

**DECISION OF LINCOLN COUNTY
ZONING BOARD OF ADJUSTMENT**

Application #: 16-04 Parcel #: 12.283507.005.009
 Filing Date: 10/21/04 Hearing Date: 11/18/04
 Notice Dates: 10/26/04 & 11/2/04 **ZONING VARIANCE**

FINDINGS OF FACT

Having heard the testimony and considered the evidence presented, the Board finds the following facts:

1. The applicant is: _____
 (provide name and address) _____

2. The applicant is the [owner] [lessee] of the following described property which is the subject of the application or appeal: NE 1/4 of the NW 1/4 (or Gov Lot), Section 28, T 35 N, R 07 E, Town of King, Lincoln County known as (rural address, CSM, or other description): _____

3. The property is presently being used as a Residential use and is a X permitted use in the zoning district; or a = a legal non-conforming use in the zoning district in which it lies.

4. The existing structure does; or does not conform to current zoning standards. N/A

5. The applicant proposes (brief description / attach plans):
Proposes to build a garage setback less than 75 feet from the centerline of Horseshoe Road.

6. The applicant requests a variance to the following section of the Lincoln County Zoning Ordinance (attached): 17.22 (1) (c) (2)

7. What specific departure from the ordinance is being proposed (refer to the standards of the ordinance):
Reduce the road setback less than 75 feet to the centerline of Horseshoe Road.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Board draws the following conclusions:

- A. Are the restrictions placed on the property unnecessarily burdensome, preventing the owner from using the property for a permitted purpose?

Yes X or, No =. If yes, why is it unnecessarily burdensome?

Setback restrictions prevent him from building a garage in a compliant location.

- B. Do physical limitations of the property prevent compliance with the ordinance standards?

Yes X or, No =. Why?

Wetland and narrow dimension between the wetland and road.

- C. Could the applicant's request have potential negative impacts to surrounding lands, their uses or the environment? Yes X or, No =. If yes, then how may the impacts be minimized or mitigated?

Closeness to the road could create a hazard. Could move further back onto the property if the soil is deemed unsuitable for a sanitary system.

ORDER AND DETERMINATION

On the basis of the above findings of fact, conclusions of law and the record in this matter the Board orders the requested variance is granted subject to the following conditions: ~~[denied]~~, or ~~[held over]~~ until _____ provided the following additional information is ~~supplied~~:

1. The garage be constructed no closer than 40 feet from the centerline of Horseshoe Road.

2. But first a soil test must be performed in the area between the proposed garage and wetland edge to prove that an onsite waste treatment system would be suitable in that location. If the area is proven to be unsuitable for an onsite waste treatment system then the garage must be constructed at a minimum setback

The Zoning Administrator is directed to issue a zoning permit incorporating these conditions. of 65 feet from the centerline of Horseshoe Road.

Any privilege granted by this decision must be exercised within 2 years of the date of the decision by obtaining necessary land use, sanitary and other permits for the proposed construction. If not exercised within the allowed time, the permit and/or other privilege shall be automatically null and void. Extension for exercise of the permit or privilege may be granted by the Board upon written request by the applicant.

This order may be revoked by the Board after notice and opportunity to be heard for violation of any of the conditions imposed.

This decision may be appealed by filing an action in certiorari in the Lincoln County Circuit Court within 30 days after the date of filing of this decision. Lincoln County assumes no liability for and makes no warranty as to reliance on this decision of construction is commenced prior to expiration of this 30 day period.

ZONING BOARD OF ADJUSTMENT

Signed Lynn Lamer
Chairperson

Attest [Signature]
Secretary

Dated: 11/18/04

Filed: 11/19/04

Topical Index



A

administrative appeal 2, 8, 11, 12, 21, 26, 27, 51, 52, 79, 81, 85, 104, 109, 111, 113, 124, 126, 129, 136, 138, 142, 164, 165
 administrative rule 114, 141, 151
 aggrieved 81, 82, 85, 92, 93, 103, 114, 117
 alternate 15, 17, 18, 45, 62, 84, 88, 132
 appeal 8, 11, 15, 21, 27, 31, 33, 40, 44, 51, 53, 62, 63, 67, 79, 80, 81, 82, 84, 85, 92, 100, 104, 109, 113, 114, 115, 116, 118, 120, 121, 124, 126, 131, 165
 application 2, 51, 52, 53, 56, 57, 62, 68, 104, 124, 126, 127, 131, 138, 182
 application form 24, 96
 area 15, 29, 34, 54, 60, 83, 96, 97, 98, 101, 102, 103, 104, 110, 111, 112, 132, 144, 146, 147
 area variance 97, 101, 103, 104, 110. *See also* use variance; variance
 attorney ii, 29, 41, 113, 157
 Attorney General 29, 157
 audit 2, 136, 137
 authority 5, 11, 12, 13, 23, 25, 27, 33, 41, 43, 62, 63, 79, 88, 91, 92, 95, 119, 137, 159

B

board. *See* county board; town board; village board
 board of adjustment 1, 8, 11, 15, 95
 board of appeals 1, 8, 11, 15, 95
 boundary interpretation 85
 burden of proof 66, 79, 96, 130
 bylaw 23, 30, 45, 46, 47, 48, 49, 64, 67

C

case 1, 2, 3, 10, 11, 12, 18, 19, 23, 24, 27, 31, 34, 37, 38, 41, 44, 45, 48, 49, 51, 57, 62, 63, 64, 66, 68, 71, 83, 87, 89, 92, 93, 95, 96, 98, 100, 102, 103, 114, 115, 116, 120, 128, 130, 131, 132, 133, 139, 142, 157, 158, 159, 160, 161, 162, 164
 case law 2, 3, 10, 23, 24, 38, 44, 45, 57, 66, 87, 95, 96, 100, 128, 131, 133, 139, 159, 164
 case law index 205
 certiorari 115, 119, 121
 circuit court 2, 13, 63, 66, 73, 79, 85, 91, 93, 103, 113, 114, 115, 116, 117, 118, 120, 122
 city council 138
 class 1 notice 31
 class 2 notice 31, 49

Index

- closed session 25, 26, 27, 28, 29, 33, 35, 47, 49, 71, 132
- comprehensive plan 9, 21, 22, 135
- condition 11, 45, 57, 59, 60, 62, 63, 66, 68, 79, 87, 89, 90, 91, 100, 101, 110, 129, 131, 136, 142, 144, 146, 148, 154
- conditional use 2, 7, 11, 12, 13, 25, 27, 31, 33, 34, 39, 40, 41, 51, 52, 59, 60, 63, 75, 79, 80, 87, 88, 89, 90, 91, 92, 93, 95, 104, 110, 111, 116, 119, 124, 125, 126, 129, 136, 138, 142, 163, 164
- contested case 44, 64, 71
- contractor 127, 146
- counsel 1, 27, 34, 39, 44, 49, 84, 132, 139
- county board 15, 43, 138
- court 2, 3, 12, 13, 24, 32, 35, 39, 62, 63, 64, 66, 68, 73, 79, 81, 84, 85, 88, 91, 93, 100, 103, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 128, 159, 160, 161
- D**
- DATCP 34
- decision 2, 8, 10, 11, 12, 13, 16, 17, 24, 25, 26, 28, 29, 31, 34, 35, 37, 38, 39, 40, 45, 50, 51, 53, 56, 60, 62, 63, 65, 66, 67, 68, 72, 73, 75, 76, 77, 79, 80, 81, 82, 85, 88, 91, 92, 93, 98, 100, 103, 104, 109, 113, 114, 115, 116, 117, 119, 120, 121, 122, 124, 127, 130, 131, 132, 133, 136, 161, 164
- decision form 62, 67, 68
- de novo 92, 116, 117
- design standard 7, 12, 13, 89, 110
- developer 17, 18, 67, 82, 90, 124, 127
- dimension 11, 12, 22, 87, 95, 97, 101, 104, 112, 130
- disabled 2, 25, 110
- discretion 75, 103, 111, 118
- division 9, 13, 103
- DNR 13, 30, 34, 81, 82, 114, 149, 150, 151, 158, 162
- due process 17, 37, 38, 40, 41, 48
- E**
- economic 1, 6, 38, 100, 152, 154
- education 16, 18, 22, 44, 124, 125, 127, 132, 133, 137, 139
- enforcement 6, 22, 35, 89, 90, 124, 129, 131, 136, 182
- essential nexus 90, 101
- ethics 2, 23, 27, 41, 49, 65, 133
- evidence 28, 33, 38, 45, 63, 64, 65, 66, 68, 73, 75, 79, 85, 92, 116, 117, 118, 119, 122, 124, 127, 151, 164
- expansion 102, 148
- ex parte communication 17, 40, 44, 62, 65
- F**
- filing 43, 63, 81, 85, 93, 103, 114, 116, 122, 131
- financial hardship 100
- flexibility 11, 12, 75, 89, 103
- floodplain 2, 9, 13, 30, 34, 54, 97, 114, 141, 151, 152, 153, 158, 162
- form 2, 9, 21, 24, 37, 45, 53, 62, 67, 68, 96, 98, 130, 131, 139, 155, 160, 162, 165
- G**
- general zoning 5, 6, 8, 12, 13, 21, 104
- governing body 8, 9, 12, 13, 15, 17, 18, 19, 24, 25, 26, 28, 43, 51, 76, 81, 82, 84, 88, 91, 93, 111, 124, 125, 130, 132, 136, 138, 139, 163, 164
- H**
- hearing 18, 27, 28, 30, 31, 32, 33, 34, 38, 39, 40, 48, 49, 50, 52, 53, 56, 62, 63, 65, 68, 71, 73, 79, 81, 88, 91, 103, 115, 117, 118, 119, 126, 130, 137, 138, 182
- I**
- impartial 16, 38, 39, 65
- incorporated 15, 30
- index of case law. *See case law index*
- J**
- judicial appeal 79, 109
- jurisdiction 25, 62, 83, 84, 92, 111, 115, 119
- L**
- land division 9, 13, 103
- land use ii, 1, 5, 6, 7, 9, 12, 16, 17, 38, 57, 59, 82, 87, 91, 100, 104, 125, 127, 128, 129, 132,

