

## **CHAPTER I**

### **VILLAGE BOARD MEETINGS**

#### **1.01 MEETING TIME AND DATE.**

- (1) Regular Meetings. Regular meetings of the Village Board shall be held on the second Thursday of each calendar month at 7:00 o'clock p.m. Any regular meeting falling on a legal holiday shall be held the next following secular day at the same hour and place.  
*(Amended June 8, 1989)*
- (2) Special Meetings. Special meetings of the Board may be called by two Trustees by filing a written request with the Clerk at least forty-eight (48) hours prior to the time specified for such meeting. The Clerk shall immediately notify each Trustee of the time and purpose of such meeting. The notice shall be delivered to each Trustee personally or left at his usual place of abode. The Clerk shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meeting. Special meetings may be held without notice when all members of the Board are present, or consent in writing to the holding of said meeting. Unless all Trustees are in attendance, no business shall be transacted at a special meeting except for the purpose stated in the notice thereof.
- (3) Place of Meetings. All meetings of the Board, including special and adjourned meetings, shall be held at a place so designated and announced by the Clerk as directed by the Board at the previous meeting or adjourned meeting.
- (4) Quorum. Four Trustees, including the Village President, shall constitute a quorum but a lesser number may adjourn from time to time or compel the attendance of absent members. A call of the house may be ordered by majority vote if three (3) Trustees are present. Any Trustee who shall without good cause fail to attend a regular or adjourned meeting or special meeting called in accordance with these rules shall be subject to a fine of \$5.00 by vote of all members present at such meeting whether or not such members constitute a quorum.

#### **1.02 ORDER OF BUSINESS.**

The business of the Village Board shall be conducted in the following order:

1. Call to order by presiding officer.
2. Roll call. (If a quorum is not present, the meeting shall thereupon adjourn).
3. Reading, correction and approval of minutes of previous meeting.
4. Finances including financial report, receipts and claims.
5. Communications.
6. Reports of Committees and Officers on operation and organization.
7. Miscellaneous and new business.

#### **1.03 PRESIDING OFFICER.**

- (1) Control of Meeting. The Village President shall preserve order and conduct the proceedings of the meeting. A member may appeal from the decision of the presiding officer. Such appeal is not debatable and must be sustained by a majority of the members present, exclusive of the presiding officer.

- (2) Absence of President. If the President is absent at any meeting, the Clerk shall call the meeting to order and preside until the Board selects a Trustee to preside for that meeting.
- (3) Participation in Debate. The presiding officer may speak upon any question or make any motion.

#### **1.04 COMMITTEES.**

- (1) Committee Appointments. The President may appoint, subject to approval by a majority of the Board present, one or more Trustees or, with the unanimous consent of the Board present, one or more persons other than Trustees, to such committees, for such periods and in such numbers as he may designate to study and report to the Board on such matters as concern the Village.
- (2) Such committees shall promptly study and report to the Board on the matters assigned, such report to be in writing when so designated by the President, and such report to contain the recommendation of the committee.
- (3) Upon the acceptance of such report by the Village Board, the committee shall be deemed to be dissolved unless the Board shall otherwise provide.

#### **1.05 GENERAL RULES.**

The deliberations of the Board shall be conducted in accordance with the parliamentary rules contained in Robert's Rules of Order Revised (1951), which is hereby incorporated in this section by reference. No ordinance, resolution or other motion shall be discussed or acted upon unless it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.

#### **1.06 SUSPENSION OF RULES.**

These rules or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of two-thirds of the members present.

#### **1.07 SMOKING REGULATIONS RELATING TO VILLAGE HALL.**

- (1) Declaration of Intent. It is the intent of the Village to promote good health and welfare for its citizens by regulating smoking in the Village Hall under the provisions of Sec. 101.123, Wis. Stats.
- (2) Smoking Prohibited. No person shall smoke in the Village Hall at any time.
- (3) Definition. Smoking means carrying a lighted cigar, cigarette, pipe or other lighted smoking equipment.
- (4) Penalty. Any person who willfully violates this section after being advised that smoking in the area is prohibited shall be subject to a penalty of not more than \$10.00 together with the costs of prosecution.  
*(Adopted October 10, 1996)*

## **CHAPTER II**

### **OFFICIALS**

#### **2.01 ELECTED OFFICIALS.**

- (1) Trustees. There shall be six Trustees of the Village of Elmwood Park. Three Trustees shall be elected at each annual spring election for a term of two years, commencing on the third Tuesday of April in the year of their election.
- (2) Other Elected Officers. The President shall be elected at the regular spring election in odd numbered years for a term of two (2) years commencing on the third Tuesday of April in the year of his or her election:

#### **2.02 APPOINTED OFFICIALS.**

- (1) Village Clerk, Village Treasurer, Attorney, Constable, Building Inspector, Civil Defense Emergency Director, Health Officer, Assessor. The Village officials hereinafter set forth shall be appointed at the first regular meeting of the Village Board in May of odd-numbered years or when a vacancy

shall occur, by the Village President, subject to confirmation by a majority vote of the Members of the Board of Trustees:

Clerk  
Treasurer  
Attorney  
Constable  
Building Inspector  
Civil Defense Emergency Director  
Health Officer  
Assessor

The Village President shall not vote on such appointments except in case of a tie. The terms of office of each official so appointed shall be at the pleasure of the Board. All terms shall commence on the 15th day of May following appointment or forthwith in the case of filling a vacancy in any such office.

*(Amended March 11, 2004)*

- (2) Weed Commissioner. The Village Weed Commissioner shall be appointed in May of each year for a term of one (1) year by the Village President.
- (3) Assistance to Officers. The Trustees shall have the power to appoint assistants to the officers, or to contract for services for assistance, and to determine the compensation or fees to be paid for such assistants or for contractual services.

(4) Election Inspectors and Clerks.

- (a) How Constituted. There shall be seven election officials in the Village consisting of three Inspectors of Election, two Clerks of Election and two Ballot Clerks.
- (b) Appointment. The Village President shall appoint, subject to approval by the Village Board, the election officials from a list submitted by the precinct committeemen as provided by law. If no such list is lawfully submitted, the Village President shall make the appointments subject to approval by the Village Board on his own nomination.
- (c) Terms. Appointments shall be made at the regular meeting in December of each even numbered year of the necessary election officials herein required. In all other respects, the provisions of Wis. Stat. 7.30 shall apply.

*(Amended January 25, 1989)*

- (5) Director of Finance. There is hereby created an office of the Director of Finance who shall be appointed by the Village President, subject to confirmation by a majority vote of the members of the Board, and whose duties shall include:

- (a) The reviewing of all financial matters affecting the Village.
- (b) Reporting of significant financial matters to the Trustees.

- (c) Making such studies, reports and recommendations as may be requested by the Trustees.
- (d) Such Director of Finance shall perform no duties which are imposed on the Village Treasurer pursuant to law.
- (e) The Director of Finance may but need not be a Trustee of the Village.
- (f) The Trustees may from time to time establish reasonable compensation for the position of Director of Finance.

## **2.03 CIVIL DEFENSE EMERGENCY DIRECTOR.**

There is hereby created the office of Civil Defense Emergency Director for the Village of Elmwood Park who shall be appointed as provided by Section 2.02(1) of this Code.

## **2.04 BOARD OF HEALTH: HEALTH OFFICER.**

The Village Board of the Village of Elmwood Park shall, within thirty (30) days after its election, organize into a Board of Health and shall elect a chairman and a clerk as provided by Section 251.03(4m) of the Wisconsin Statutes. The Health Officer by virtue of his office shall be an ex officio member of such Board with voting power.

## **2.05 BOARD OF REVIEW.**

The Board of Review of the Village of Elmwood Park shall be composed of eight members including the Village President, the Village Clerk and all members of the Village Board of Trustees. The Board of Review shall have the duties and powers prescribed by Section 70.47 of the Wisconsin Statutes.

## **2.06 PLAN COMMISSION.**

- (1) How Constituted. The Village Plan Commission shall consist of seven members as follows: the Village President, who shall be its presiding officer; two Trustees and four citizens. Citizen members shall be persons of recognized experience and qualifications.
- (2) Appointments.
  - (a) Trustee Members. The Trustee members of the Commission shall be elected by a two-thirds vote of the Village Board from those whose terms as Trustee shall not expire in the same year upon creation of the Commission and during each April thereafter.
  - (b) Citizen Members. Three citizen members shall be appointed by the Village President upon creation of the commission to hold office for a period ending one, two and three years respectively from the succeeding first day of May, and thereafter annually during April one such member shall be appointed for a term of three years.
  - (c) Additional Citizen Members. The additional citizen member, who shall be appointed by the Village President, shall be first appointed to hold office for a period ending one year from the succeeding first day of May and thereafter annually during April.

## **2.07 ZONING BOARD OF APPEALS.**

Per State statute 62.23(7)(e) A Board of Appeals is hereby established.

