompatible with the characteristics of the district.
 - (6) Parks and playgrounds.
 - (7) Planned residential developments.
 - (8) Golf courses and private clubs.
 - (9) Nursery schools.
 - (10) Single-family detached dwellings not served by public sewer, excluding mobile homes; for purposes of this Chapter, manufactured homes are included in the definition of single-family dwelling.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area: Minimum nine thousand six hundred (9,600) square feet.
 - b. Width: Minimum eighty (80) feet; one hundred (100) feet without public sewer.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Building Area.** Eight hundred (800) square foot minimum, a minimum of twenty-four (24) feet wide.
 - (4) **Roof Overhang.** A minimum of two (2) feet sides, one (1) foot end.
 - (5) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum ten (10) feet each side.

- (6) **Minimum Ground Coverage by All Structures.** No more than forty percent (40%) coverage of lot areas.

Sec. 13-1-43 R-2 Single-Family Residential District (Medium Density). ^{older}

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units at a medium dwelling unit per acre density. It particularly reflects older neighborhoods in the Village.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-2 District:
- (1) Single-family detached dwellings served by public sewer, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of three (3) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Elmwood.
 - (3) One (1) private garage with not more than three (3) stalls for each residential parcel, per Section 13-1-140 specifications.
 - (4) Accessory uses and buildings as follows:
 - a. Gardening, tool and storage sheds incidental to the residential use, not to exceed three hundred (300) square feet.
 - b. Off-street parking facilities.
 - c. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
 - d. Signs as permitted by Village ordinances.

Sec. 13-1-44 R-3 Two-Family Residential District.

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily two-family dwelling units.
- (b) **Permitted Uses.**
 - (1) Two-family dwellings (duplex).
 - (2) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (3) Foster family care.
 - (4) Home occupations and professional home offices.
 - (5) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.**
 - (1) Parks and playgrounds.
 - (2) Multiple family dwellings.
 - (3) Golf courses and private clubs.
 - (4) Planned residential developments.
 - (5) Lodge and fraternal buildings.
 - (6) Nursing homes.
 - (7) Nursery schools and day care centers.
 - (8) Retirement homes.
 - (9) Utilities.
 - (10) Schools and churches.
 - (11) Government, cultural and public buildings or uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 - (12) Single-family homes.
 - (13) Family day care, limited to eight (8) children. Family day care homes shall be subject to state licensing requirements.
- (d) **Area, Height and Yard Requirements.**
 - (1) **Lot.**
 - a. Area: Minimum ten thousand (10,000) square feet [five thousand (5,000) square feet per unit].
 - b. Width: Minimum eighty (80) feet [sixty-six (66) feet for conversion of existing units].
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum ten (10) feet each side.

- (5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (6) Foster family care.
 - (7) Home occupations and professional home offices. (See Section 13-1-72.)
 - (8) Family day care limited to eight (8) children. Family day care homes shall be subject to state licensing requirements.
 - (9) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-1 District:
- (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
 - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (3) Bed and breakfast inns [7011]. (See Section 13-1-71.)
 - (4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
 - (5) Public utility structures, except those incompatible with the characteristics of the district.
 - (6) Parks and playgrounds.
 - (7) Planned residential developments.
 - (8) Golf courses and private clubs.
 - (9) Nursery schools.
 - (10) Single-family detached dwellings not served by public sewer, excluding mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwellings.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area: Minimum eight thousand (8,000) square feet.
 - b. Width: Minimum fifty (50) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Building Area.** Eight hundred (800) square feet, minimum; a minimum of twenty-four (24) feet wide.
 - (4) **Roof Overhang.** A minimum of two (2) foot sides; one (1) foot end.
 - (5) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum eight (8) feet each side.
 - (6) **Minimum Ground Coverage by All Structures.** No more than forty percent (40%) coverage of lot areas.

Sec. 13-1-45 R-4 Multiple-Family Residential District.

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of multiple-family dwelling units at varying dwelling units per acre densities.
- (b) **Permitted Uses.**
 - (1) Two-family dwellings (duplex).
 - (2) Multiple-family dwellings.
- (c) **Conditional Uses.**
 - (1) Parks and playgrounds.
 - (2) Professional home offices and home occupations.
 - (3) Planned residential developments.
 - (4) Golf courses and private clubs.
 - (5) Barbering and beauty culture.
 - (6) Utilities.
 - (7) Schools and churches.
 - (8) Government, cultural, and public uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 - (9) Nursery schools.
 - (10) Retirement homes.
 - (11) Colleges and fraternities.
 - (12) Day care centers (state licensed).
- (d) **Area, Height and Yard Requirements.**
 - (1) **Lot.**
 - a. Area:
 - 1. Two-family dwellings: Five thousand (5,000) square feet per family.
 - 2. Multi-family (over two): Minimum area of fourteen (14,000) square feet, with no less than two thousand hundred (2,000) square feet for one-bedroom units and no less than two thousand five hundred (2,500) square feet for two-bedroom units.
 - b. Width: Minimum one hundred (100) feet.
 - (2) **Building Height.** Maximum forty-five (45) feet.
 - (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum thirty (30) feet.
 - c. Side: Minimum twelve (12) feet each side.
- (e) **Other Development Regulations.**
 - (1) A site development plan, prepared in accordance with Section 13-1-174 of this Chapter, shall be submitted before a permit can be granted for any use in this District.
 - (2) No outdoor storage of any material shall be permitted in this District except within enclosed containers.

- (3) No lighting shall be permitted which would glare from this District onto any street right-of-way or onto any adjacent property.

Sec. 13-1-46 R-5 Mobile Home Park Residential District.

- (a) **Purpose.** The R-5 District is intended to aid in providing for the mobile home needs of the community at a comparatively high density in areas that have community services available. The District is established to provide a regulatory framework designed to encourage and promote improved environmental design and allow for greater flexibility in the establishment and development of mobile home parks while insuring substantial compliance with the basic intent of the Zoning Code and the general plan for community development. This District is further intended to encourage rational and economic development with relationship to public services and to encourage and facilitate the preservation of open spaces.
- (b) **Permitted Uses.** Land may be used for the location of mobile homes and buildings or structures may be erected, altered, enlarged or used for only one (1) or more of the following purposes:
 - (1) Mobile home parks subject to the requirements of the Wisconsin Administrative Code.
 - (2) One (1) private garage for each mobile home.
 - (3) Playgrounds and recreational areas.
 - (4) Uses customarily accessory to any of the preceding permitted uses.
- (c) **Area and Height Regulations.** No mobile home shall be located and no building shall be erected or structurally altered unless the following area requirements and yards are provided; no structure shall exceed the maximum height specified:
 - (1) The minimum parcel size per mobile home shall not be less than six thousand five hundred (6,500) square feet for each unit.
 - (2) There shall be a rear yard of not less than ten (10) feet. Accessory buildings and structures may be placed in the rear yard, but not less than ten (10) feet from the rear property line.
 - (3) There shall be a front yard of not less than twenty-five (25) feet from the right-of-way line.
 - (4) There shall be a side yard provided on each side of the lot of not less than ten (10) feet except that private garages shared by two (2) parcels may straddle the lot line.
 - (5) No building or structure shall exceed a height of thirty-five (35) feet in this District.
- (d) **Other Development Regulations.**
 - (1) A site development plan, prepared in accordance with Section 13-1-174 of this Chapter, shall be submitted before a permit can be granted for any use in this District.
 - (2) No outdoor storage of any material shall be permitted in this District except within enclosed containers.

- (3) No lighting shall be permitted which would glare from this District onto any street right-of-way or onto any adjacent property.
- (4) Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the Village. The Village Inspector or Village Board shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the Building Inspector so determines, he/she shall notify the licensee or landowner and owner of the mobile home in writing that such public nuisance exists within the park or on lands owned by him/her giving the findings upon which his/her determination is based and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days.
- (5) All mobile homes in mobile home parks shall be skirted unless the unit is placed within one (1) foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained free of rodents and fire hazards.
- (6) No person shall construct, alter or add to any structure, attachment or building in a mobile home park or on a mobile home space without a permit from the Building Inspector. Construction on, or addition or alteration to the exterior of a mobile home shall be of the same type of construction and materials as the mobile home affected. This Subsection shall not apply to the addition of awnings, antennas or skirting to mobile homes. Accessory structures on mobile home spaces shall comply with all setback, side yard and rear yard requirements for mobile home units.
- (7) Storage under mobile homes is prohibited.
- (8) Mobile home parks shall meet the following criteria:
 - a. Where a mobile home park is to be established or expanded for the development of a single mobile home community, the minimum area shall be two (2) new acres. The minimum number of lots or spaces completed and ready for occupancy before first occupancy is permitted shall be established as twenty-five percent (25%) of total units permitted on the site.
 - b. The average density shall not exceed eight (8) mobile homes per acre.
 - c. The area for a mobile home site shall be six thousand (6,000) square feet minimum.
 - d. Off-street parking shall be provided at the rate of one space for each mobile home plus an additional space for each four (4) mobile homes for guest parking, service and delivery vehicles and two-car tenants.
 - e. All streets, drives, walks and ways located within the boundaries of a mobile home park shall remain private streets and any specifications set forth herein for streets, drives, walks or ways shall not be misconstrued as being applicable to public streets nor that such streets are to be used or maintained as public streets, drives, walks or ways.