142, 158
 lawsuit 115
 liability 35
 limitation 7, 59, 66, 90, 91, 96, 97, 102, 112, 182

M

media 29, 33, 34, 35, 127, 128
 meeting 2, 18, 19, 23, 25, 26, 27, 28, 29, 30, 32, 33,
 34, 27, 34, 35, 39, 40, 44, 47, 60, 61, 62, 63,
 65, 68, 69, 71, 73, 119, 126, 127, 130, 132,
 133, 138, 157
 minutes 35, 39, 62, 64, 68, 69, 124, 138
 misconduct 41
 mitigation 12, 59, 101

N

negative quorum 26, 47. *See also* quorum; walking
 quorum
 notice 19, 25, 28, 29, 30, 31, 32, 33, 34, 35, 38, 44,
 45, 47, 49, 52, 53, 56, 60, 62, 63, 67, 71, 73,
 81, 82, 88, 91, 103, 119, 124, 126, 130, 131,
 132, 138, 157
 numbers test 25, 26, 49

O

objection 100
 open meetings law 2, 19, 23, 25, 26, 28, 29, 30, 34,
 35, 47, 60, 65, 71, 73, 130, 132
 operating rules 2, 23, 48, 49

P

performance standard 148
 permitted use 7, 124, 136
 plan committee/commission 8, 9, 76, 82, 91, 92, 111,
 125, 130, 136, 139, 164
 police power 5
 posting 28, 30, 31, 33, 49, 82, 126
 private interest 103
 procedure 1, 2, 5, 6, 8, 18, 22, 23, 24, 27, 30, 33,
 34, 35, 44, 47, 48, 62, 71, 76, 92, 117, 119,
 122, 126, 129, 138, 139
 property 1, 5, 8, 9, 33, 34, 53, 54, 56, 59, 60, 63,
 66, 69, 81, 85, 91, 95, 96, 97, 98, 100, 102,
 103, 104, 112, 114, 131, 132, 142, 143, 146,

147, 152, 153, 154, 182
 property right 5, 91, 103
 public ii, 1, 5, 6, 10, 12, 13, 17, 18, 19, 23, 25, 26,
 27, 28, 29, 30, 31, 33, 35, 39, 40, 41, 44, 45,
 49, 52, 53, 54, 60, 61, 62, 63, 68, 69, 71, 73,
 76, 84, 88, 90, 96, 97, 98, 103, 112, 114, 115,
 117, 119, 122, 124, 126, 128, 133, 137, 138,
 142, 149, 159, 161, 182
 public interest 35, 90, 96, 97, 98, 112, 142, 182
 public notice 19, 28, 29, 31, 44, 53, 60, 62, 73, 88,
 103, 119, 124, 138
 public records law 19, 23, 133
 purpose test 25, 26, 49, 60

Q

quorum 26, 44, 45, 47, 49, 62, 67. *See also* negative
 quorum; walking quorum

R

rationale 35, 45, 52, 67, 72, 85, 90, 116, 124, 125,
 126, 130, 138
 reasonable accommodation 110, 112
 reasonable use 96, 101, 102, 103, 112
 reconsider 68, 114
 reconvene 28, 29, 33
 record 19, 28, 38, 40, 50, 59, 62, 63, 64, 65, 66, 67,
 68, 72, 79, 85, 92, 113, 115, 116, 117, 118,
 119, 127, 130, 164
 recuse 39, 48
 rehear 68, 72
 remand 91, 92, 113, 116, 117, 118, 121, 122
 removal 18, 44, 148, 149
 residents 38, 98, 114, 124, 126, 138, 142
 rough proportionality 90, 101

S

self-imposed hardship 100
 setback 95, 101, 104, 149, 181, 182, 184, 193
 shoreland ii, 2, 6, 8, 9, 12, 13, 21, 30, 34, 54, 141,
 97, 114, 150, 147, 141, 142, 144, 146, 147,
 148, 149, 150, 153, 158, 159, 162
 shoreland-wetland 9, 13
 site inspection 60, 62, 63, 71
 solid waste 13

Index

special exception 11, 12, 21, 31, 33, 34, 87, 109
staff report 57, 60, 62, 85
standing 114, 115, 132, 152
statute 3, 5, 8, 10, 12, 13, 15, 17, 23, 26, 27, 30, 32,
41, 43, 44, 45, 48, 49, 52, 56, 57, 73, 81, 82,
84, 92, 93, 95, 98, 104, 113, 114, 123, 127,
128, 131, 133, 141, 159, 160, 164
stay 81, 116
stormwater 9, 54, 56, 89
subdivision 9, 12, 59, 98, 103
surplus language 83, 111

T

taking 41, 60, 91, 124, 128, 138
testimony 19, 26, 28, 29, 33, 39, 40, 45, 63, 64, 65,
84, 88, 111, 121, 132
town board 15, 18, 39, 43, 93, 138

U

unique property limitation 66, 102
unnecessary hardship 96, 97, 182
use variance 7, 95, 96, 98, 101, 103, 104, 110, 112
UW-Extension ii, 59, 124, 126, 128, 150, 158

V

variance 2, 7, 8, 11, 12, 13, 21, 25, 27, 31, 33, 34,
40, 51, 52, 53, 59, 60, 63, 66, 67, 71, 75,
89, 95, 96, 97, 98, 100, 101, 102, 103, 104,
109, 110, 111, 112, 119, 124, 126, 129, 131,
138, 142, 148, 149, 164, 165, 181, 182. *See*
also area variance; use variance
vest 25
village board 125, 138
voting 17, 18, 19, 25, 27, 28, 35, 38, 39, 40, 45, 62,
65, 67, 71

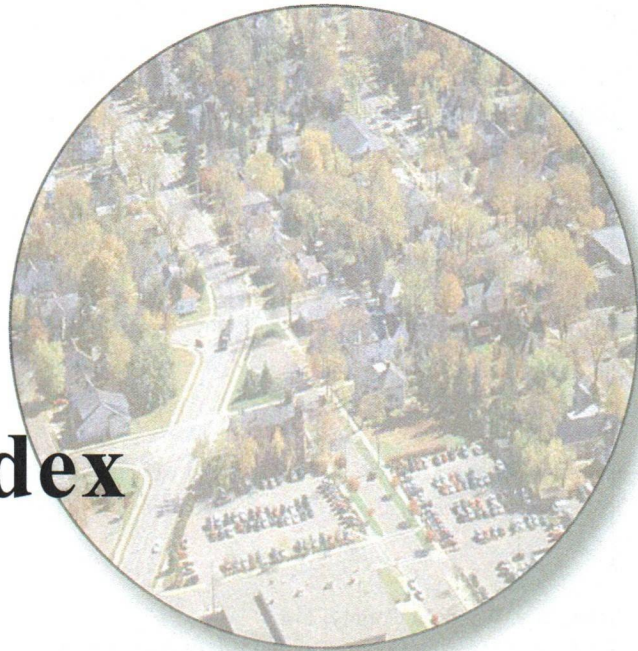
W

walking quorum 26, 47. *See also* negative quorum;
quorum
witness 62, 64
writ 115

Z

zoning administrator 7, 8, 10, 19, 28, 56, 62, 69, 75,
79, 112, 115, 124
zoning staff 19, 24, 34, 51, 52, 56, 57, 60, 73, 97,
124, 125, 126, 128, 130, 133, 137, 138, 139

Case Law Index



A

Arndorfer v. Sauk County Bd. of Adjustment 96, 97, 98, 100

B

Bd. of Regents v. Dane County Bd. of Adjustment 116
Bettendorf v. St. Croix County Bd. of Adjustment 114
Bi-Metallic Inv. Co. v. State Bd. of Equalization 37