- (1) How Constituted. The Village Board of Appeals shall consist of 5 members appointed by the Village President, subject to confirmation by the Village Board, for 3-year terms.
- (2) Appointments. The Village President shall designate one of the members as chairman. The Village President shall also appoint, subject to confirmation by the Village Board, two alternate members for staggered terms of 3 years. Annually, the Village President shall designate one alternate as 1<sup>st</sup> alternate, who shall act with full power only when a member is absent or refuses to vote because of interest, and the other as 2<sup>nd</sup> alternate, who shall act with full power only when the 1<sup>st</sup> alternate or a member is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired terms of members and alternates whose terms become vacant.
- (3) The Board of Appeals shall adopt rules for its government and procedure.
- (4) Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (5) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

*(Adopted 02-03-13)*

## **2.08 GENERAL REGULATIONS GOVERNING ALL VILLAGE OFFICERS.**

**(Re-numbered 02-03-13)**

- (1) Effect. The provisions of this section shall apply to all officers of the Village regardless of the time of creation of the office or selection of the officer unless otherwise specifically provided by ordinance or resolution of the Village Board.
- (2) Oath of Office. Every officer of the Village, including members of the Village Board and Commissions shall, before entering upon his duties and within five days of his election or appointment or notice thereof, take the oath of office prescribed by law and file said oath in the office of the Village Clerk, except the Village Clerk who shall file his oath in the office of the Village Treasurer. Any person re-elected or reappointed to the same office shall take and file an official oath for each term of service.
- (3) Bond. Every officer shall, if required by law or the Village Board upon entering upon the duties of his office, give a bond in such amount as may be determined by the Village Board with such sureties as are approved by the Village President, conditioned upon the faithful performance of the duties of his office. Official bonds shall be filed as are oaths as provided in subsection (2) of this section.
- (4) Salaries and Fees, etc. Effective with the spring election of 1997, and thereafter, each Village officer shall receive a salary for his services as follows:

Village President	\$4,000.00 (Effective New Term 2014)
Clerk/Treasurer	\$12,000.00 (Effective 01-01-14)

Village Trustees	\$1,000.00 (Effective New Terms 2014)
Assessor	\$1,000.00
Constable	\$300.00

Such salaries shall be paid quarterly to said officers. In addition, all of such officers and all members of the Village Board, Commissions and Board appointed Committees shall be reimbursed for their actual out-of-pocket expenses including such mileage as may be established by the Village Board from time to time while engaged in the business of the Village.

*(Amended 02-03-14)*

- (5) Vacancies. Vacancies in elective offices shall be filled by appointment by a majority vote of the Village Board for the remainder of the unexpired term. Vacancies in appointive offices shall be filled in the same manner as the original appointment for the residue of the unexpired term, unless the term for such office is indefinite.

## **2.09 RECEIPT OF GIFTS AND GRATUITIES PROHIBITED.**

**(Re-numbered 02-03-14)**

- (1) It shall be unlawful for any public employee or public official to receive or offer to receive either directly or indirectly, any gift, gratuity, or anything of value which he is not authorized to receive from any person, if such person:
  - (a) Has or is seeking to obtain contractual or other business or financial relationships with such public employee's employer or the governmental body of the public official; or
  - (b) Conducts operations or activities which are regulated by such public employee's employer or the governmental body of a public official; or
  - (c) Has interests which may be substantially affected by such public employee's employer or the governmental body of the public official.
- (2) The receipt of any gift, gratuity, or anything of value as denoted above is contrary to the public policy of the Village of Elmwood Park.

## **2.10 SUBSTITUTE FOR VILLAGE TREASURER'S BOND.**

**(Re-numbered 02-03-14)**

Pursuant to the authority granted in Wis. Stat. 70.67(2), the Village of Elmwood Park does hereby obligate itself to pay all taxes of any kind required by law to be paid by the Village Treasurer to the County Treasurer in lieu of requiring the Village Treasurer to provide a bond with sureties.

*(Adopted December 19, 1985)*

## **CHAPTER III**

### **CONSTABLE AND CIVIL DEFENSE**

### **3.01 CONSTABLE APPOINTED AND QUALIFICATION.**

The Constable of the Village of Elmwood Park shall be appointed as provided in Section 2.02(2) of these Ordinances. Before entering upon his duties and within five (5) days of his appointment, he shall execute and file an official bond as required by Section 2.07(3) of these Ordinances and by Section 61.29 of the Wisconsin Statutes and he shall be governed in every respect by the laws prescribed for constables in villages under Section 61.29 of the Wisconsin Statutes.