- f. For purposes of this Section, a manufactured home is not a mobile home.
- g. No person shall park, locate or place any mobile home outside of a licensed mobile home park in the Village of Elmwood except:
 - 1. Unoccupied mobile homes may be parked on the lawfully situated premises of a licensed mobile home dealer for the purposes of sale display; the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs; the premises leased or owned by the owner of such mobile home for purposes of sales display for a period not exceeding one hundred twenty (120) days, provided no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of such mobile home, provided no business is carried on therein.
 - 2. Individual mobile homes may be allowed by the Village Board in other residential districts as temporary uses not to exceed one hundred twenty (120) days under exceptional circumstances, such as to provide temporary housing during reconstruction following a fire.
- h. Existing mobile home parks are legal nonconforming uses but may not be expanded except in full compliance with this Section.

(e) **Nonconforming Use Outside Parks; Replacement.**

- (1) Mobile homes legally located and occupied on premises outside a licensed mobile home park prior to the enactment of this Section may be continued in such location, provided that such use and occupancy is otherwise in conformity with the applicable laws and regulations of the state and Village. Such nonconforming use shall automatically terminated upon a discontinuance for any reason for twelve (12) consecutive months or if the total structural repairs and alterations to the mobile home exceed fifty percent (50%) of the net value.
- (2) Nothing herein shall prevent the owner of a mobile home under Subsection (e)(1) hereof from replacing the mobile home with a model of better physical condition, as determined by Village officials, provided that the replacement unit meets all applicable standards of construction in the industry existing as of the date of replacement, not at the date of manufacture of the replacement unit.

- (f) **Temporary Placement.** It shall be unlawful for any person to park, store or locate any mobile home in the Village of Elmwood at any site other than a licensed mobile home park complying with the requirements of this District, except that the Village Board may authorize temporary parking or storing of a mobile home outside of a mobile home park until such time as a proper parking space is available in an authorized mobile home park within the Village. At such time, the owner or occupant of such mobile home shall relocate the mobile home to the mobile home park within one hundred twenty (120) days. Persons temporarily locating a mobile home outside of a mobile home park pursuant to this Subsection shall, as a condition to such placement, enter into a contract with the Village agreeing to fully comply with the requirements of this Subsection.

Sec. 13-1-47 R-6 Residential Estate District.

- (a) **Purpose.** The R-6 Residential Estate District is intended to provide for a single-family residential countryside estate development, at densities not to exceed one (1) dwelling unit per gross two (2) or more acres, served by municipal sewer and water facilities. This District is for executive/estate type large lots of a rural or estate character.
- (b) **Permitted Uses.** The following uses are permitted in the R-6 District:
- (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Elmwood.
 - (3) Community living arrangements which have a capacity for eight (8) or fewer persons subject to the limitations set forth in Sec. 62.23(7)(i), Wis. Stats.
 - (4) Essential services.
 - (5) Home occupations/professional home offices. (See Section 13-1-72.)
- (c) **Conditional Uses.**
- (1) Utility substations.
 - (2) Solar collectors erected as an accessory structure.
 - (3) Community living arrangements which have a capacity for nine (9) or more persons.
 - (4) Single-family dwelling units meeting the requirements of this Section served by private sewer and water systems where the Village determines public service is impractical.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area. Lots shall be a minimum of two (2) acres in area and shall be not less than one hundred twenty-five (125) feet in width at front setback.
 - b. Height. No building or parts of a building shall exceed thirty-five (35) feet in height.

- c. Building Area.
 - 1. The total floor area of a dwelling shall be not less than one thousand six hundred (1,600) square feet.
 - 2. Building coverage on the lot shall not exceed thirty-five percent (35%) of the total lot area.
- (2) **Yards.**
 - a. Street. There shall be a minimum building setback of thirty-five (35) feet from the street right-of-way.
 - b. Side. There shall be a side yard on each side of all buildings not less than twenty (20) feet in width.
 - c. Rear. There shall be a rear yard of not less than fifty (50) feet.
- (e) **Other Development Standards.**
 - (1) Rural cross section streets may be permitted with special permission from the Village Board under the following circumstances and conditions of development:
 - a. Minimum roadway design standards:
 - 1. Twenty-two (22) feet blacktop pavement width per Village standards.
 - 2. A one and one-half (1-1/2) foot rolled curb concrete shoulder or curb with a minimum of seven (7) inches on each side of the blacktop.
 - 3. Sixty-six (66) foot right-of-way.
 - 4. One hundred thirty-two (132) feet cul-de-sac bulb right-of-way.
 - b. Where rural cross sections are used, the developer shall submit and the Village Board shall approve detailed grading plans for the swale network. The swale system shall be installed at time of street work and shall be designed as a component of the storm water management plan.
 - c. A culvert installation permit and detailed lot grading permit shall be granted by the Building Inspector prior to any disturbance of the site associated with grading, excavation or culvert installation. The developer shall secure a performance bond or deposit of Five Hundred Dollars (\$500.00) plus twenty-five percent (25%) of the total cost to ensure appropriate culvert installation and shall pay an administrative and inspection fee of One Hundred Dollars (\$100.00) prior to the grading of a culvert installation permit.
 - (2) Livestock such as, but not limited to, cattle, swine, horses, ponies, poultry and other fowl, may only be allowed in the R-6 District following issuance of a conditional use permit after public hearing. As a general policy guideline, the R-6 District is not intended to be used for intensive raising or boarding of livestock or fowl. A conditional use permit for livestock or fowl may only be issued if such use is compatible with the neighborhood.

Sec. 13-1-48 C-1 Conservancy District.

- (a) **Purpose.** The purpose of this District is to preserve, protect, and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational, or aesthetic value of the community.

(b) **Permitted Uses.**

- (1) Farming and related agricultural uses when conducted in accordance with conservation standards.
- (2) Forest and game management.
- (3) Hunting, fishing and hiking.
- (4) Parks and recreation areas; arboreta; botanical gardens; greenways.
- (5) Stables.
- (6) Utilities.
- (7) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
- (8) Harvesting of wild crops.
- (9) Recreation related structures not requiring basements.

(c) **Conditional Uses.**

- (1) Animal hospitals, shelters and kennels.
- (2) Archery and firearm ranges, sports fields and skating rinks.
- (3) Land restoration, flowage, ponds.
- (4) Golf courses and clubs.
- (5) Ski hills and trails.
- (6) Yacht clubs and marinas.
- (7) Recreation camps.
- (8) Public and private campgrounds.
- (9) Riding stables.
- (10) Planned residential developments.
- (11) Sewage disposal plants.
- (12) Governmental, cultural and public buildings or uses.
- (13) Utilities.
- (14) Hunting and fishing clubs.
- (15) Professional home offices.
- (16) Farm structures.

(d) **Area, Height and yard Requirements.**

- (1) **Lot.**
 - a. Area: Minimum one and one-half (1-1/2) acres.
 - b. Width: Minimum one hundred fifty (150) feet.
- (2) **Building Height.** Maximum thirty-five (35) feet.
- (3) **Other Structures Height.** Maximum one-half (1/2) the distance from the structures nearest lot line.
- (4) **Yards.**
 - a. Street: Minimum twenty (20) feet.
 - b. Rear: Minimum twenty (20) feet.
 - c. Side: Minimum twenty (20) feet except structures used for the housing of shelters of animals must be one hundred (100) feet from lot lines.

Sec. 13-1-49 B-1 General Commercial District.