C

Clark v. Waupaca County Bd. of Adjustment 116, 118

D

Dolan v. City of Tigard 90

F

Fabyan v. Waukesha County Bd. of Adjustment 95
Forest County v. Goode 69

G

Gloudeman v. City of St. Francis 32
Goldberg v. Milwaukee Bd. of Zoning Appeals 68, 102

J

Just v. Marinette County 114

K

Kaiser v. City of Mauston 84
Kammes v. State, Mining Inv. & Local Impact Fund Bd. 114
Keen v. Dane County Bd. of Supervisors 39
Klinger v. Oneida County 118
Kraemer & Sons v. Sauk County Bd. of Adjustment 87, 89

L

Lamar Central Outdoor, Inc. v. Bd. of Zoning Appeals of Milwaukee 67, 69
League of Women Voters v. Outagamie County 92
Londoner v. Denver 38

M

Magnolia Township v. Town of Magnolia 88
Marris v. Cedarburg 38, 39, 116
Mendonca v. DNR 114
Mills v. Vilas County Bd. of Adjustment 115
Miswald v. Waukesha County Bd. of Adjustment 56, 115

Index

N

- Nielsen v. Waukesha County Bd. of Supervisors 116
- Nollan v. California Coastal Commission 90
- Nova Services v. Village of Saukville 132

O

- Old Tuckaway Assocs. Ltd. Partnership v. City of Greenfield 38
- Osterhues v. Bd. of Adjustment for Washburn County 79, 92

R

- Rainbow Springs Golf Co. v. Town of Mukwonago 91
- Roberts v. Manitowoc County Bd. of Adjustment 40

S

- Schalow v. Waupaca County 116
- Snyder v. Waukesha County Zoning Bd. of Adjustment 97, 100, 104
- State ex rel. Brookside Poultry Farms, Inc. v. Jefferson County Bd. of Adjustment 81, 82, 114
- State ex rel. DNR v. Walworth County Bd. of Adjustment 82, 114
- State ex rel. Markdale Corp. v. Bd. of Appeals of Milwaukee 95, 100
- State ex rel. Skelly Oil Co. v. City of Delafield 87, 164
- State ex rel. Spinner v. Kenosha County Bd. of Adjustment 97
- State ex rel. Ziervogel v. Washington County Bd. of Adjustment 95, 97, 98, 104, 116, 118, 127
- State v. Kenosha County Bd. of Adjustment 96, 97, 98, 101, 104
- State v. Ozaukee County Bd. of Adjustment 100
- State v. Tronca 41
- State v. Waushara County Bd. of Adjustment 95, 98, 104, 116, 118, 127
- State v. Winnebago County 98, 100
- Step Now Citizens Group v. Town of Utica Planning & Zoning Comm. 9

T

- Tateoka v. City of Waukesha Bd. of Zoning Appeals 68
- Thalhofer v. Patri 101
- Town of Hudson v. Hudson Town Bd. of Adjustment 93

V

- Von Elm v. Bd. of Appeals of Hempstead 100

W

- Weber v. Town of Saukville 52, 88, 116

Title 13 ► Chapter 1

Zoning Code

Article A

Introduction

13-1-1	Authority
13-1-2	Short Title
13-1-3	Purpose
13-1-4	Intent
13-1-5	Abrogation and Greater Restrictions
13-1-6	Interpretation
13-1-7	Effective Date
13-1-8	Definitions
13-1-9 through 13-1-19	Reserved for Future Use

Article B

General Provisions

13-1-20	Jurisdiction and Compliance
13-1-21	Use Regulations
13-1-22	Reduction or Joint Use
13-1-23	Site Regulations
13-1-24 through 13-1-39	Reserved for Future Use

Article C

Zoning Districts

13-1-40	Zoning Districts Designated
13-1-41	District Boundaries
13-1-42	R-1 Single Family Residential District (Low Density)
13-1-43	R-2 Single-Family Residential (Medium Density)
13-1-44	R-3 Two-Family Residential District
13-1-45	R-4 Multiple Family Residential District
13-1-46	R-5 Mobile Home Park District

13-1-47	R-6 Residential Estate District
13-1-48	C-1 Conservancy District
13-1-49	B-1 General Commercial District
13-1-50	B-2 Highway Commercial District
13-1-51	B-3 Business Park District
13-1-52	I-1 Industrial District
13-1-53	A-1 Agricultural District
13-1-54	PUD Planned Unit Development District
13-1-55	WP Wellhead Protection Overlay District
13-1-56	AEO Adult Entertainment Overlay District
13-1-57	E-1 Mineral Extraction or Landfill Overlay District
13-1-58 through	
13-1-59	Reserved for Future Use

Article D

Conditional Uses

13-1-60	Statement of Purpose — Conditional Uses
13-1-61	Authority of the Plan Commission and Village Board; Requirements
13-1-62	Initiation of Conditional Use
13-1-63	Application for Conditional Use
13-1-64	Hearing on Application
13-1-65	Notice of Hearing on Application; Determination
13-1-66	Standards — Conditional Uses
13-1-67	Denial of Application for Conditional Use Permit
13-1-68	Conditions and Guarantees
13-1-69	Validity of Conditional Use Permit
13-1-70	Complaints Regarding Conditional Uses
13-1-71	Bed and Breakfast Establishments
13-1-72	Home Occupations/Professional Home Offices
13-1-73 through	
13-1-79	Reserved for Future Use

Article E

Nonconforming Uses, Structures and Lots

13-1-80	Existing Nonconforming Uses
13-1-81	Existing nonconforming Structures
13-1-82	Changes and Substitutions
13-1-83	Pre-Existing Substandard Lots
13-1-84 through	
13-1-89	Reserved for Future Use

13-1-124	Odor
13-1-125	Fire and Explosive Hazards
13-1-126	Air Pollution
13-1-127	Hazardous Pollutants
13-1-128	Radioactivity and Electrical Disturbances
13-1-129	Refuse

Article I Signal Receiving Antennas; Wind Energy Systems; Wireless Telecommunications Systems

13-1-130	Signal Receiving Antennas
13-1-131	Conditional Use Permits Required — Wind Energy Systems
13-1-132	Permit Procedure — Wind Energy Systems
13-1-133	Specific Requirements Regarding Wind Energy Systems
13-1-134	Wireless Telecommunications Systems
13-1-135 through 13-1-139	Reserved for Future Use

Article J Accessory Uses and Structures; Fences; Swimming Pools

13-1-140	Accessory Uses or Structures
13-1-141	Outside Storage of Firewood
13-1-142	Fences and Hedges
13-1-143	Swimming Pools and Hot Tubs
13-1-144	Retaining Walls
13-1-145 through 13-1-149	Reserved for Future Use

Article K Modifications

13-1-150	Height Modifications
13-1-151	Yards Modifications
13-1-152 through 13-1-169	Reserved for Future Use

Article F Traffic Visibility, Loading, Parking and Access

13-1-90	Traffic Visibility
13-1-91	Loading Requirements
13-1-92	Parking Requirements
13-1-93	Highway Access
13-1-94	Storage and Parking of Recreational Vehicles
13-1-95	Storage of Tractors and Road Machinery
13-1-96 through	
13-1-99	Reserved for Future Use

Article G Signs and Billboards

13-1-100	Purpose of Sign, Canopy and Awning Regulations
13-1-101	Signs, Canopies, Awnings and Billboards — Definitions
13-1-102	Required Permits for Signs, Canopies, Awnings and Billboards
13-1-103	Signs Not Requiring a Permit
13-1-104	Residential Signs Requiring a Permit
13-1-105	Commercial and Industrial Signs Requiring a Permit
13-1-106	Special Sign Requirements
13-1-107	Awnings and Canopies
13-1-108	Prohibited Features
13-1-109	Prohibited or Restricted Signs
13-1-110	Nonconforming Signs
13-1-111	Dangerous and Abandoned Signs
13-1-112	Construction and Maintenance Regulations for Signs
13-1-113	Variances or Exceptions
13-1-114	Violations of Sign Code
13-1-115 through	
13-1-119	Reserved for Future Use

Article H Performance Standards — Industrial Developments

13-1-120	Article Intent
13-1-121	Noise
13-1-122	Vibration
13-1-123	Glare and Heat

Article L

Administration

- 13-1-170** General Administrative System
- 13-1-171** Zoning Administrator
- 13-1-172** Role of Specific Village Officials in Zoning Administration
- 13-1-173** Zoning Permit
- 13-1-174** Site Plan Approval
- 13-1-175** Violations and Penalties
- 13-1-177 through**
- 13-1-179** Reserved for Future Use

Article M

Changes and Amendments to the Zoning Code

- 13-1-180** Authority
- 13-1-181** Initiation of Changes and Amendments
- 13-1-182** Protest
- 13-1-183 through**
- 13-1-189** Reserved for Future Use

Article N

Appeals

- 13-1-190** Appeals to the Zoning Board of Appeals
- 13-1-191** Hearing of Appeals
- 13-1-192** Decisions of Board of Appeals
- 13-1-193** Variances
- 13-1-194** Review by Court of Record

Article A: Introduction; Definitions

Sec. 13-1-1 Authority.