*(Amended November 11, 1999)*

### **3.02 POWERS AND DUTIES.**

The Constable shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law on village marshals and constables. He shall have full power and authority and it shall be his duty to:

- (1) Arrest with or without process all persons in the Village engaged in any disturbance of the peace or violating any law or ordinance of the State or Village or aiding or abetting in such violation and take all persons in charge and confine them and within a reasonable time bring them before the court to be dealt with according to law.  
*(Adopted November 11, 1999)*
- (2) Familiarize himself with the Ordinances of the Village and attend to the enforcement of such Ordinances by all lawful means.
- (3) Help prevent crime, misdemeanors and violations of Village Ordinances and protect the health, safety, public peace and order of the Village and its inhabitants.
- (4) Report all street and sidewalk obstructions, unlighted street lamps, unlawful street signs or signals and defective or dangerous streets and sidewalks to the Director of Public Works.
- (5) Assist the Fire Department in maintaining order at the scene of a fire.
- (6) See that the necessary permits and licenses issued by the proper authority of the State or Village are in the possession of or properly displayed by any person engaged in any activity or business within the Village for which such permit or license is required, and that the terms of such permits or licenses are complied with.
- (7) Keep in his office a record of all arrests made, traffic tickets issued, the dates, hours and places thereof, names of persons arrested, offenses charged, actions taken and results.

### **3.03 CIVILIANS TO ASSIST.**

It shall be the duty of all persons in the Village, when called upon by any police officer or peace officer, to promptly aid and assist him in the execution of his duties and whoever shall neglect or refuse to give such aid or assistance shall be subject to a penalty as provided for in Chapter XV of this Code.

### **3.04 OBEDIENCE TO OFFICERS. - See Chapter XII of this Code.**

**3.05 ASSISTING ESCAPE OR PRISONERS.** - See Chapter XII of this Code.

**3.06 PERSONATING OFFICERS.** - See Chapter XII of this Code.

**3.07 SPECIAL PEACE OFFICERS.** - See Chapter XII of this Code.

The Village President and Trustees shall have and exercise the powers of peace officers and may summarily suppress any riotous or disorderly conduct in the streets or public places of the Village.

**3.08 EMERGENCY GOVERNMENT.**

(1) Declaration of Policy. To prepare the Village of Elmwood Park to cope with emergencies resulting from enemy action and man-made or natural disaster, it is declared to be necessary to establish an organization for emergency government for the Village of Elmwood Park by conferring upon the President of the Village and other specified duties and powers consistent, however, with Chapter 166 of the Wisconsin State Statutes.

(2) Definitions.

(a) “Emergency Government” includes “civil defense” and means all measures undertaken by or on behalf of the Village.

1. To prepare for and minimize the effect of enemy action and natural or man-made disaster upon the civilian population.

2. To effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.

(b) “Civil Defense” means all measures undertaken by or on behalf of the State, the County and municipalities to prepare for and minimize the effects of enemy action upon the civilian population.

(3) Emergency Government Committee.

(a) How Constituted. There is hereby created an Emergency Government Committee composed of the Village President and three members of the Village Board, whose chairman shall be the President of the Village of Elmwood Park. Members of said committee shall serve for a term of one (1) year and until their successors are appointed.

(b) Duties. The Emergency Government Committee shall be an advisory and planning group and shall advise the Coordinator of Emergency Government and Village Board of all emergency government matters. It shall meet monthly or upon the call of the Chairman. It shall annually prepare a budget for Emergency Government and present same to the Village Board for adoption. It shall prepare an annual report for the Village Board. The Emergency Government Committee shall investigate funding from the State and Federal governments to reimburse the Village for Emergency Government costs.

- (c) Joint Meetings. Whenever it is deemed necessary by the County Emergency Government Committee or the Village of Elmwood Park Emergency Government Committee, there shall be a joint meeting of the Committees to decide such matters as may arise.

(4) Coordinator of Emergency Government.