- (a) **Purpose.** The B-1 District is intended to provide an area for the business, financial, professional, and commercial needs of the community, especially those which can be most suitably located in a compact and centrally located business district.
- (b) **Permitted Uses.** The following uses of land are permitted in the B-1 District:
- (1) Paint, glass and wallpaper stores. [523]
 - (2) Hardware stores. [525]
 - (3) Department stores, variety stores, general merchandise stores. [53]
 - (4) General grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores. [54]
 - (5) Candy, nut or confectionery stores. [544]
 - (6) Dairy products stores, including ice cream stores. [545]
 - (7) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery. [546]
 - (8) Clothing and shoe stores. [56]
 - (9) Furniture, home furnishings, floor covering and upholstery shops/stores. [57]
 - (10) Restaurants, lunch rooms and other eating places, except drive-in type establishments. [5812]
 - (11) Taverns, bars and other drinking places with permit by Village Board. [5813]
 - (12) Drug stores and pharmacies. [591]
 - (13) Liquor stores. [592]
 - (14) Antique stores and secondhand stores. [593]
 - (15) Sporting goods stores and bicycle shops. [5941]
 - (16) Bookstores, not including adult books. [5942]
 - (17) Stationery stores. [5943]
 - (18) Jewelry and clock stores. [5944]
 - (19) Camera and photographic supply stores. [5946]
 - (20) Gift, novelty and souvenir shops. [5947]
 - (21) Florist shops. [5992]
 - (22) Tobacco and smokers' supplies stores. [5993]
 - (23) News dealers and newsstands. [5994]
 - (24) Wholesale merchandise establishments, only for retail items listed above; e.g., #19 would allow wholesale camera sales.
 - (25) Banks and other financial institutions. [60-62]
 - (26) Offices of insurance companies, agents, brokers and service representatives. [63-64]
 - (27) Offices of real estate agents, brokers, managers and title companies. [65-67]
 - (28) Miscellaneous business offices.

- (29) Heating and plumbing supplies.
 - (30) Retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called laundromats and laundrettes. Tailor shops, dressmakers' shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments. [721]
 - (31) Photographic studios and commercial photography establishments. [722]
 - (32) Barbershops, beauty shops and hairdressers. [723-4]
 - (33) Shoe repair shops and shoe shine parlors. [725]
 - (34) Trade and contractor's offices (office only).
 - (35) Advertising agencies, consumer credit reporting, news agencies, employment agencies. [731-2, 735-6]
 - (36) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops. [733]
 - (37) Computer services. [737]
 - (38) Commercial parking lots, parking garages, parking structures. [752]
 - (39) Watch, clock and jewelry repair services. [763]
 - (40) Motion picture theaters, not including drive-in theaters. [7832]
 - (41) Miscellaneous retail stores. [5999]
 - (42) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarian's offices. [801-4]
 - (43) Law offices. [811]
 - (44) The offices, meeting places, churches, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other non-profit membership organizations. [86]
 - (45) Engineering and architectural firms or consultants. [891-3]
 - (46) Accounting, auditing and bookkeeping firms or services. [8721]
 - (47) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations. [899]
 - (48) The offices of governmental agencies and post offices. [91-92, 431]
 - (49) Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages. [411-14]
 - (50) Telephone and telegraph offices. [481-2]
- (c) **Conditional Uses.** The following are permitted as conditional uses in the B-1 District; provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices

shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Village Board with regard to such matters.

- (1) Miscellaneous repair shops and related services. [769]
 - (2) Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments. [721]
 - (3) Establishments engaged in the publishing and printing of newspapers, periodicals or books. [2711]
 - (4) Dwelling units, provided that no dwelling shall be permitted below the second floor and business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are not established.
 - (5) Farm supplies, wholesale trade. [5191]
 - (6) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers. [551-2, 556]
 - (7) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories. [553]
 - (8) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least thirty (30) feet from any existing or officially proposed street line. [5541]
 - (9) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers. [703]
 - (10) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers. [751]
 - (11) Establishments for the washing, cleaning or polishing of automobiles, including self-service car washes. [754]
 - (12) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc. [70]
 - (13) Farm implement sales.
 - (14) Mini-warehouses.
- (d) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** Minimum forty (40) feet.
 - (2) **Lot Area.** Minimum three thousand (3,000) square feet.
 - (3) **Principal Building.**
 - a. Front Yard: None.
 - b. Side Yard: Minimum ten (10) feet; if sideyard is necessary to be compatible with neighborhood.
 - c. Rear Yard: Minimum twenty-five (25) feet.

NOTE: Pre-existing structures may be nonconforming. In blocks in the business districts which are already developed, the dimensional requirements of this Chapter can be modified if in the opinion of the Board of Appeals, such action would be in keeping with the purpose

of this Code where a practical difficulty or hardship would result from a literal enforcement of the requirements.

(4) **Building Height.** Maximum forty-five (45) feet.

(5) **Percent of Lot Coverage.** Maximum ninety percent (90%).

(6) **Alley Setback.** Minimum fifteen (15) feet.

(e) **Other Development Regulations.**

(1) A site development plan, prepared in accordance with Section 13-1-174, shall be submitted before a permit can be granted for any expanded or all new use in this District.

(2) No outdoor storage of any material shall be permitted in this District except within enclosed containers.

(3) No lighting shall be permitted which would glare from this District onto any street right-of-way or onto any adjacent property.

Sec. 13-1-50 B-2 Highway Commercial District.

(a) **Purpose.** The purpose of the B-2 District is to encourage the growth and development of business activities and establishments which require highway frontage and exposure due to their automobile and vehicular orientations.

(b) **Permitted Uses.** All uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article D.

(c) **Conditional Uses.** The following are specific conditional uses in this Chapter:

(1) Amusement activities.

(2) Automobile and truck retail services.

(3) Automobile repair services.

(4) Bars and taverns.

(5) Candy, nut and confectionery sales.

(6) Gasoline service stations.

(7) Gift, novelty and souvenir sales.

(8) Hotels, motels and tourist courts.

(9) Night clubs and dance halls.

(10) Restaurants.

(11) Sales, service and installation of tires, batteries and accessories.

(12) Residential dwelling units.

(13) Animal hospital, shelters and kennels.

(14) Yachting clubs and marinas.

(15) Public assembly uses.

- (16) Commercial recreation facilities.
 - (17) Off-season storage facilities.
 - (18) Lodges and fraternal buildings.
 - (19) Nursing homes.
 - (20) Nursery and day care centers.
 - (21) Retirement homes.
 - (22) Drive-in food and beverage establishments.
 - (23) Drive-banks.
 - (24) Drive-in theaters.
 - (25) Vehicle sales and service.
 - (26) Public parking lots.
 - (27) Taxi stands.
 - (28) Sewage disposal plants.
 - (29) Governmental, cultural, and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - (30) Utilities.
 - (31) Schools and churches.
 - (32) Mobile home sales.
 - (33) Log stacks are a conditional accessory use in the B-2 District, provided that they are located a minimum of sixty (60) from the center of adjacent public road right-of-ways.
 - (34) Farm implement sales.
 - (35) Other uses similar to or customarily incident to any of the above uses.
- (d) **Area, Height and Yard Requirements.**
- (1) Lot.
 - a. Area: Eight thousand (8,000) square feet.
 - b. Width: Minimum sixty (60) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Street: Minimum forty (40) feet (may include parking).
 - b. Rear: Minimum twenty (20) feet.
 - c. Side: Minimum twenty (20) feet each side.

Sec. 13-1-51 B-3 Business Park District.

- (a) **Purpose.** The B-3 Business Park District is established to provide an aesthetically attractive working environment exclusively for and conducive to the development and protection of offices, non-nuisance type manufacturing operations and research and development institutions. The essential purpose of this District, is to achieve development,

which is an asset to the owners, neighbors and the Village, and to promote and maintain desirable economic development in a dedicated business park setting.

- (b) **Permitted Uses.** The following uses of land are permitted in the B-3 District:
- (1) State-classified manufacturing operations. [20, 23-28, 30, 32-39]
 - (2) Warehousing or distribution operations, not including predominantly retail sales to customers on site. [50-51]
 - (3) Offices of construction firms, shops, display rooms and enclosed storage. [15-17]
 - (4) Laboratories, research, development and testing, and manufacturing and fabrication in conjunction with such research and development and operations. [8071, 8731-34]
 - (5) Service uses, including computer and data processing services, miscellaneous business services, offices (business and professional) and communication services. [73]
 - (6) Telecommunications facilities. [48]
- (c) **Conditional Uses.** The following are permitted as conditional uses within the B-3 District:
- (1) Public utilities and public services. [49]
 - (2) Conference centers and hotel facilities. [701]
 - (3) Ancillary retail sales and service operations that serve employees within the business park.
- (d) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** Minimum one hundred (100) feet.
 - (2) **Lot Area.** Minimum twenty-one thousand seven hundred eighty (21,780) square feet.
 - (3) **Front Yard.** Minimum twenty-five (25) feet.
 - (4) **Side Yard.** Minimum fifteen (15) feet.
 - (5) **Rear Yard.** Minimum thirty (30) feet.
 - (6) **Building Height.** Maximum thirty-five (35) feet.