These regulations are adopted under the authority granted by Secs. 61.35 and 62.23(7), Wis. Stats.

Sec. 13-1-2 Short Title.

This Chapter shall be known as, referred to or cited as the "Zoning Code, Village of Elmwood, Wisconsin."

Sec. 13-1-3 Purpose.

The purpose of this Chapter is to promote the health, safety, prosperity, aesthetics and general welfare of the Village of Elmwood.

Sec. 13-1-4 Intent.

It is the general intent of this Chapter to regulate and restrict the use of all structures, lands and waters; and to:

- (a) **Regulate Lot Coverage** and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- (b) **Regulate Population Density and Distribution** so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities;
- (c) **Regulate Parking, Loading and Access** so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (d) **Secure Safety** from fire, flooding, pollution, contamination, and other dangers;
- (e) **Stabilize and Protect** existing and potential property values;
- (f) **Preserve and Protect** the beauty of the Village of Elmwood;
- (g) **Prevent and Control Erosion**, sedimentation, and other pollution of the surface and subsurface waters;
- (h) **Further the Maintenance** of safe and healthful water conditions;
- (i) **Provide for and Protect** a variety of suitable commercial and industrial sites;
- (j) **Protect** the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (k) **Implement** those municipal, county, watershed, and regional comprehensive plans or components of such plans adopted by the Village of Elmwood;

- (1) **Provide** for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

Sec. 13-1-5 Abrogation and Greater Restrictions.

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Chapter imposes greater restrictions, the provisions of the Chapter shall govern.

Sec. 13-1-6 Interpretation.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

Sec. 13-1-7 Effective Date.

This Chapter shall be originally effective after a public hearing, adoption by the Village Board and publication or posting as provided by law.

Sec. 13-1-8 Definitions.

- (a) **General Interpretation.** The following rules of construction apply to this Chapter: words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number; the word "shall" is mandatory and not directory. The word "person" includes individuals, all partnerships, associations, and bodies political and corporate. The word "lot" includes the word "plot" or "parcel" or "tract". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied".
- (b) **Definitions.** The following terms, for purpose of this Chapter shall have the meaning stated below:
 - (1) **Abutting.** Have a common property line or district line.
 - (2) **Accessory Apartment.** A separate complete housekeeping unit that is substantially contained within the structure of a single-family dwelling, but can be isolated from it.

- (3) **Accessory Use or Structure.** A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
- (4) **Acre, Net.** The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within forty-three thousand five hundred sixty (43,560) square feet.
- (5) **Advertising Sign, Outdoor.** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- (6) **Advertising Structure, Outdoor.** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- (7) **Alley.** A special public right-of-way affording only secondary access to abutting properties.
- (8) **Apartment.** A suite of rooms or a room in a multiple dwelling which suite or room is arranged, intended, or designed to be occupied as a residence of a single family, individual, or group of individuals, with separate facilities and utilities which are used or intended to be used for living, sleeping, cooking and eating.
- (9) **Apartment House.** See "Dwelling, Multiple."
- (10) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
- (11) **Authority.** A person, committee, or board to whom the power to issue a permit, or make a determination, decision, or judgment has been delegated.
- (12) **Automobile Wrecking/Salvage Yard.** Any premises on which two (2) or more self-propelled vehicles not in running order or operating condition are stored in the open.
- (13) **Basement or Cellar.** A story partly underground but having at least one-half (1/2) of its height, or five (5) or more feet, below the mean level of the adjoining ground. See COMM Chapters 20, 21 and 22.
- (14) **Bed and Breakfast Establishment.** An owner-occupied, single-family dwelling unit at which overnight sleeping accommodations are offered to travelers by the owner.
- (15) **Boardinghouse.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
- (16) **Building.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

- (17) **Building, Alterations Of.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- (18) **Building Area.** The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.
- (19) **Building, Detached or Accessory.** A building surrounded by open space on the same lot.
- (20) **Building, Front Line Of.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (21) **Building, Height Of.** The vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.
- (22) **Building, Principal.** A building in which the principal use of the lot on which it is located is conducted.
- (23) **Buffer Zone.** A designated neutral area designed to separate conflicting land uses. A natural vegetative screening of trees, shrubs or other plantings is usually employed in such a designated area.
- (24) **Buildable Lot Area.** The portion of a lot remaining after required yards have been provided.
- (25) **Business.** An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.
- (26) **Carport.** An automobile shelter having one or more sides open.
- (27) **Clinic.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.
- (28) **Clothing Repair Shops.** Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.
- (29) **Clothing Stores.** Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.
- (30) **Club.** A building owned, leased or hired by an association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- (31) **Commercial Feed Lot.** Confinement of two hundred (200) or more head of livestock on a farm or other site for the purpose of intensive feeding prior to slaughter or shipment in such concentration that ground vegetation is substantially destroyed where:
 - a. The farm or site does not produce a minimum of sixty percent (60%) of the feed necessary to sustain the herd.

- b. The farm or site is insufficient in size to provide for the disposal of all animal wastes in a manner that they will not run off, seep, percolate, or wash into surface or subsurface waters.
- (32) **Community Living Arrangement.** The following facilities licensed or operated, or permitted under the authority of Wisconsin Statutes: Child welfare agencies under Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.02(7m), Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including Secs. 46.03(22), 59.97(15), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
- (33) **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a principal use in a district, allowed only under conditions specified under this Chapter.
- (34) **Conforming Use.** Any lawful use of a building or lot which complies with the provisions of this Chapter.
- (35) **Court.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.
- (36) **Curb Break.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- (37) **Curb Level.** The level of the established curb in the front of the building measured at the center of such front.
- (38) **Day Care Center.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.
- (39) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to building, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- (40) **District.** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and buildings are uniform.
- (41) **District, Basic.** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.
- (42) **District, Overlay.** Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
- (43) **Double Wide Mobile Home.** A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.

- (44) **Drive-in Restaurant.** An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.
- (45) **Dwelling.** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.
- (46) **Dwelling, Efficiency.** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (47) **Dwelling, One-Family.** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.
- (48) **Dwelling, Two-Family.** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (49) **Dwelling, Multiple.** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums, with the number of families in residence not to exceed the number of dwelling units provided.
- (50) **Dwelling Unit.** A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.
- (51) **Emergency Shelters.** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.
- (52) **Essential Services.** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.
- (53) **Family.** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family, or not to exceed more than four (4) persons if not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Chapter if he is dwelling for the purpose of adoption or for a foster care program.
- (54) **Farm.** Land consisting of five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.
- (55) **Floor Area.** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from

the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

- (56) **Floor Area (Business and Manufacturing Buildings).** For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
- (57) **Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.
- (58) **Frontage.** The smallest dimension of a lot abutting a public street measured along the street line.
- (59) **Garage.** A building or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles.
- (60) **Garage, Public.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- (61) **Gasoline Station.** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.
- (62) **Gift Stores.** Retail stores where items such as art, antiques, jewelry, books, and notions are sold.
- (63) **Grade.** When used as a reference point in measuring height of building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.
- (64) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.
- (65) **Hardware Stores.** Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods and paints are sold.

- (66) **Home Occupation.** Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building thereto and meeting the standards of Section 13-1-72.
- (67) **Hotel.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (68) **House Trailer.** A nonself-propelled vehicle, containing living or sleeping accommodations which is designed and used for highway travel.
- (69) **Junk Yard.** An open space where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.
- (70) **Loading Area.** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley
- (71) **Lodging House.** See "Boardinghouse."
- (72) **Lot.** A parcel of land having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.
- (73) **Lot, Corner.** A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.
- (74) **Lot, Interior.** A lot situated on a single street which is bounded by adjacent lots along each of its other lines.
- (75) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (76) **Lot of Record.** A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Pierce County Register of Deeds and which exists as described therein.
- (77) **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (78) **Lot, Substandard.** A parcel of land held in separate ownership having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Chapter.
- (79) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

- (80) **Lot Width.** The width of a parcel of land measured at the setback line.
- (81) **Lot, Zoning.** A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.
- (82) **Machine Shops.** Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.
- (83) **Marquee or Canopy.** A roof-like structure of permanent nature which projects from the wall of a building.
- (84) **Manufactured Home.** A structure certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:
 - a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
 - b. Is installed in accordance with the manufacturer's instructions;
 - c. Is properly connected to utilities;
 - d. Has an area of at least nine hundred sixty (960) square feet of living space, with a minimum of twenty (20) square feet in width, and is used exclusively as a single-family residence; and
 - e. Meets other applicable standards of this Chapter.
- (85) **Minor Structures.** Any small, movable accessory erection or construction, such as birdhouses; tool houses; pethouses; play equipment; arbors; and walls and fences under four (4) feet in height.
- (86) **Mobile Home.** A manufactured home that is HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (U.S.C. Title 42, Chapter 70). A mobile home is a structure, which is, or was originally constructed, designed to be transportable in one or more sections, which in traveling mode, is eight (8) body feet or more in width or forty (40) body feet in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein and any additions, attachments, annexes, foundations and appurtenances. Excluded from this definition are certified manufactured homes.
- (87) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (88) **Mobile Home Park.** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or

private association, or corporation, and where individual lots are rented to individual mobile home users. A mobile home park is also any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation, regardless of whether or not a charge is made for such accommodation, and including any associated service, storage, recreation and other community service facilities designed for the exclusive use of park occupants.