- (a) Coordinator. There is hereby created the office of Coordinator of Emergency Government Services. The Coordinator of Emergency Government for the County of Racine shall serve as the Coordinator for the Village of Elmwood Park.
- (b) Deputy Coordinator. There is hereby created the Office of the Deputy Coordinator of Emergency Government. There may be as many Deputy Coordinators as deemed necessary by the President of the Village of Elmwood Park.
- (c) Appointment of Deputy Coordinators. The Deputy Coordinators shall be appointed by the President and confirmed by the Village Board.
- (d) Term. The term of office of the Deputy Coordinator shall be until a successor is appointed and qualified.
- (e) Powers and Duties. The Coordinator and Deputy Coordinators, subject to the control and direction of the Emergency Government Committee and under the general supervision of the President and Village Board, shall:
1. Develop and promulgate emergency government plans for the Village consistent with Federal, State and County plans.
  2. Coordinate the emergency government program for the Village and as required by the President and Village Board.
  3. Coordinate the Village Emergency Government training programs.
  4. Coordinate Village participation in emergency government training programs and exercises.

(5) Sharing of Costs.

(a) Office and Staff.

1. The Racine County Board shall provide regular offices, office furniture, stenographic help and such office supplies that are necessary to carry out the function of the office on a day-to-day basis. The costs will be defrayed by the county of Racine, with the help of any Federal or State financial aids that may be available.
2. The Village of Elmwood Park will provide emergency office space, emergency furnishings, clerical help and such office supplies that are necessary to deal with an emergency operation affecting the Village of

Elmwood Park. The costs will be paid by the Village of Elmwood Park with the help of any Federal or State financial aids that may be available.

- (b) **Major Equipment and Services.** Cost of equipment and services requested by the Village of Elmwood Park shall be borne 100% by the Village with the Federal and State financial assistance that may be available and procured by the Coordinator of Emergency Government. Financial reimbursement shall be returned to the Village Treasurer.

(6) Utilization of Existing Services and Facilities.

- (a) **Policy.** In preparing and executing the Emergency Government program, the services, equipment, supplies and facilities of the existing departments and agencies of the Village shall be utilized to maximum extent practicable; and the heads and personnel of all such departments and agencies are directed to cooperate, and extend such services and facilities as are required of them.
- (b) **Responsibility.** In order to assure that in an emergency all the facilities of the existing Village government are expanded to the fullest to meet such emergencies, department and agency heads assigned to specific responsibilities under the Village Emergency Operations Plan will fulfill emergency and nonemergency duties as prescribed in the plan.
- (7) **Penalties.** Whoever intentionally fails to comply with the directives of emergency government authorities promulgated under this ordinance in an emergency or training program or exercise may be fined not more than \$200.00 and any default of payment of such forfeiture to be imprisoned not more than 90 days.
- (8) **Succession of Village Officers.** Notwithstanding any other reference to the succession of Village officers in these Ordinances or the Statutes of the State of Wisconsin, in the case of a civil defense/emergency government emergency, should the President of the Village be absent or otherwise incompetent to act, the order of succession to the duties of the office of President during such period of a civil defense/emergency government emergency shall be as follows:

- (a) The member of the Emergency Government Committee denominated Number 1 upon his appointment to such Committee.
- (b) In his absence or incompetency to act, the member of the Emergency Government Committee denominated Number 2 upon his appointment to such Committee.
- (c) In his absence or incompetency to act, the member of the Emergency Government Committee denominated Number 3 upon his appointment to such Committee.

*(Created December 9, 1982)*

## **CHAPTER IV**

### **TRAFFIC CODE**

#### **4.01 PROVISIONS OF STATE LAW ADOPTED BY REFERENCE.**

- (1) State Traffic Forfeiture Laws Adopted. Except as otherwise specifically provided in this Ordinance, all provisions of Chapters 340 to 348 of the Wisconsin Statutes describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedures for prosecution, are hereby adopted and by reference made a part of this Ordinance as if fully set forth herein. Any act required to be performed is prohibited by any Statutes incorporated herein by reference is required or prohibited by this Ordinance. Any future amendments, revisions or modifications of Statutes incorporated herein are intended to be made part of this Ordinance in order to secure uniform statewide regulation of traffic on the highways, streets and alleys of the State of Wisconsin.