* Requirements may be modified by conditional use permit.

- (e) **Other Requirements.** Uses permitted and conditional in the B-3 District are subject to the following requirements:
- (1) No building or improvement shall be erected, placed or altered on any lands in the B-3 District until the plans for such building or improvement including site, landscaping and building plan and specifications, have been approved by the Village Board. The Village Board shall review and approve, approve conditionally or disapprove such plans with respect to conformity with deed restrictions and protective covenants placed on the land in the B-3 District. The deed restriction and protective covenants must be approved by the Village Board. The approved deed restriction and protective covenants must be recorded on the land prior to rezoning to the B-3 District.
 - (2) Design standards in the B-3 District shall include as a minimum the following standards:
 - a. All uses shall comply with Village performance standards for air pollution, fire and explosive hazards, glare and heat, liquid or solid wastes, noise and vibration, odors, radioactivity and electrical disturbances and refuse.

- b. All business, servicing or processing, except off-street parking and loading and outside storage areas regulated by restrictive covenants, shall be conducted within completely enclosed buildings.
- c. The building coverage on any zoning lot shall not exceed fifty-five percent (55%), nor be less than twenty-five percent (25%).
- d. All areas not covered by buildings or parking lots shall be landscaped subject to detail requirements of restrictive covenants.
- e. All zoning lots abutting residentially zoned districts shall be screened.

Sec. 13-1-52 I-1 Industrial District.

- (a) **Purpose.** This District is intended to provide an area for manufacturing, marketing, and industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.
- (b) **Permitted Uses.** No uses are permitted as a matter of right within the I-1 District. All uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article D.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the I-1 District. Such use shall be subject to the consideration of the Village Board and Plan Commission with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:
 - (1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products. [20, 23-28, 30, 32-39]
 - (2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
 - (3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening. [50, 51]
 - (4) Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroads, including station houses, platforms, and signal towers, but not including warehouses owned by companies other than railroad companies or road terminal companies.

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| (5) Wholesale establishments and warehouses. | [50-51] |
| (6) Building construction contractors. | [15-17] |
| (7) Highway passenger and motor freight transportation. | [41-42] |
| (8) Light Industry and Service Uses. | |
| a. Automotive body repair. | |
| b. Automotive upholstery. | |
| c. Cleaning, pressing, dyeing. | |
| d. Commercial bakeries. | |
| e. Commercial greenhouses. | |
| f. Distributors. | |
| g. Food locker plants. | |
| h. Printing and publishing. | |
| i. Trade and contractor's facilities. | |
| j. Offices. | |
| k. Painting services. | |
| l. Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility. | |
| m. Recreation vehicle, boat and miscellaneous storage. | |
| (9) Public Facilities and Uses. | |
| a. Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums. | |
| b. Schools and churches. | |
| c. Airports, airstrips and landing fields. | |
| (10) Agriculture Related Industry and Service Uses. | |
| a. Production of natural and processed cheese. | |
| b. Production of shortening, table oils, margarine and other edible fats and oils. | |
| c. Production of condensed and evaporated milk. | |
| d. Wet milling of corn. | |
| e. Production of creamery butter. | |
| f. Drying and dehydrating fruits and vegetables. | |
| g. Preparation of feeds for animal and fowl. | |
| h. Pea venteries. | |
| i. Creameries and dairies. | |
| j. Production of flour and other grain mill products; blending and preparing of flour. | |
| k. Fluid milk processing. | |
| l. Production of frozen fruits, fruit juices, vegetables and other specialties. | |
| m. Fruit and vegetable sauces and seasoning, and salad dressing preparation. | |
| n. Poultry and small game dressing and packing providing that all operations be conducted within an enclosed building. | |

- o. Production of sausages and other meat products providing that all
- p. Corn shelling, hay baling and threshing services.
- q. Grist mill services.
- r. Horticultural services.
- s. Canning of fruits, vegetables, preserves, jams and jellies.
- t. Canning of specialty foods.
- u. Grain elevators and bulk storage of feed grains.
- v. Fertilizer production, sales, storage, mixing and blending.
- w. Sales or maintenance of farm implements and related equipment.
- x. Animal hospitals, shelters and kennels.
- y. Veterinarian services.
- z. Sawmills.

(d) **Prohibited Uses.**

- (1) Specifically excluded from this designation and expressly prohibited is any use or business which is dangerous or which would create a public nuisance.
- (2) All residential uses are expressly prohibited.
- (3) Also specifically excluded and expressly prohibited is any use or business involving the wrecking of automobiles, junk yards, scrap yards, garbage removal or the slaughter of animals or poultry.

(e) **Lot, Yard and Building Requirements.**

- (1) **Lot Frontage.** No minimum.
- (2) **Lot Area.** Minimum fifteen thousand (15,000) square feet.
- (3) **Front Yard.** Minimum twenty-five (25) feet.
- (4) **Side Yards.** Minimum twenty (20) feet.*
- (5) **Rear Yard.** Minimum twenty (20) feet.*
- (6) **Building Height.** Maximum sixty (60) feet.
- (7) **Percentage of Lot Coverage.** Maximum seventy percent (70%).

* **Required Buffer Strips in Industrial Districts.** Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any industrial-residential boundary, a buffer strip not less than forty (40) feet in width as measured at right angles to said lot line. Plant materials at least six (6) feet in height of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District shall be planted in the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the industrial-residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. Fencing may be used in lieu of planting materials to provide said screening. The fencing shall be not less than four (4) nor more than eight (8) feet in height, and shall be of such materials as to effectively screen the industrial area. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of

vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

Sec. 13-1-53 A-1 Agricultural District.

- (a) **Purpose.** The A-1 Agricultural District is intended to provide for the continuation of general farming and related uses in those areas of the Village that are not yet committed to urban development. It is further intended for this District to protect lands contained therein from urban development until their orderly transition into urban-oriented districts is required.
- (b) **Permitted Uses.**
- (1) General farming, including agriculture, dairying, floriculture, forestry, grazing, hay, orchards, truck farming and viticulture (grape growing); provided, however, that farm buildings housing animals, barnyards, and feed lots shall not be located in a floodland, and shall be at least one hundred (100) feet from any navigable water or district boundary.
 - (2) Keeping and raising of domestic stock for agribusiness, show, breeding, or other purposes incidental to the principal use of the premises, and for the use of the occupants of the premises, provided that such use shall not be located within one hundred fifty (150) feet of a dwelling unit other than the dwelling unit on the property in question.
 - (3) Forestry, grazing, hatcheries, nurseries, orchards, paddocks, poultry raising, stables, and truck farming.
 - (4) Harvesting of wild crops and management of wildlife including nonresidential buildings used solely in conjunction with such activity.
 - (5) In-season roadside stands for the sale of farm products produced on the premises, and up to two (2) unlighted signs not larger than eight (8) square feet each advertising such sale.
 - (6) Customary home occupations.
 - (7) One (1) and two (2) family farm residences and a single mobile home, but only when occupied by owners and/or persons engaged in farming activities on the farm on which it is located.
 - (8) Woodlots and tree farms.
 - (9) Production of forest crops, including tree plantations.
- (c) **Permitted Accessory Uses.**
- (1) Attached or detached private garages and carports accessory to permitted or permitted accessory uses.
 - (2) General farm buildings including barns, silos, sheds, storage bins and including not more than one (1) roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to the setback, sign and other provisions of this Chapter.

- (3) One (1) farm dwelling. The only residences allowed as permitted uses on newly established parcels are those to be occupied by a person who or a family at least one (1) member of which earns a substantial part of his or her livelihood from farm operations on the parcel or is related to the operator of the larger farm parcel from which the new parcel is taken. Preexisting residences located in areas subject to zoning under this Section which do not conform to this paragraph may be continued in residential use. The minimum parcel size to establish a residence or a farm operation is thirty-five (35) acres. No structure or improvement may be built on the land unless consistent with agricultural uses.
- (4) Private garages and parking space.
- (5) Private swimming pool and tennis court.
- (6) Home occupation.
- (7) Signs as regulated by the Village.
- (8) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed time necessary for such constructing.
- (9) Gardening and other horticultural uses where no sale of products is conducted on the premises.