- (89) **Mobile Home Subdivision.** A land subdivision, as defined by Ch. 236, Wis. Stats., and any Village Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (90) **Motel.** A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.
- (91) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.
- (92) **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.
- (93) **Nonconforming Uses or Structures.** Any structure, use of land, use of land and structure in combination, or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.
- (94) **Nursery.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- (95) **Nursery School.** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.
- (96) **Nursing Home.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- (97) **Other Officially Approved Access.** A private road or easement extending from a private property to a component of the public street system which the Village Plan Commission or Village Board has approved as a primary means of access.
- (98) **Parking Area, Semi-Public.** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

- (99) **Parking Lot.** A structure or premises containing ten (10) or more parking spaces open to the public.
- (100) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- (101) **Parties in Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (102) **Party Wall.** A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.
- (103) **Place.** An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (104) **Places of Assembly.** Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.
- (105) **Planned Residential Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.
- (106) **Property Lines.** The lines bounding a platted lot as defined herein.
- (107) **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare.
- (108) **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed the standards in Section 13-1-72 and only one (1) nonresident person is employed.
- (109) **Railroad Right-of-Way.** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.
- (110) **Recreational Vehicle.** Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:
- a. Is not used as the permanent residence of the owner or occupant;
 - b. Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
 - c. Is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities;
- Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pickup campers, camping buses, and self-contained, self-propelled truck chassis mounted vehicles providing living accommodations.
- (111) **Recreational Vehicle Camp.** A part, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or

- accommodations for any recreational vehicles as defined herein, and upon which said recreational vehicles are parked.
- (112) **Roadside Stand.** A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.
- (113) **School, Private.** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for the mentally handicapped or a college or other institution of higher learning.
- (114) **School, Commercial.** A school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.
- (115) **Seat.** Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.
- (116) **Setback.** The minimum horizontal distance between the lot line and the nearest point of the building or structure. Uncovered steps shall not be included in measuring the setback.
- (117) **Sign, Awning.** A sign that is mounted or painted on, or attached to an awning, canopy, or marquee.
- (118) **Sign, Copy.** The message or advertisement, and any other symbols on the face of a sign.
- (119) **Sign, Face.** The area or display surface used for the message.
- (120) **Sign, Ground.** Any sign placed upon or supported by the ground independent of any other structure.
- (121) **Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable.
- (122) **Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
- (123) **Sign, Roof.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- (124) **Sign, Wall.** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.
- (125) **Sign, Window.** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.

- (126) **Story.** That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.
- (127) **Story, Half.** A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.
- (128) **Street.** A public or private thoroughfare which affords the principal means of access to abutting property.
- (129) **Street Yard.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps. Where the street line is an arc, the street yard shall be measured from the arc. In some ordinances, the street yard is also called a setback.
- (130) **Structure.** Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.
- (131) **Structural Alterations.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.
- (132) **Temporary Structure.** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.
- (133) **Trailer Park.** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.
- (134) **Use.** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.
- (135) **Use, Accessory.** A subordinate use on the same lot which is incidental and customary in connection with the principal use.
- (136) **Use, Nonconforming.** Any use of a building or premises which the effective date of this Chapter does not, even though lawfully establish, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.
- (137) **Use, Principal.** The main use of land or building as distinguished from a subordinate or accessory use.
- (138) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.
- (139) **Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

- (140) **Vending Machine.** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.
- (141) **Village.** The Village of Elmwood, Pierce County, Wisconsin.
- (142) **Vision Setback Area.** An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersecting highway, street or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from the intersection as specified in this Chapter.
- (143) **Yard.** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted. The front and rear yards extend the full width of the lot.
- (144) **Yard, Corner Side.** A side yard which adjoins a public street.
- (145) **Yard, Front.** A yard extending along the full length of the front lot line between the side lot lines.
- (146) **Yard, Interior Side.** A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.
- (147) **Yard, Rear.** A yard extending along the full length of the rear lot line between the side lot lines.
- (148) **Yard, Side.** A yard extending along a side lot line from the front yard to the rear yard.
- (149) **Yard, Street.** Yard abutting a street.
- (150) **Yard, Transitional.** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
- (151) **Zero Lot Line.** The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
- (152) **Zoning District.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

Sec. 13-1-9 through Sec. 13-1-19 Reserved for Future Use.

Article B: General Provisions

Sec. 13-1-20 Jurisdiction and Compliance.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall include all structures, air, lands and water within the corporate limits of the Village of Elmwood, Pierce County, Wisconsin.
- (b) **Compliance.** No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Chapter and all other applicable Village, county and state regulations.

Sec. 13-1-21 Use Restrictions.

The following use restrictions and regulations shall apply:

- (a) **Principal Uses.** Only those principal uses specified for a district, their essential services and the following shall be permitted in that district:
- (b) **Performance Standards.** Performance standards listed in Article H shall be complied with by all uses in all districts.
- (c) **Conditional Uses.** Provisions applicable to conditional uses generally:
 - (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Village Board, upon the recommendation of the Plan Commission, in accordance with Article D of this Chapter excepting those existent at time of adoption of the Zoning Code.
 - (2) Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code require no action by the Plan Commission to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.
 - (3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Village Board, upon the recommendation of the Plan Commission in accordance with Article D.
 - (4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Village Board, upon the recommendation of the Plan Commission, in accordance with Article D.
 - (5) Conditional uses authorized by the Village Board, upon the recommendation of the Plan Commission shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - (6) Conditional uses authorized by the Village Board, upon the recommendation of the Plan Commission, shall not be subject to substitution with other conditional uses,

whether similar type or not, without Board approval and the procedures required in Article D.

(d) **Uses Not Specified in Code.**

- (1) Uses not specified in this Chapter which are found by the Village Board, upon the recommendation of the Plan Commission, to be sufficiently similar to specified permitted uses for a district shall be allowed by the Village Board, upon the recommendation of the Plan Commission.
- (2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board, upon the recommendation of the Plan Commission, public hearing and approval in accordance with Article D.

Sec. 13-1-22 Reduction or Joint Use.

No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

Sec. 13-1-23 Site Regulations.

- (a) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Village Board, in applying the provisions of the Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter, the Village Board may affirm, modify, or withdraw its determination of unsuitability.
- (b) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of forty (40) feet; however, to be buildable, the lot shall comply with the frontage requirements of the Zoning District in which it is located.
- (c) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. Except in any residential lot, the Village Board, upon the recommendation of the Plan Commission, may permit as a conditional use more than one (1) principal structure per lot in any district where more

than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board, upon the recommendation of the Plan Commission, may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.

- (d) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (e) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. This does not apply to adjacent residential districts. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- (f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Village Board, following a recommendation from the Plan Commission; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (g) **Decks/Porches.** For purposes of this Chapter, particularly regarding setbacks, decks and/or porches shall be considered a part of the principal building or structure being served.
- (h) **Double-Frontage Lots.** Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.

Sec. 13-1-24 through Sec. 13-1-39 Reserved for Future Use.

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).

- (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 incidental 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).

- (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.

- (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. 13-1-44 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.

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.

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.

(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.

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.

- (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 sewered.
 - (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 sewered.
- (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

Setback
(MS-659-80)

Overhang - included
in setback

(MS-659-80)

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.

Article D: Conditional Uses

Sec. 13-1-60 Statement of Purpose — Conditional Uses.

The development and execution of this Article is based upon the division of the Village of Elmwood into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

Sec. 13-1-61 Authority of the Plan Commission and Village Board; Requirements.

- (a) The Village Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Plan Commission provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Village Board and Plan Commission action, and the resulting conditional use permit shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Village Board and Plan Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Village Board or Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

- (d) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

Sec. 13-1-62 Initiation of Conditional Use.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

Sec. 13-1-63 Application for Conditional Use.

An application for a conditional use shall be filed on a form prescribed by the Village, with fee payment as prescribed in Section 1-3-1. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter. The Village Board or Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

Sec. 13-1-64 Hearing on Application.

All requests for conditional uses shall be applied for with the Village Clerk-Treasurer or the Village Board or Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Village Board on its own motion from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in Section 13-1-63 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

Sec. 13-1-65 Notice of Hearing on Application; Determination.

- (a) Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice under the Wisconsin Statutes in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.
- (b) The Plan Commission shall report its action to the Village Board within forty-five (45) days after a matter has been referred to it, after which the Village Board shall take formal action.

Sec. 13-1-66 Standards — Conditional Uses.

- (a) **Standards.** No application for a conditional use shall be granted by the Village Board or recommended by the Plan Commission unless the Village Board or Plan Commission shall find all of the following conditions are present:
 - (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
 - (7) That the proposed use does not violate flood plain regulations governing the site.
 - (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Village Board or Plan Commission

shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

- (c) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit, the Village Board or Plan Commission shall also evaluate the effect of the proposed use upon:
- (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.
 - (7) The need of the proposed use for a shoreland location.
 - (8) Its compatibility with uses on adjacent land.
 - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Sec. 13-1-67 Denial of Application for Conditional Use Permit.