Sections of Chapters 340 to 348 adopted by reference shall include but not be limited to the following:

340.01	Words and Phrases Defined
341.11	(4) Display of Registration Plates
341.15	Display of Registration Plates
341.16	(4) Issuance of Duplicate Plates
341.42	(4) Reciprocity Permits
341.55	Penalty for Misuse of Plates
341.57	(3) Registration of Finance Companies and Banks
341.63	When Registration is to be Suspended
342.05	(4) Certificates of Title Required
342.15	(5),(6) and (7) Transfer of Interest in Vehicle
342.23	Secured Party's and Owner's Duties
342.30, 342.31, 342.34	Anti-Theft and Anti-Fraud Provisions
343.01	Words and Phrases Defined
343.305	Implied Consent
343.35	Surrender of Licenses Upon Cancellation, Revocation or Suspension
343.45 to 343.46	Unlawful Practices Relative to Licenses

343.60 to 343.72	Licensing of Drier Schools and Instructors
343.73	Penalty
344.01	Words and Phrases Defined
344.45 to 344.47	Penalties for Violation of Chapter
344.51	Financial Responsibilities for Domestic Rented Vehicles
345.01	Words and Phrases Defined
345.20 to 345.53	General Provisions in Traffic Forfeiture Actions
345.55	Traffic Officers Not to Profit From Arrests
346.01	Words and Phrases Defined
346.02	Applicability of Chapter
346.03	Applicability of Rules of the Road to Authorized Emergency Vehicles
346.04 (1) & (2),	Driving, Meeting, Overtaking and Passing
346.05 to 346.16	Penalty for Violating SS. 346.04 to 346.16
346.17	Right of Way
346.18 to 346.21	Penalty for Violating SS. 346.28 to 346.21
346.22	Drivers and Pedestrians
346.23 to 346.29	Penalty for Violating SS. 346.23 to 346.29
346.30	Turning and Stopping and Required Signals
346.31 to 346.35	Penalty for Violating SS. 346.31 to 346.35
346.36	Traffic Signs, Signals and Markings
346.37 346.42	Penalty for Violating SS. 346.37 to 346.42
346.43	Required Stops
346.44 to 346.48	Penalty for Violating SS. 346.44 to 346.48
346.49	Restrictions on Stopping and Parking
346.50 to 346.55	Speed Restrictions on First Offense in a Year
346.57(2),(3) and (4)(a) to (c)	Speed Restrictions
346.57(4)(d)(q) and (h),(5) and (6) to	Penalty for Violating SS. 346.57 to 346.595
346.595	Applicability of Sections Relating to Reckless and Drunken Driving
346.60	Reckless Driving First Offense in Four Years
346.61	Operating Under "Influence" of Intoxicant First Offense in Five Years
346.62(1) and (3)	Employment of Drunk Operators First Offense in a Year
346.63(1), (3) and (4)	Penalty for Violating SS. 346.62 to 346.64
346.64	Applicability of Sections Relating to Accident and Accident Reporting
346.65(1) and (2)	Duty Upon Striking Unattended Vehicle-Upon Striking Property on or
346.66	Adjacent to Highway First Offense Within a Year
346.68 and 346.69	Duty to Report Accident, Etc.
346.70(1), (2), or (3),	Police and Traffic Agencies to Report
346.71, 346.72,	Falsifying Reports First Offense Within a Year
346.73	Bicycles and Play Vehicles
346.70(4)	Penalty for Violating SS. 346.77 to 346.81
346.70(5)	Miscellaneous Rules
346.77 to 346.81	Penalty for Violating SS. 346.87 to 346.94
346.82	General Provisions
346.87 to 346.94	Lighting Equipment
346.95	Penalty for Violating Lighting Equipment Requirements
347.01 to 347.05	
347.06 to 347.29	
347.30	

347.35 to 347.49	Other Equipment
347.50	Penalty for Violating SS. 347.35 to 347.49
348.01 to 348.02	Size, Weight, Load-General Provisions
348.05 to 348.10	Size and Load
348.11	Penalty for Violating Size and Load Limitations
348.15 to 348.20	Weight
348.21	Penalty for Violating Weight Limitations
348.25 to 348.27	Permits
348.28	Permits to be Carried-Penalty

- (2) Other Laws Adopted. There are also hereby adopted by reference the following sections of the Wisconsin Statutes, but the prosecution of such offenses under this Ordinance shall be as provided in Chapters 340 to 348 of the Wisconsin Statutes and the penalty for violation thereof shall be limited to a forfeiture as provided in Section 4.05 of this Ordinance.

941.01(1)	Negligent Operation of a Vehicle Off Highway
947.045	Drinking in Motor Vehicles on Highway

(3) Adoption of Additional Standards.

- (a) In addition to the sections of the Wisconsin Statutes previously adopted, there is also adopted in its entirety, Chapter MVD-5, entitled "Standards for Motor Vehicle Equipment", as it exists on the date of adoption of this Ordinance and as it may be amended from time to time.
- (b) The penalty for violation of any provision of Chapter MVD-5 shall be a forfeiture of Thirty Dollars (\$30.00) together with the costs of prosecution, which amounts shall also constitute the deposit which may be required under the provisions of Wis. Stat. 345.26.