(d) **Conditional Uses.**

- (1) Airports, airstrips and landing fields provided that the site is not less than twenty (20) acres.
- (2) Commercial feed lots, livestock sales facilities and fur farms.
- (3) Housing for farm laborers and seasonal or migratory farm workers.
- (4) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
- (5) Utilities.
- (6) Veterinary clinics, provided that no structure or animal enclosure shall be located closer than one hundred fifty (150) feet to a property boundary. [074, 075]
- (7) Public and parochial schools, provided no building shall be located within fifty (50) feet of any lot line.
- (8) Churches, including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site, provided no more than ten (10) persons shall reside on the site and no building shall be located within fifty (50) feet of any lot line.
- (9) Golf courses, country clubs, tennis clubs or public swimming pools serving more than one (1) family. The principal structure for any of the above listed uses shall be one hundred (100) feet or more from any abutting lot in a Residential District, and accessory structures shall be a minimum of fifty (50) feet from any lot line.
- (10) Essential service structures, including but not limited to buildings such as telephone exchange stations, booster or pressure-regulating stations, wells, pumping stations, elevated tanks, lift stations and electrical power substations, provided no building shall

be located within ten (10) feet from any lot line of an abutting lot in a Residential District. Prior to granting such permit, it shall be found that the architectural design of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare.

- (11) Hospitals for human care, sanitariums, rest homes, and nursing homes, provided that all structures, except fences, shall be located one hundred (100) feet or more from the lot line of any abutting lot in a Residential District.
 - (12) Cemeteries.
 - (13) Fur farms, kennels, greenhouses and other agricultural uses that may cause noxious odors or noise, or create health or sanitation hazards.
 - (14) Campgrounds, tourist camps and travel trailer parks, subject to the provisions of this Chapter and the Wisconsin Administrative Code.
 - (15) Trap or skeet shooting facilities, target ranges, gun clubs, shooting preserves.
 - (16) Riding stables.
 - (17) Golf courses.
- (e) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** Minimum two hundred (200) feet.
 - (2) **Lot Area.** Minimum two (2) acres.
 - (3) **Principal Building.**
 - a. Front Yard: Minimum eighty (80) feet.
 - b. Side Yards: Minimum fifty (50) feet.
 - c. Rear Yard: Minimum fifty (50) feet.
 - (4) **Accessory Building.**
 - a. Front Yard: Minimum eighty (80) feet.
 - b. Side Yards: Minimum forty-five (45) feet.
 - c. Rear Yard: Minimum forty-five (45) feet.
 - d. Building Height: Maximum fifty (50) feet.

Sec. 13-1-54 PUD Planned Unit Development District.

- (a) **Purpose.** The PUD Planned Unit Development District is intended to provide for large-scale residential development. The Planned Unit Development District is established to provide a regulatory framework designed to encourage and promote improved environmental design in the Village by allowing for greater freedom, imagination and flexibility in the development of land, while assuring substantial compliance to the basic intent of the zoning ordinance and the general plan for community development. To this intent it allows diversification and variation in the relationship of uses, structures, open spaces and heights of structures in developments, conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more

rational and economic development with relationship to public services and to encourage and facilitate preservation of open land.

- (b) **General Procedure.** Before commencing with a planned unit development, the developer shall obtain approval of the Village Board, following a recommendation from the Plan Commission. Five (5) copies of the proposed General Development Plan, including a site plan, shall be submitted to the Village Clerk-Treasurer.
- (c) **Site Plan.** The site plan shall be drawn at a scale of not less than one (1) inch equals fifty (50) feet and shall include the following information:
 - (1) Location and dimension of property boundaries.
 - (2) Location, size and number of parking spaces.
 - (3) Location, size, use, entrances and exits of all buildings.
 - (4) Elevations and contours sufficient to show topographic features and drainage patterns.
 - (5) Distances between buildings, between buildings and property lines, and between buildings and other improvements on the site including walks, parking areas and site structures.
 - (6) Location and width of all drives and roadways on the site.
 - (7) Drainage of surface water within the site, including parking lots and street grades, and the size, slope, depth and location of drainage and erosion control pipes and structures.
- (d) **Permitted Uses.** The following are permitted in a PUD District provided that no use shall be permitted except in conformity with a specific implementation plan pursuant to the procedural and regulatory provisions as hereinafter set forth:
 - (1) Any use may be permitted subject to the criteria as established in Subsections (e) and (f) below, and such requirements as are made a part of an approved recorded specific implementation plan shall be, along with the recorded plan itself, construed to be enforced as a part of this Section.
 - (2) The minimum size for a PUD shall be five (5) acres of land or a minimum of sixteen (16) dwelling units.
 - (3) The PUD tract shall be a development of land under single control. No authorization or permits shall be granted for such development unless the applicant has acquired actual ownership of, or executed a binding sales contract for, all of the property comprising such tract. For purposes of this Section, ownership shall include a lease of not less than fifty (50) years duration. The term "single control" shall include ownership by an individual, corporation, partnership, association, trustee, or other legal entity.
- (e) **Height, Area and Setback Requirements.** Except as provided in Subsection (e) below, in a PUD there shall be no predetermined specific lot area, lot width, height, floor area ratio, yard and usable open space requirements, but such requirements as are made a part of an approved recorded specific implementation plan shall be, along with the recorded plan itself, construed to be and enforced as a part of this Section.

- (f) **Parking Requirements.** Off-public street parking facilities shall be as provided for under this Zoning Code and in accordance with the approved specific implementation plan and such requirements as are made a part of the approved specific implementation plan, along with the recorded plan itself, shall be construed to be, and enforced as, a part of this Section.
- (g) **Lot, Building and Yard Requirements — Zero Lot Line or Common Wall Single Family Units.** For all attached zero lot line or common wall construction single-family duplex or townhouse dwellings allowed in a Planned Unit Development District consistent with the Village Master Plan, the following lot, building and yard requirements apply:
- (1) **Lot Frontage.** Minimum forty (40) feet (each unit).
 - (2) **Lot Area.** Minimum six thousand (6,000) square feet (each unit).
 - (3) **Principal Building.**
 - a. Front Yard: Minimum twenty (20) feet.
 - b. Side Yards: Zero feet on one (1) side and minimum of six (6) feet on the other side. [If street side of a corner lot, a minimum of twelve (12) feet].
 - c. Rear Yard: Minimum twenty (20) feet.
 - (4) **Garages.** One (1) private garage with up to two (2) stalls per dwelling unit, not exceeding three hundred twelve (312) square feet per stall.
 - (5) **Building Height.** Maximum thirty-five (35) feet.
 - (6) **Percent of Lot Coverage.** Maximum fifty percent (50%) (combined principal and accessory buildings coverage).
 - (7) **Floor Area Per Dwelling Unit.** Minimum eight hundred forty (840) square feet.
 - (8) **Zero Lot Line/Common Wall Construction Requirements.** For all attached zero lot line or common wall construction duplexes and townhouses containing single-family dwellings, each unit shall have separate sewer and water lateral connections. The size, type and installation proposed to be constructed shall be in accordance with the plans and specifications approved by the Village Board, following a recommendation from the Plan Commission. A minimum one (1) hour fire-rated wall assembly division, separating living areas from the lowest level to flush against the underside of the roof, is required between each dwelling unit.
 - (9) **Eligibility Criteria.** Zero lot line duplexes shall only be permitted in areas designated for zero lot line duplexes in the Village Master Plan and meeting the minimum requirements of Subsection (d).
- (h) **Criteria for Approval.** As a basis for determining the acceptability of a PUD application, the following criteria shall be applied to the specific implementation plan, with specific consideration as to whether or not it is consistent with the spirit and intent of this Zoning Code, has been prepared with competent professional advice and guidance and produces significant benefits in terms of environmental design.
- (1) **Character and Intensity of Land Use.** The uses proposed and their intensity and arrangement on the site shall be of a visual and operational character which:

- a. Are compatible to the physical nature of the site with particular concern for the preservation of natural features, tree growth and open spaces.
 - b. Would produce an attractive environment of sustained aesthetic and ecologic desirability, economic stability and functional practicality compatible with the general development plans for the area as established by the community.
 - c. Would not adversely affect the anticipated provision for school or other municipal services.
 - d. Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
- (2) **Economic Feasibility and Impact.** The proponents of a PUD application shall provide the Village satisfactory evidence of its economic feasibility, proof by the proponents of available adequate financing, and that the PUD would not adversely affect the economic prosperity of the Village or the values of surrounding properties.
- (3) **Engineering Design Standards.** The width of street right-of-way, width and location of streets or other paving, outdoor lighting, location of sewer and water lines, provision for storm water drainage or other similar environmental engineering considerations shall be based upon a determination of appropriate standards necessary to implement the specific function in the specific situation. In no case shall standards be less than those necessary to assure the public safety and welfare as determined by the Village.
- (4) **Preservation and Maintenance of Open Space.** Adequate provision shall be made for the permanent preservation and maintenance of common open space by private reservation:
- a. The open area to be reserved shall be protected against building development by conveying to the Village, as part of the conditions for approval, an open space easement over such open areas restricting the area against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the PUD. Buildings or uses for noncommercial, recreational or cultural purposes compatible with the open space objectives may be permitted only where specifically authorized as part of the development plan or subsequently with the express approval of the Village Board following approval of building, site and operational plans made by the Plan Commission.
 - b. The care and maintenance of such open space reservation shall be assured by establishment of appropriate management organization for the PUD.
- (5) **Implementation Schedule.** The proponents of a PUD shall submit a reasonable schedule for the implementation of the plan to the satisfaction of the Village including suitable provisions for assurance that each phase will be brought to completion in a manner which will not result in any adverse effect upon the community as a result of termination at that point.
- (i) **Approval Procedure; General Development Plan.**
- (1) **Generally.** The procedure for initiating a PUD District shall be the same procedure used with other types of rezonings, unless otherwise prescribed by this Section.

Rezoning would occur concurrently with the approval of the General Development Plan.

- (2) **General Development Plan.** The applicant shall submit a General Development Plan to the Village Clerk-Treasurer. The General Development Plan shall include the following information:
 - a. A statement describing the general character of the intended development.
 - b. An accurate site plan of the project area as required in Subsection (c) above including its relationship to surrounding properties and existing topography, key features, and building location and height.
 - c. A plan of the proposed project showing sufficient details to make possible the evaluation of the criteria for approval as set forth in Subsection (e).
 - d. The pattern of proposed land use including shape, size and arrangement of proposed use areas, density, environmental character and their relationship to adjoining parcels of land within six hundred (600) feet of area boundaries.
 - e. The pattern of public and private streets.
 - f. The location, size and character of recreational and open space areas reserved or dedicated for public uses such as schools, parks, greenways, etc.
 - g. A utility feasibility study.
 - h. Appropriate statistical data on the size of the development, ratio of various land uses, percentages of multi-family units by number of bedrooms, economic analysis of the development, expected staging, and any other plans or data pertinent to evaluation by the Village.
 - i. General outline of intended organizational structure related to property owner's association, deed restrictions and private provision for common services.
- (j) **Specific Implementation Plan.**
 - (1) **Submission of Plan and Fee.** The applicant shall submit a Specific Implementation Plan to the Plan Commission within twelve (12) months after having been granted an approval of the General Development Plan and re-zoning to a PUD District classification. The applicant shall pay required fees and all costs incurred by the Village in checking and processing such plans. Such application shall be signed by the owner(s) of every property within the boundaries of the proposed Specific Implementation Plan.
 - (2) **General Development Plan.** If a Specific Implementation Plan which the Plan Commission determines to be a reasonable phase of the total plan has not been submitted within such time, the developer shall be required to resubmit a General Development Plan which is subject to all the requirements of this Section.
 - (3) **Information Required.** The Specific Implementation Plan submitted to the Plan Commission shall include the following detailed construction and engineering plans and related documents and schedules:
 - a. An accurate map of the area covered by the plan including the relationship to the total General Development Plan.

- b. The pattern of public and private roads, driveways, walkways and parking facilities.
 - c. Detailed lot layout and subdivision plan where required.
 - d. The arrangement of building groups and their heights, and their architectural character with particular attention to their influence on adjoining parcels of land including the castings of unbroken shadows.
 - e. Sanitary sewer and water mains.
 - f. Grading plan and storm drainage system.
 - g. The location and treatment of open space areas and recreational or other special amenities.
 - h. The location and description of any areas to be dedicated to the public.
 - i. General landscape treatment.
 - j. Proof of financing capability.
 - k. Analysis of economic impact upon the community.
 - l. A development schedule indicating:
 - 1. The approximate date when construction of the project can be expected to begin.
 - 2. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 - 3. The anticipated rate of development.
 - 4. The approximate date when the development of each of the stages will be completed.
 - 5. The area and location of common open space that will be provided at each stage.
 - m. Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the PUD and any of its common services, common open areas or other facilities.
 - n. Any other plans, documents or schedules requested by the Plan Commission.
 - o. If the Specific Implementation Plan is to be executed in phases, each phase shall be submitted in accordance with this Section.
 - p. An ownership statement shall be a part of the specific implementation plan and also shall be affixed and noted on the deed.
- (4) **Approval of the Specific Implementation Plan.**
- a. If the Specific Implementation Plan as submitted is not in substantial compliance with the General Development Plan, the Plan Commission shall notify the landowner regarding the aspects of the plan that are not in compliance. The landowner may:
 - 1. Treat such notification as denial of the final approval.
 - 2. Refile his/her Specific Implementation Plan so that it does comply with the General Development Plan.

- b. Within forty-five (45) days after the filing of the Specific Implementation Plan, the Plan Commission shall forward to the Village Board a written report recommending that the plan be approved, disapproved or approved with conditions and giving the reason(s) for the recommendations.
 - c. Within thirty (30) days after the receipt of the Plan Commission report the Village Board shall either:
 1. Refer the plan back to the Plan Commission for further reports.
 2. Approve or reject the plan.
 - d. If the Specific Implementation Plan or any section thereof is given final approval and thereafter the landowner abandons the plan or any section thereof that has been finally approved and notifies the Village Board in writing; or, if the landowner fails to commence the Planned Unit Development within eighteen (18) months after final approval has been granted, such final approval shall terminate and be deemed null and void; the parcel would revert to its pre-PUD application zoning classification.
- (5) **Approval of Plan.** Upon approval of the Specific Implementation Plan, the following shall be recorded in the County Register of Deeds office by the landowner within sixty (60) days of approval:
- a. The building, site and operational plans for the development as approved.
 - b. All other commitments and contractual agreements with the Village offered and required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the Specific Implementation Plan. This shall be accomplished prior to the issuance of any building permit.

Sec. 13-1-55 WP Wellhead Protection Overlay District.

- (a) **Purpose.** The users of the public water supply system located in the Village of Elmwood depend exclusively on ground water for safe drinking water. Certain land use practices and activities can seriously threaten or degrade ground water quality. The purpose of the Wellhead Protection Overlay District is to institute land use regulations and restrictions to protect the Village of Elmwood municipal water supply and wells, and to promote the public health, safety and general welfare of the residents of the Village of Elmwood.
- (b) **Authority.** These regulations are established pursuant to the authority granted by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added ground water protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety and welfare.
- (c) **Applicability.**
 - (1) The regulations specified in the Wellhead Protection Overlay District shall apply within the Village of Elmwood limits.

- (2) No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered, and no development shall commence without full compliance with the terms of this Section and other applicable regulations.

(d) **Definitions.** As used in this Section:

- (1) **Aquifer.** A saturated, permeable, geologic formation that contains and will yield significant quantities of water.
- (2) **Existing Facilities Which May Cause or Threaten to Cause Environmental Pollution.** Existing facilities which may cause or threaten to cause environmental pollution within the Village of Elmwood include, but are not limited to, the Department of Natural Resources' draft or current list of *Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution*, the Department of Commerce list of Underground Storage Tanks (USTs), lists of facilities with hazardous, solid waste permits, and any facility which is considered a prohibited use under this Section, all of which are incorporated herein as if fully set forth.
- (3) **Cone of Depression.** The area around a well, in which the water level has been lowered at least one-tenth (1/10) of a foot by pumping of the well.
- (4) **Five Year Time of Travel.** The five (5) year time of travel is the recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take five (5) years to reach a pumping well.
- (5) **Recharge Area.** The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
- (6) **Well Field.** A piece of land used primarily for the purpose of locating wells to supply a municipal water system.
- (7) **Wellhead Protection Overlay District.** Shall be defined to include the following area:

The area of land which contributes water to the well starting at the well and continuing out to a line delineating the five (5) year time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the *State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2* with Zone boundaries normalized (if practical) to road centerlines, railways, surface water features, the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines and property lines.

- (8) **Zone of Saturation.** The saturated zone is the area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.