When an advisory recommendation of denial of a conditional use application is made by the Plan Commission or an actual denial by the Village Board, the Plan Commission and/or Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission and/or Village Board has used in determining that each standard was not met.

Sec. 13-1-68 Conditions and Guarantees.

The following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Plan Commission may recommend and the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Village shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Type of shore cover;
 - (14) Specified sewage disposal and water supply systems;
 - (15) Planting screens;
 - (16) Piers and docks;
 - (17) Increased parking; or
 - (18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- (c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Village Board, upon the recommendation of the Plan Commission.
- (d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
- (e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

Sec. 13-1-69 Validity of Conditional Use Permit.

Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the

use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Village Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Village at least thirty (30) days before the expiration of said permit.

Sec. 13-1-70 Complaints Regarding Conditional Uses.

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

Sec. 13-1-71 Bed and Breakfast Establishments.

- (a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.
- (b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

- (c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

Sec. 13-1-72 Home Occupations/Professional Home Offices.

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a conditional use without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Restrictions on Home Occupations/Professional Home Office.** Except as provided in Subsection (c) below, home occupations and professional home offices are a conditional use in all Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following:
- (1) The occupation or profession shall be carried on wholly within the enclosed areas of the principal building or other structure accessory thereto, but it shall utilize no more than forty percent (40%) of the gross floor area of the building.
 - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
 - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation/profession shall be visible outside any structure located on the premises. There shall not be outside storage of any kind related to the home occupation/profession.
 - (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
 - (5) Only one (1) sign may be used to indicate the type of occupation or business as allowed by Article G of this Chapter. Such sign shall not be illuminated and shall comply with district sign regulations.
 - (6) The home occupation shall not involve the use of commercial vehicles, other than those owned by the applicant for delivery of products or materials to and from the premises. This shall not be interpreted to include delivery and/or pickup services such as United Parcel Service, Federal Express, etc., in the conduct of their normal operations.
 - (7) No traffic shall be generated by such home occupation/profession in greater volumes than would normally be expected in a residential neighborhood.
 - (8) There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two (2) additional vehicles to be parked on or near the premises.

- (9) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the retail sale of items or products on the premises is prohibited.
 - (10) The types and number of equipment or machinery may be restricted by the Village Board.
 - (11) Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.
 - (12) No more than one (1) non-resident employee may work on the premises. The home occupation is to be conducted only by members of the family residing in the dwelling unit, plus no more than one nonresident assistant or employee employed on the premises at any one time. Persons engaged in building trades, similar fields and other activities using their dwelling units or residential premises as an office for business activities carried on off the premises, may have more employees than the limitations set forth herein if they are not employed on the premises.
 - (13) No activity associated with the home occupation may occur outside on the premises prior to 8:00 a.m. or after 8:00 p.m.
- (c) **Permitted Use Exception.** A home occupation or professional home office under this Section may be maintained in any Residential District as a permitted use, as opposed to a conditional use, if the standards of Subsection (b) above are complied with, and no sign is erected or maintained regarding the home occupation, no more than one (1) person works on the premises, no customers regularly come to the house ["regularly" defined as averaging more than three (3) customers/clients per week coming to the home occupation premises], the business is service-oriented and not engaged in retail trade and other standards required by Subsection (b) are complied with.
- (d) **Permitted Home Occupations/Professions.** Permitted home occupations/professions include, but are not necessarily limited to, the following examples:
- (1) Artists or sculptors.
 - (2) Authors or composers.
 - (3) Home crafts such as model making, rug weaving and cabinet making.
 - (4) Office facility of a minister, rabbi, or priest.
 - (5) Office facility of an attorney, architect, professional engineer, surveyor, landscape architect, insurance agent or real estate agent.
 - (6) Private tutoring limited to three (3) pupils at any one time.
 - (7) Musical instruction limited to two (2) pupils at a time.
 - (8) Dressmaking.
 - (9) Computer-oriented support services, such as consulting, clerical services, claims processing, internet-related businesses, etc.
- (e) **Home Occupations/Professions Not Permitted.** The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations/professions and thereby impair the use

and value of a residentially zoned area for residence purposes. Therefore, home occupations not permitted include, but are not necessarily limited to, the following:

- (1) Barber shops and beauty salons.
- (2) Antique shops.
- (3) Stables and kennels.
- (4) Medical offices, including, but not necessarily limited to, physicians, surgeons, dentists, chiropractors, or optometrists for the general practice of the profession, except for consultation or emergency treatment.
- (5) Automobile repair or body/paint work.
- (6) Restaurants and bakeries (retail).

Sec. 13-1-73 through Sec. 13-1-79 Reserved for Future Use.

Article E: Nonconforming Uses, Structures and Lots

Sec. 13-1-80 Existing Nonconforming Uses.

- (a) **Continuation.** Except as otherwise specially provided in this Chapter, the lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter, provided however:
- (1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Chapter.
 - (2) The total lifetime structural repairs or alterations shall not exceed fifty percent (50%) of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this Chapter.
 - (3) Substitution of new equipment may be permitted by the Village Board if such equipment will reduce the incompatibility of the nonconforming use with the neighboring use.
- (b) **Abolishment or Replacement of Existing Nonconforming Use.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land or water shall conform to the provisions of this Chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than fifty percent (50%) of its current assessed value, it shall not be restored except so as to comply with the use provisions of this Chapter. From the date of adoption of this Chapter, a current file of all nonconforming uses shall be maintained by the Zoning Administrator, listing the following:
- (1) Owner's name and address.
 - (2) Use of the structure, land or water.
 - (3) Assessed value at the time of its becoming a nonconforming use.

Sec. 13-1-81 Existing Nonconforming Structures.

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

Sec. 13-1-82 Changes and Substitutions.

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Village Board has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Village Board.

Sec. 13-1-83 Pre-Existing Substandard Lots.

In any residential district, structures may be erected on any legal lot of record prior to the original effective date of this Zoning Chapter provided that the area, the width and the depth of such existing lot shall be no less than seventy-five percent (75%) of the required minimums set forth in this Chapter. No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter.

Sec. 13-1-84 through Sec. 13-1-89 Reserved for Future Use.

Article F: Traffic Visibility, Loading, Parking and Access

Sec. 13-1-90 Traffic Visibility.

- (a) No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of two and one-half (2-1/2) feet and ten (10) feet above the plane through the mean curb grades within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection.
- (b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

Sec. 13-1-91 Loading Requirements.

- (a) **Loading Space Requirements.** On every lot on which a new business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

Gross Floor Area of Building In Square Feet	Number of Spaces
5,000 to 24,999	1
25,000 to 49,999	2
50,000 to 99,000	3
100,000 to 174,999	4
175,000 to 249,999	5

For each additional 75,000 square feet (or fraction thereof) of gross floor area, one (1) additional loading and unloading space shall be provided.

- (b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- (c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a

public street. Each loading and unloading space shall have access to a public dedicated street or alley or other approved access. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

- (d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty (40) feet, and a vertical clearance of at least fifteen (15) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. All loading berths shall be completely screened from residential properties by building walls or a uniformly painted solid fence, wall or door, or any combination thereof, not less than eight (8) feet in height.
- (e) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than seven (7) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.
- (f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residence District.
- (g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (h) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
 - (1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
 - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
 - (3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.
 - (4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

Sec. 13-1-92 Parking Requirements.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Village Board, after a recommendation from the Plan Commission. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except in the B-1 General Commercial District, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) **Access.** Adequate access to a public street or other approved access shall be provided for each parking space.
- (b) **Design Standards.** Each required off-street parking space shall have a stall width of at least nine (9) feet and a stall length of at least eighteen (18) feet. Such space shall have a vertical clearance of at least six and one-half (6-1/2) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Aisles shall be not less than twenty-four (24) feet wide for ninety (90) degree parking, eighteen (18) feet wide for sixty (60) degree parking, fifteen (15) feet wide for forty-five (45) degree parking (angle shall be measured between centerline of parking space and centerline of aisle), and twelve (12) feet wide for parallel parking. For parallel parking, the minimum length of the parking space shall be increased to twenty-three (23) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.
- (c) **Location.**
 - (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
 - (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than ten (10) feet to a side lot line, right-of-way line or rear lot line, without prior Village Board approval under Section 13-1-174 [a five (5) foot minimum shall be maintenance under any circumstances].
 - (3) Off-street parking in the single-family resident and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Sections 6-3-1 and 6-3-2. Parking stalls for single- and two- (2) family residences may be placed one behind the other.
- (d) **Surfacing.** All open off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of four thousand (4,000) pounds [normally, a two (2) inch blacktop on a four (4) inch base or five (5) inches of Portland cement will meet this requirement.] Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- (e) **Landscaping Requirements.**
 - (1) **Landscaping.** All public and private off-street parking areas which serve five (5) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Code shall be provided with accessory landscape areas totalling not less than ten percent (10%) of the surfaced area. The minimum size of each landscape area shall not be less than one hundred (100) square feet.