#### **4.02 THROUGH HIGHWAYS DESIGNATED AND NO PARKING AREAS.**

- (1) Through Highways. In the interest of public safety and pursuant to Section 349.06 of the Wisconsin Statutes, the following streets or portions thereof are declared to be through highways, and arterial stop signs or traffic control signals shall be installed at the entrances thereto from those streets intersecting the said through highways, and all vehicles shall stop before entering such through highways:

- (a) Taylor Avenue from the Village limits on the North to the intersection of Lathrop Avenue.
- (b) Lathrop Avenue from the Village limits on the North to the intersection with Taylor Avenue.
- (c) Maryland Avenue from Lathrop Avenue on the West to the intersection of Kensington Court on the East.
- (d) Standish Lane from North Elmwood Drive on the North to the Village limits on the South.

- (2) Arterial Stop Signs Designated. Arterial stop signs shall be placed at the following intersections:

- (a) At each corner of the intersection of Standish Lane and South Elmwood Drive so as to require persons traveling through such intersection to bring their vehicle to a stop before entering the intersection.

*(Created June 14, 1990)*

- (3) No Parking Areas. No person shall park, stop or leave standing any vehicle, whether attended or unattended, between the hours of 5:30 a.m. and 7:00 p.m. on MONDAY through Saturday on the following streets:

- (a) Lathrop Avenue, the West side in front of 3230 Lathrop Avenue.
- (b) Lathrop Avenue, the East side, 50 feet South of Taylor Avenue.
- (c) Lathrop Avenue, the West side, 50 feet North of Taylor Avenue.
- (d) Taylor Avenue, the South side, 50 feet West of Lathrop Avenue.
- (e) Taylor Avenue, the North side, 50 feet West of Lathrop Avenue.
- (f) Taylor Avenue, the East side, 50 feet North of South Elmwood Drive.
- (g) Taylor Avenue, the West side, in front of 3428 Taylor Avenue.

*(Amended June 14, 1990)*

- (4) No person shall park, stop or leave standing any vehicle, whether attended or unattended, between the hours of 2:00 a.m. and 6:00 a.m. on any street or Village right-of-way, in the Village of Elmwood Park, excepting that the foregoing shall not apply to the street or right-of-way immediately adjacent to those premises described as:

Lot 11, Block 4, Elmwood, according to the recorded plat thereof  
(3508 Maryland Avenue)

And also the Village Board may grant a temporary or permanent permit to any resident when to do otherwise would be a hardship to the Village resident which hardship, however, may not have been created by said Village resident.

*(Amended June 14, 1990)*

- (5)
  - (a) The forfeiture for violation of Section 4.02(1),(2),(3) and (4) of this Ordinance shall be not less than \$20.00 nor more than \$50.00.
  - (b) A person charged with a nonmoving traffic (parking) violation under this Section may mail or pay in person the amount of the forfeiture to the Village Clerk. In that case, the citation shall not be filed in Court.
  - (c) In addition to the amount of forfeiture for violation of parking ordinances, the following fees shall be assessed when applicable.
    - 1. When payment is made after the scheduled court appearance date when no court appearance was made, a fee of \$5.00 shall be assessed.

2. Citations for all nonmoving traffic violations shall permit direct mail payment on the applicable minimum forfeiture to the Village Clerk within ten (10) days of the issuance of the citation in lieu of court appearance. The issuing officer shall specify thereon the amount of the applicable forfeiture. The forfeiture for violation of all nonmoving traffic violations shall double if the applicable minimum forfeiture is not paid to the Village Clerk within ten (10) days of the issuance of the citation as set forth above.

*(Amended December 10, 1998)*

- (6) The forfeiture for violation of Section 4.02(1),(2),(3) and (4) shall be \$5.00 plus costs of \$2.00 and for Section 4.02(5) shall be \$20.00 plus costs of \$2.00.