- (e) **Supremacy of the District.** The regulations of this overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the Wellhead Protection Overlay District are more stringent.
- (f) **Permitted Uses.** Permitted uses within the Wellhead Protection Overlay District are subject to the separation distance requirements set forth in Subsection (g), Separation Distance Requirements, the prohibition of uses, activities or structures designated in Subsection (h), Prohibited Uses, and include:
- (1) Public and private parks and beaches, provided there are no on-site wastewater disposal systems or holding tanks.
 - (2) Playgrounds.
 - (3) Wildlife areas and natural areas.
 - (4) Trails such as biking, hiking skiing, nature, equestrian and fitness trails.
 - (5) Residential which is municipally sewerred.
 - (6) Agricultural activities which are conducted in accordance with *USDA-SCS Wisconsin Field Office Technical Guide Specification 590* nutrient management standards.
 - (7) Commercial establishments which are municipally sewerred.
- (g) **Separation Distance Requirements.** The following separation distances as specified in NR 811.16, Wis. Adm. Code, shall be maintained:
- (1) Fifty (50) feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA C600 specifications.
 - (2) Two hundred (200) feet between a public water supply well and any sanitary sewer main not meeting the above specifications, any sanitary sewer lift station or single-family residential fuel oil tank.
 - (3) Four hundred (400) feet between a public water supply well and a stormwater detention, retention, infiltration or drainage basin.
 - (4) The provisions of NR 811.16(4)(d)4., 5., and 6., Wis. Adm. Code, are not listed here as uses, activities or structures contained therein are prohibited in the District.
- (h) **Prohibited Uses.** The method of regulation by prohibition of certain uses is employed to provide the greatest assurance that inadvertent discharge of pollutants into the groundwater supply will not occur, since such an event would result in almost certain contamination of the public water supply, and costly mitigation or remediation for which liability is difficult or impossible to establish. The prohibited uses, activities or structures for the Wellhead Protection Overlay District include:
- (1) Above and below ground hydrocarbon or petroleum storage tanks.
 - (2) Cemeteries.
 - (3) Chemical manufacturers (Standard Industrial Classification Major Group 28).
 - (4) Coal storage.
 - (5) Dry cleaners.

- (6) Hazardous, toxic or radioactive materials transfer and storage under Title III or SARA planning.
 - (7) Industrial lagoons and pits.
 - (8) Jewelry plating and metal plating.
 - (9) Landfills and any other solid waste facility, except post-consumer recycling.
 - (10) Machine or metal working shops.
 - (11) Manure storage.
 - (12) Non-metallic earthen materials extraction or sand and gravel pits.
 - (13) Pesticide and fertilizer dealer, transfer or storage.
 - (14) Research labs, universities and hospitals.
 - (15) Railroad yards and maintenance stations.
 - (16) Rendering plants and slaughterhouses.
 - (17) Salt or deicing material storage.
 - (18) Salvage or junk yards.
 - (19) Septage or sludge spreading, storage or treatment.
 - (20) Septage, wastewater, or sewage lagoons.
 - (21) Septic tanks, holding tanks or other on-site sewage treatment systems.
 - (22) Stockyards and feedlots.
 - (23) Stormwater infiltration basins without pre-treatment.
 - (24) Vehicular services, including filling and service stations, repair, renovation and body working.
 - (25) Wood preserving.
- (i) **Requirements for Existing Facilities Which May Cause or Threaten to Cause Environmental Pollution.**
- (1) Existing facilities within the Wellhead Protection Overlay District at the time of enactment of such district which may cause or threaten to cause environmental pollution include, but are not limited to, the Wisconsin Department of Natural Resources' draft or current list of *Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution*, Wisconsin Department of Commerce's list of Underground Storage Tanks, lists of facilities with hazardous, solid waste permits, and all other facilities which are considered a prohibited use in Subsection (h), Prohibited Uses, all of which are incorporated herein as if fully set forth.
 - (2) Such facilities as above which exist within the district at the time of enactment of a district shall provide copies of all federal, state and local facility operation approval or certificates and ongoing environmental monitoring results to the Village.
 - (3) Such facilities as above which exist within the district at the time of enactment of a district shall provide environmental or safety structures/monitoring to include an operational safety plan, hazardous material containment, best management practices, stormwater runoff management and groundwater monitoring.
 - (4) Such facilities as above which exist within the district at the time of enactment of a district shall replace equipment, or expand on the site or property of record associated

- with the facility at the time of enactment of a district, in a manner that improves the environment and safety technologies already being utilized.
- (5) Such facilities as above which exist within the district at the time of enactment of a district shall have the responsibility to devising, filing and maintaining, with the Village, a current contingency plan which details how they intend to respond to any emergency which occurs at their facility, including notifying municipal, county and state officials.
 - (6) Such facilities as above cannot engage in or employ a use, activity, or structure listed in Subsection (h), Prohibited Uses, which they did not engage in or employ at the time of enactment of a district, and can only expand those present uses, activities, or structures on the site or property of record associated with the facility at the time of enactment of a district, and in a manner that improves the environmental and safety technologies already being utilized.
- (j) **Conditional Uses.** Any individual, person, partnership, corporation, or other legal entity and/or facility may request that the Village Board grant a Conditional Use Permit for certain uses, activities and structures within the Wellhead Protection Overlay District.
- (1) All requests shall be made in writing to the Plan Commission and shall include:
 - a. A site plan map with all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and two (2) foot ground elevation contours.
 - b. A business plan and/or other documentation which describes in detail the use, activities, and structures proposed.
 - c. An environmental assessment report prepared by a licensed environmental engineer which details the risk to, and potential impact of, the proposed use, activities and structures on groundwater quality.
 - d. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring.
 - e. A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.
 - (2) All Conditional Use Permits granted under this Section shall be subject to conditions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply, and/or bonds and/or sureties satisfactory to the Village. These conditions shall include, but not be limited to:
 - a. Provide current copies of all federal, state and local facility operation approval or certificates and ongoing environmental monitoring results to County Emergency Government and the Village of Elmwood.
 - b. Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.

- c. Replace equipment or expand in a manner that improves the environmental and safety technologies being utilized.
 - d. Devise, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to County Emergency Government and the Village of Elmwood.
- (3) The individual, person, partnership, corporation, or other legal entity and/or facility making the request shall reimburse the Village for consultant fees and Plan Commission expenses associated with this review at the invoiced amount, plus administrative costs.
 - (4) The Village Board shall decide upon a request for a Conditional Use Permit only after full consideration of the recommendations made by the Village Plan Commission. Any condition above and beyond those specified in Subsection (j), Conditional Uses, that are recommendation by the Plan Commission or established by the Village Board may be applied to the granting of the Conditional Use Permit. (See Article D.)
- (k) **Violations, Enforcement and Penalties.**
- (1) It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this Section. In case of any violation, the Village Board shall institute appropriate action or proceeding to enjoin a violation of this Section.
 - (2) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Section shall, upon conviction thereof, forfeit to the Village of Elmwood, a penalty as prescribed in Section 1-1-6. Each and every day of violation shall constitute a separate offense in addition to any penalties. Compliance with this Section is mandatory, and no building, structure or use shall be allowed without full compliance.
 - (3) In the event any individual, person, partnership, corporation, or other legal entity (hereinafter "individual") that owns an Existing Facility Which May Cause or Threaten to Cause Environmental Pollution, or any individual and/or facility possession a Conditional Use Permit under the provisions of Subsection (j), Conditional Uses, and that individual/facility causes, or is the site of, the release of any contaminants which endanger the municipal water supply associated with a Wellhead Protection Overlay District, the activity causing said release shall immediately cease and a cleanup satisfactory to the Village shall occur.
 - (4) The individual/facility shall be responsible for all costs of cleanup, Village consultant or outside contractor fees, fees at the invoice amount plus administrative costs for oversight, review and documentation, plus the following:
 - a. The cost of Village employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Village representing the Village's cost for expenses, benefits, insurance, sick leave, holidays, workman's compensation, holidays, overtime, vacation, and similar benefits.

- b. The cost of Village equipment employed in the cleanup.
- c. The cost of mileage incurred on Village vehicles used in any activity related to the cleanup, or of mileage fees reimbursed to Village employees attributed to the cleanup.

Sec. 13-1-56 AEO Adult Entertainment Overlay District.

(a) Authority.