- (2) **Location.** Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Village Board.
- (3) **Plans.** All plans for such proposed parking areas, at the discretion of the Village Board, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.
- (4) **Special Residential Requirements.** Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained at a minimum height of five (5) feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line.
- (5) **Street Setback Area.** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- (6) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with unenclosed parking facilities provided in residence districts.
- (7) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot candles measured at the lot line.
- (f) **Curbs or Barriers.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- (g) **The Following Guide Specifies the Minimum Number of Parking Spaces Required.**

The reference herein to "the work shift with the largest number of employees" means the maximum number of full-time or part-time employees present at the facility at any one (1) time. For example, the largest work shift may be a particular day of the week, or a lunch or dinner period in the case of a restaurant. The reference herein to "maximum capacity" means the maximum number of persons which may be accommodated by the use as determined by its design or by applicable building code regulations, whichever is greater. In the case of structures or uses not specified herein, the number of spaces specified for a use which is similar shall apply. In developments involving the establishment of two (2) or more uses on one (1) lot or parcel, the number of spaces required for each use shall determine the total number of spaces required.
- (1) **Residential Uses.**
 - a. Single-family, two-family and multiple-family dwelling — two (2) spaces per dwelling unit.

- b. Mobile homes — two (2) spaces per unit.
- c. Housing for the elderly — 0.75 space per dwelling unit.

- (2) **Retail Sales and Customer Service Uses, and Places of Entertainment**, except as specifically set forth below: One (1) space per one hundred fifty (150) square feet of gross floor area of customer sales and service, plus one (1) space per two hundred (200) square feet of storage and/or office gross floor area, or if the use has at least eighty thousand (80,000) square feet of gross floor area, one (1) space per two hundred (200) square feet of gross floor area. Other retail sales and customer service uses and places of entertainment:
- a. Financial institutions: One (1) per two hundred (200) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees. Financial institutions with drive-through service facilities shall provide sufficient space for four (4) waiting vehicles at each drive-through service lane.
 - b. Funeral homes: One (1) space per four (4) patron seats of maximum capacity of twenty-five (25) spaces per chapel unit, whichever is greater.
 - c. Grocery stores or supermarkets: One (1) space per one hundred (100) square feet of gross floor area of customer sales and service plus one (1) space per two hundred (200) square feet of storage and/or office gross floor area.
 - d. Motels and hotels: One and one-half (1.5) spaces per lodging room or suite, plus one (1) space per each employee for the work shift with the largest number of employees; two (2) spaces per lodging room if plans include a conference/meeting room.
 - e. Lodges and clubs: One (1) space per three (3) persons based on the maximum capacity of the facility.
 - f. Repair services: One (1) space per three hundred (300) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
 - g. Restaurant, standard: One (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
 - h. Theaters, auditoriums and other places of public assembly: One (1) space per three (3) patrons based on the maximum capacity of the facility.
 - i. Personal services: One (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
 - j. Convenience grocery stores: One (1) space per one hundred (100) square feet of gross floor area.
 - k. Restaurants, drive-in: One (1) space per fifty (50) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

- l. Taverns, dance halls, night clubs and lounges: One (1) space per one hundred (100) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
 - m. Motor vehicle sales establishments: Two (2) customer parking spaces per salesperson for the work shift with the largest number of salespersons, plus one (1) employee parking space per employee (including sales persons) for the work shift with the largest number of employees.
 - n. Motor vehicle repair, maintenance and service stations: Three (3) spaces per indoor service bay plus one (1) space per employee for the work shift with the largest number of employees.
 - o. Animal hospitals: Three (3) patron parking spaces per doctor, plus one (1) employee parking space for the work shift with the largest number of employees.
 - p. Plant nurseries and garden and lawn supply sales establishments: One (1) space per two hundred (200) square feet of gross floor area of inside sales or display, plus one (1) space per five hundred (500) square feet of gross outside sales or display area, plus one (1) space per employee for the work shift with the largest number of employees.
 - q. Shopping centers [gross leasable area of at least fifty thousand (50,000) square feet]: Five and one-half (5-1/2) spaces per one thousand (1,000) square feet of gross leasable area.
- (3) **Offices.**
- a. Medical, dental and similar professional health service offices: Five (5) patron parking spaces per doctor, plus one (1) parking space per employee for the work shift with the largest number of employees.
 - b. Government, professional and business offices: One (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- (4) **Commercial/Recreational Uses.**
- a. Except as specifically set for below: One (1) space per four (4) patrons based on the maximum capacity of the facility, plus one (1) space per two (2) employees the work shift with the largest number of employees.
 - b. Other commercial/recreational uses:
 1. Bowling alleys: Five (5) spaces for each lane, plus one (1) space per employee for the work shift with the largest number of employees.
 2. Golf courses: Ninety (90) spaces per nine (9) holes, plus one (1) space per employee for the work shift with the largest number of employees.
 3. Golf driving ranges: One (1) space per tee, plus one (1) space per employee for the work shift with the largest number of employees.
 4. Indoor tennis, racquetball and handball courts: Three (3) spaces per court, plus one (1) space per employee for the work shift with the largest number of employees.

5. Miniature golf courses: One and one-half (1-1/2) spaces per hole, plus one (1) space per employee for the work shift with the largest number of employees.
6. Skating rinks, ice or roller: One (1) space per two hundred (200) square feet of gross floor area.

(5) **Industrial and Related Uses.**

- a. Manufacturing, processing fabrication and storage operations: One (1) space per employee for the two (2) consecutive work shifts with the largest number of employees.
- b. Wholesale business: One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per two thousand five hundred (2,500) square feet of gross floor area.
- c. Warehouse: One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five thousand (5,000) square feet of gross floor area.
- d. Mini-warehouse: One (1) space per ten (10) storage cubicles.
- e. Extractive and related operations: One (1) space per employee for the work shift with the largest number of employees.

(6) **Institutional and Related Uses.**

- a. Churches: One (1) space per three (3) seats based on the maximum capacity of the facility.
- b. Libraries: One (1) space per two hundred fifty (250) square feet of gross floor area or one (1) space per four (4) seats of maximum capacity, whichever is greater, plus one (1) space per employee for the work shift with the largest number of employees.
- c. Museums: One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- d. Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories: One (1) space per bed.
- e. Convents and monasteries: One (1) space per three (3) residents, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five (5) chapel seats if the public may attend.
- f. Nursing homes: One (1) space per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.
- g. Hospitals: Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee for the work shift with the largest number of employees.
- h. Schools.
 1. Elementary schools and high schools: One (1) space for each teacher and staff member, plus one (1) space for each ten (10) students sixteen (16) years of age and older.

2. Colleges, universities, and trade schools: One (1) space for each teacher and staff member during the highest class attendance period, plus one (1) space for each two (2) students during the highest attendance period.
 3. Children's nursery schools or day schools: One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per six (6) students at the highest class attendance period.
- (h) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- (i) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed. All open off-street parking areas providing more than twenty-five (25) parking spaces, except for parking areas restricted to use by employees only, shall provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the following minimum standards:
- (1) One (1) parking space shall be provided in parking areas containing twenty-six (26) to forty-nine (49) spaces.
 - (2) Two percent (2%) of the total number of spaces shall be provided in parking areas containing fifty (50) to one thousand (1,000) spaces.
 - (3) In addition to the number of spaces required in Subsection (i)(2) above, one percent (1%) of each one thousand (1,000) spaces over the first one thousand (1,000) spaces for parking areas providing more than one thousand (1,000) spaces.
 - (4) The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be twelve (12) feet by eighteen (18) feet.
 - (5) Parking spaces provided for the use of physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
 - (6) All parking spaces provided for the use of physically disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons.
 - (7) In the event that the Wisconsin Statutes or Wisconsin Administrative Code are amended, the amendments will supercede the authority of this Chapter.
- (j) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(k) **Off-Lot Parking.**

- (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.
- (2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.
- (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
- (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

Sec. 13-1-93 Highway Access.

- (a) **Private Access Restricted.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction.
- (b) **Public or Private Access Prohibited.** No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:
 - (1) Freeways, interstate highways and their interchanges or turning lanes nor to intersection of interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes.
 - (2) Arterial streets intersecting another arterial street within one hundred (100) feet of the intersection of the right-of-way lines.
 - (3) Streets intersecting an arterial street within fifty (50) feet of the intersection of the right-of-way lines.
- (c) **Public Access Barriers.** Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (d) **Temporary Access.** Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

Sec. 13-1-94 Storage and Parking of Recreational Vehicles.