- (1) The Village Board has authority, to be liberally construed in favor of the Village, under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, morals, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
- (2) The Village Board recognizes it lacks authority to regulate obscenity under Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
- (3) Adult establishments in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
- (4) The Village Board recognizes the U.S. Supreme Court has held that material with adult content is within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
- (5) However, the Village Board is aware, based on the experiences of other communities, that adult establishments may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Elmwood; and
- (6) Among these secondary effects are:
 - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
 - b. The potential depreciation of property values in neighborhoods where adult establishments featuring nude dancing exist;
 - c. Health risks associated with the spread of sexually transmitted diseases; and

- d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and
 - (7) The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Elmwood; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
 - (8) The Village Board has determined that the enactment of a zoning ordinance provision allowing adult establishments viable areas in which to exist within the Village while keeping those adult establishments separated from each other, residential areas, schools, churches, day care centers, or bars or taverns, promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such adult establishments.
- (b) **Purpose.** The purpose of the AEO Adult Entertainment Overlay District is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the Village so as not to suppress their existence.
- (c) **Definitions.** For purposes of this District, the following definitions shall be applicable:
- (1) **Adult Establishment.** Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
 - (2) **Adult Bookstore.** An establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
 - (3) **Adult Entertainment.** Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
 - (4) **Adult Motion Picture Theater.** Any establishment for the presentation of motion pictures that as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.
 - (5) **Adult Novelty Store.** Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex

toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.

(6) **Specified Anatomical Areas.** Means either:

- a. Less than completely and opaquely covered human genitals pubic region.
- b. Human male genitals in a discernible turgid state, even if opaquely covered.
- c. Less than completely and opaquely covered nipples or areolas of the human female breast.

(7) **Specified Sexual Activities.** Means simulated or actual:

- a. Showing of human genitals in a state of sexual stimulation or arousal; or
- b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
- c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(8) **Substantial.** Forty percent (40%) or more of business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary records, receipts and documentation to the Village upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.

(d) **Location.**

(1) No adult establishment shall be located:

- a. Within any zoning district other than general commercial, limited commercial, highway commercial, industrial, and heavy industrial.
- b. Within two hundred fifty (250) feet (plus) feet of an existing adult establishment.
- c. Within two hundred fifty (250) feet of any dwelling as defined by this Zoning Code.
- d. Within two hundred fifty (250) feet of any pre-existing school, church or daycare, as defined in this Zoning Code.
- e. Within two hundred fifty (250) feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.

(2) For purposes of this District, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another establishment, dwelling, school, church, daycare or establishment selling or dispensing fermented malt beverages or intoxicating liquor.

(e) **Hours of Operation.**

- (1) No adult establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, between the hours of 2:30 a.m. and 8:00 a.m. on Saturdays, or between the hours of 2:30 a.m. and 12:00 noon on Sundays.

- (2) All adult establishments shall be open to inspection at all reasonable times by the Police Department, Zoning Administrator and/or other Village representatives.

Sec. 13-1-57 E-1 Mineral Extraction or Landfill Overlay District.

- (a) **Purpose.** The intent of this District is to provide a means of properly siting, regulating and reclaiming mineral extraction and landfill sites.
- (b) **Permitted Uses.** Mineral extraction operations and landfill sites that are presently in existence, provided that applicable provisions of this Section are complied with.
- (c) **Conditional Uses.** Conditional uses in the District shall include all conditional uses listed in the underlying district. Conditional use procedures, as described in Article D, shall be adhered to as well as the requirements of this Section, with the more restrictive provision being applicable. In addition, the following are permitted conditional uses:
 - (1) Extension of legally existing mineral extraction operation or the creation of a new such extraction operation.
 - (2) New mineral extraction operations and the following: Landfills; solid waste management facilities, recycling centers; bio-remediation sites; and soil extraction or scraping for purposes of obtaining fill material for such large scale operations as landfill sealing, roadbed construction, etc; or similar uses. These uses shall be a conditional use in all zoning districts except in the R-1, R-2, R-3, R-4, R-5, and R-6 Districts.
- (d) **Basic District Standards.**
 - (1) **Basic Standards.** The basic standards in this District shall be controlled by those of the underlying district unless more restrictive standards are established in the conditional use approval. Also, excavations or fill areas within two hundred (200) feet from any right-of-way or property line shall not be permitted unless the Village Board determines that the operational plans adequately provide for:
 - a. Safety of abutting land uses and for safe ingress to, egress from and traffic flow past the site.
 - b. Aesthetic screening from abutting properties.
 - c. Dust control from the operation and/or any stockpiling.
 - d. Staging of the operation to produce a minimal time frame between commencing of operations and restoration within this two hundred (200) foot area.
 - (2) **Permit Validity; Operational Requirements.** The conditional use permit shall be in effect for a period not to exceed one (1) year and may be renewed upon application for a period not to exceed one (1) year; a shorter period may be established by Village Board action. There shall be an annual fee as prescribed by Section 1-3-1 for such permit. Modifications or additional conditions may be imposed upon application for renewal. Operational requirements shall include the following where applicable, and all require Village Board approval:

- a. Fencing or other suitable barriers shall be erected as necessary to protect the public.
 - b. Machinery, roads and equipment used in the extractive operation shall be constructed, maintained and operated in such a manner as to minimize dust.
 - c. Crushing, washing, refining or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.
 - d. Planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Village and other applicable agencies.
 - e. Hours of operation may be established and enforced by the Village Board.
 - f. Other requirements deemed necessary by the Village Board.
- (3) **Plan of Reclamation.** A reclamation plan meeting the standards of NR 135, Wis. Adm. Code, shall be submitted and approved by all applicable agencies and the Village Board.
- (e) **Existing Operations.** Existing operations shall be subject to the following further requirements:
- (1) **Permit.** Within sixty (60) days after the original adoption of this Section all existing extractive operations shall be required to register with the Zoning Administrator, submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A permit shall be granted to such existing operation, subject to compliance with the operational requirements, listed above where they can be reasonably applied under existing circumstances.
 - (2) **Plan for Restoration.** There shall be required within one (1) year after original adoption of this Section, the submission of a plan for restoration of the site of existing extractive operation as provided above. The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Section.
- (f) **Renewal Permit.** Within one year after the original enactment date of this Section, any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this Section.
- (g) **Plan of Operation.** All mineral extraction operations including those operations and activities which lawfully existed prior to the original adoption of this Section shall prepare a plan of operation for the site which shall include the following information:
- (1) Statement of ownership of the parcel and control of the operations.
 - (2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.

- (3) Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations.
 - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
 - (5) Methods of screening from adjacent properties and proximity to adjacent properties.
 - (6) Hours of operation and, if applicable, a phasing plan for future operations.
 - (7) Dust and noise control.
 - (8) Maximum depth.
 - (9) Blasting procedures.
 - (10) Location and height of stockpiles.
 - (11) Such other information the Village Board deems pertinent to the operation.
- (h) **Gravel Crushing; Permit Requirement.** In addition to all other conditional use permit and other requirements prescribed in this Section, an annual permit is required for the placement or operation at any mineral extraction site of any portable or fixed gravel crushing equipment. Such gravel crushing operation permit shall be valid for one (1) year; the Village Board may attach reasonable conditions to such permit. The annual fee for the permit shall be as prescribed in Section 1-3-1.
- (i) **Definitions.** As used in this Section:
- (1) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
 - (2) **Nonmetallic Mining or Mineral Extraction Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
 - (3) **Nonmetallic Mining or Mineral Extraction Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining or mineral extraction operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining or mineral extraction operation.
 - (4) **Nonmetallic Mining or Mineral Extraction Site.** The location where a nonmetallic mining or mineral extraction operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the mineral extraction operation by activities such as the construction or improvement of roads or haulageways.
 - (5) **Operator.** Any person who is engaged in a mineral extraction operation or mineral extraction site reclamation or who applies for or holds a nonmetallic mining permit issued under this mineral extraction reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

- (6) **Reclamation.** The rehabilitation of a mineral extraction site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
 - (7) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a mineral extraction operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.
- (j) **Exempt Activities.** The reclamation of sites within this District shall not apply to the following activities:
- (1) Excavations or grading by a person solely for domestic use at his or her residence.
 - (2) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
 - (3) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
 - (4) Excavations for building construction purposes.
 - (5) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
 - (6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.
- (k) **Financial Assurance.** Before rezoning and a reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.
 - (2) Guaranteed completion of the required reclamation within a period determined by the Village Board.
 - (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Attorney, as well as other costs of a similar nature.
 - (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
 - (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the Village Engineer's estimated cost of the required improvements.

- (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- (l) **Fences.** Prior to reclamation, mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (m) **Inspection.** An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Section.
- (n) **Prohibitions and Orders.** Mineral extraction mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Section or if other requirements of this Section are not met.

State Law Reference: NR 135, Wis. Adm. Code.

Sec. 13-1-58 through Sec. 13-1-59 Reserved for Future Use.