- (a) **Definitions — Recreational Vehicles.** For purposes of this Section, the following definitions shall apply:

- (1) **Recreational Vehicle.** Recreational vehicle means any of the following:
 - a. **Travel trailer.** A vehicular, portable structure built on a chassis and on wheels; that is, between ten (10) and thirty-six (36) feet long, including the hitch, and eight and one-half (8.5) feet or less in width; designated to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes so-called fifth-wheel units.
 - b. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
 - c. **Motor Home.** A portable, temporary dwelling to be used for travel, recreation, vacation, or other uses, constructed as an integral part of a self-propelled vehicle.
 - d. **Camping Trailer.** A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
 - e. **Chassis Mounts, Motor Homes and Mini-Motor Homes.** Recreational structures constructed integrally with a truck or motor van chassis and incapable of being separated therefrom.
 - f. **Converted and Chopped Van.** Recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.
- (2) **Boat or Snowmobile Trailer.** A vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this Article, is termed an unmounted boat or snowmobile.
- (3) **Boat.** Every description of watercraft used or capable of being used as a means of transportation on water.
- (4) **Yard, Front.** That part of a lot between the front lot line and the front(s) of the principal building on the lot, and extended to both side lot lines.
- (5) **Yard, Rear.** That part of a lot between the rear lot line and the back(s) of the principal building on the lot, and extended to both side lot lines.
- (6) **Yard, Side.** That part of a lot not surrounded by building and not in the front or rear yard.

- (b) **Permitted Parking or Storage of Recreational Vehicles.** In all residential and commercial districts provided for in this Zoning Code, it is permissible to park and store a recreational vehicle or boat and boat trailer on private property in the following manner:

- (1) Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zoning district where located.
- (2) Parking is permitted outside in the side yard provided it is not nearer than five (5) feet to the lot line.

- (3) Parking is permitted outside on a hard-surfaced or well-drained gravel driveway, provided:
 - a. Space is not available in the rear yard or side yard, or there is no reasonable access to either the side yard or rear yard.
 - b. A corner lot is always deemed to have reasonable access to the rear yard.
 - c. A fence is not necessarily deemed to prevent reasonable access.
 - d. Inside parking is not possible.
 - e. The unit is parked perpendicular to the front curb.
- (4) The body of the recreational vehicle or boat must be at least fifteen (15) feet from the face of any curb.
- (5) No part of the unit may extend over the public sidewalk or public right-of-way.
- (6) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling purposes, except for overnight sleeping for a maximum of ten (10) days in any one calendar year. Cooking is not permitted at any time.
 - b. Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (7) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (8) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.

State Law Reference: Sec. 30.50, Wis. Stats., and HSS 177 and 178, Wis. Adm. Code.

Sec. 13-1-95 Storage of Tractors and Road Machinery.

No person, firm or corporation shall park, keep or maintain on properties zoned as residential or multiple residential dwellings, the following types of vehicles: Semi-tractors and/or trailers, landscaping equipment, dump trucks, auto wreckers and road machinery. Said vehicles may not be kept or parked on said premises whether or not they are in enclosed buildings, except for the purposes of unloading or servicing the premises.

Sec. 13-1-96 through Sec. 13-1-99 Reserved for Future Use.

Article G: Signs, Canopies, Awnings and Billboards

Sec. 13-1-100 Purpose of Sign, Canopy and Awning Regulations.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every tenant and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Village of Elmwood; painting, posting and general maintenance are excepted.

Sec. 13-1-101 Signs, Canopies, Awnings and Billboards— Definitions.

- (a) The following definitions are used in this Article (Note: Not all types of signs defined herein are permitted under this Article):
- (1) **Abandoned Sign.** A sign which no longer correctly advertises a bona fide business, owner, landlord/tenant, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.
 - (2) **Animated Sign.** Any sign or part of a sign which changes physical position by movement or rotation, or gives the illusion of such change of physical position.
 - (3) **Area of Copy.** The entire area within a single continuous perimeter composed of squares or rectangles which encloses the extreme limits of an advertising message, announcement, or decoration.
 - (4) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface.
 - (5) **Awning.** A movable hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure. For purposes of this Article, an "awning sign" is any awning. Decorative awnings without lettering or imagery are not considered signs.
 - (6) **Banner.** A banner sign is generally constructed of a flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which goods, events or advertising has been placed, mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

- (7) **Billboard.** A flat surface, as of a panel, wall or fence on which signs are posted advertising goods, products, facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- (8) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.
- (9) **Building Front.** The horizontal, linear dimension of that side of a building which faces a street, a parking area, a mall, or other circulation area open to the general public; and having either a main window display of the enterprise or a public entrance to the building. (In industrial districts a building side with an entrance open to industrial employees also shall qualify as a building front.)
- (10) **Bulletin Board.** A sign used for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar event.
- (11) **Canopy.** Any structure of canvas, other fabric, plastic, metal or wood or other material, which is permanently attached to any exterior building wall in any manner, intended to shield any wall, window, door, sidewalk or roadway from sun, rain or any other element, and which is not retractable such as an awning.
- (12) **Canopy Sign.** Any sign attached to or constructed in, on or under a canopy for the purpose of this Article, canopy signs shall be controlled by the rules governing projecting signs.
- (13) **Changeable Message Sign.** A sign such as a manual, electronic or electric controlled time and temperature sign message center, or reader board, whether electronic or manual, where copy changes. Any sign may be, or include as part of it, a changeable message sign.
- (14) **Copy Area.** The geometric area in square feet that encloses the actual copy message of the sign.
- (15) **Directional Sign.** Any sign that directs the movement or placement of pedestrian or vehicular traffic on a lot and does not contain any advertising copy.
- (16) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- (17) **Directory Sign.** Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.
- (18) **Display Surface or Face.** The display surface is the area made available by the sign structure for the purpose of displaying the advertising message, or which is intended to draw attention to the advertising message.
- (19) **Distance of Sign Projection.** The distance from the exterior wall surface of the building to the outer extremity of a sign attached to a building.

- (20) **Electric Sign.** Any sign containing internal electrical wiring which is attached, or intended to be attached, to an electrical energy source.
- (21) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.
- (22) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- (23) **Flat Sign/Flush Mounted.** See definition for "Wall Signs."
- (24) **Freestanding (Ground and/or Pylon Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- (25) **Grade.** The elevation or level of the sidewalk closest to the sign to which reference is made. If no sidewalk is present, then grade shall be defined as the elevation or level of the street at the same point, measured at the street's centerline.
- (26) **Gross Area.** The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for Area of Copy apply.
- (27) **Ground Sign.** A sign supported by poles, uprights or braces extending from the ground or an object on the ground but not attached to any part of any building. Also known as a "freestanding sign."
- (28) **Height of Sign.** The vertical distance measured from the mean centerline street grade to the highest point of the sign. If sign and sidewalk are not in essentially parallel planes, then measured vertically at the horizontal midpoint of the sign.
- (29) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
- (30) **Illuminated Awning.** An internally illuminated awning fabricated from a translucent material, or one which is backlighted as to appear to illuminate the awning sign. An illuminated awning may be used for an awning sign when other requirements are met.
- (31) **Illuminated Canopy.** An internally illuminated canopy, or one which is backlighted as to appear to illuminate the canopy sign.
- (32) **Illuminated Sign.** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
- (33) **Indirectly Illuminated Sign.** A sign that is illuminated from a source outside of the actual sign.
- (34) **Joint Identification Sign.** A sign which serves a common or collective identification for two (2) or more businesses or industrial uses on the same lot. Such sign may contain a directory to said uses as an integral part thereof.

- (35) **Legal Non-Conforming Sign.** Any sign which was already in existence and displayed on the effective date of this Article, which met code requirements when originally installed, but not meeting the requirements and limitations of this Article.
- (36) **Marquee.** A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.
- (37) **Marquee Sign.** Any sign attached to or constructed in a marquee.
- (38) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.
- (39) **Off-Premise Third Party Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
- (40) **On-Premise Sign.** A sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.
- (41) **Painted Wall Signs.** Signs painted directly onto a building wall.
- (42) **Political Sign.** Any sign displaying a candidate for an election, or a current referendum's or election's subject matter.
- (43) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground or a building which is designed to be easily moved from one location to another.
- (44) **Projecting Sign.** A sign other than a wall sign which projects from a wall or roof and is supported by a wall or roof of a building. (See "Wall Sign".)
- (45) **Pylon Sign.** Any freestanding sign mounted on a pole or other pylon.
- (46) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
- (47) **Roof Line.** The highest point on any building where an exterior wall encloses usable floor area including roof area provided for housing mechanical equipment.
- (48) **Roof Sign.** A sign erected upon or above the roof line or parapet of the building or structure.
- (49) **Sandwich Sign.** A hinged or unhinged A-frame portable sign which is generally temporary in nature and placed near the roadway.
- (50) **Sign.** Any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images.
- (51) **Sign Contractor.** Any person, partnership or corporation engaged in whole or in part, in the business of erection or maintenance of signs, excluding the business which the sign advertises.
- (52) **Sign Inspector.** That person charged with the responsibility to see that signage in the community is installed and maintained in compliance with this Article. In the Village of Elmwood, the Sign Inspector will be the Zoning Administrator or Building Inspector.