*(Amended May 11, 1995)*

#### **4.03 HEAVY TRAFFIC ROUTES.**

- (1) Heavy Traffic Routes Designated. The following streets and portions of streets within the Village are hereby designated heavy traffic routes:
  - (a) Lathrop Avenue from the Village limits on the North to the Village limits on the South.
  - (b) Taylor Avenue from the Village limits on the North to the Village limits on the South.
- (2) Restrictions on Use of Other Streets by Heavy Traffic. No vehicle, except a motor bus, which is not equipped with pneumatic tires or has a combined vehicle load weight exceeding 6,000 pounds shall be operated or moved on any street or alley not part of the heavy traffic route designated in subsection (1) of this section in the Village of Elmwood Park, except for the purpose of obtaining orders for, moving, or delivering supplies or commodities to or from a place of business or residence facing thereon, provided that in no event shall the weight of the vehicle and load on such other street exceed the limitation of Sections 348.15 or 348.16(3) of the Wisconsin Statutes pertaining to Class "A" Highways or deliveries on Class "B" Highways.

#### **4.04 OFFICIAL TRAFFIC SIGNS AND SIGNALS.**

- (1) Village Board Authorized to Direct the Procurement and Erection of Signs and Signals. The Village Board shall direct and procure the erection and maintenance of appropriate standard traffic signs, signals and markings conforming to the rules of the State Highway Division giving such notice of the provisions of this Ordinance as required by state law. Signs shall be erected in such locations and manner as the Village Board shall determine will best effect the purposes of this Ordinance and give adequate warning to the users of the highway, street, or alley in question.
- (2) Removal of Unofficial Signs and Signals. The Village Board shall have the authority granted by Section 349.09 of the Wisconsin Statutes and is hereby directed to order the removal of any sign, signal, marking or device placed, maintained or displayed in violation of this Ordinance or Section 346.41 of the Wisconsin Statutes. Any charge imposed on a premises for removal of such an illegal sign, signal, marking or device shall be reported to the Village Board at its next regular meeting for review and certification.

#### **4.05 PENALTY.**

The penalty for violation of any provisions of this Ordinance shall be a forfeiture as hereinafter provided together with the cost of prosecution imposed as provided in Section 345.20 to 345.53 of the Wisconsin Statutes.

- (1) Uniform Offenses. Forfeitures for violation of any provision of Chapters 341 to 348 adopted by reference in Section 4.01(1) of this Ordinance shall conform to forfeitures for violation of the comparable state offense, including any variations or increases for second offenses.
- (2) Special Local Regulations.
  - (a) The forfeiture for violation of Section 4.02(2) of this Ordinance shall be not more than \$40.00 for the first offense and not more than \$100.00 for the second offense within one year.
  - (b) The forfeiture for violation of Section 4.03 of this Ordinance shall be not more than \$200.00 for the first offense and not more than \$500.00 for the second offense within two years.
- (3) Miscellaneous. The forfeiture for violation of any provision of Section 4.01(2) of this Ordinance shall be not less than \$50.00 or more than \$500.00.
- (4) Compulsory Safety School Attendance. The provisions of Section 345.60 of the Wisconsin Statutes shall apply to adjudications of violation of the provisions of Chapters 346 to 348 adopted by reference in this Ordinance.

#### **4.06 ENFORCEMENT.**

This Ordinance shall be enforced in accordance with the provisions of Sections 345.20 and 345.53, Chapter 299, and Section 66.12 of the Wisconsin Statutes.

- (1) Stipulation of Guilt or No Contest. Stipulations of guilt or no contest may be made by persons arrested for violations of this Ordinance in accordance with Section 66.12(1)(b) of the Wisconsin Statutes, whenever the provisions of Section 345.27 are inapplicable to such violations. Stipulations shall conform to the form contained on the uniform traffic citation and complaint under Section 345.11 of the Wisconsin Statutes, and may be accepted within five days of the date of the alleged violation. Stipulations may be accepted by the Village Police Department.
- (2) Deposits. Any person stipulating guilt or no contest under subsection (1) of this section must make the deposit required under Section 345.26 of the Wisconsin Statutes, or, if the deposit is not established under such Statute, shall deposit a forfeited penalty as provided in the schedule established by the Village Chief of Police and approved by the Village Board. Deposits may be brought or mailed to the Village Police Department as directed by the arresting officer.
- (3) Notice of Demerit Points and Receipt. Every officer accepting a forfeited penalty or money deposit under this Ordinance shall receipt therefor in triplicate as provided in Section 345.26(3)(b) of the Wisconsin Statutes. Every officer accepting a stipulation under the provisions of this Ordinance shall comply with the provisions of Sections 343.27, 343.28, 345.26(1)(a) and 345.27(2) of the Wisconsin Statutes, and shall require the alleged violator to sign a statement of notice in

substantially the form contained on the uniform traffic citation and complaint promulgated under Section 345.11 of the Wisconsin Statutes.

- (4) Forfeitures in Treasury. Any officer accepting deposits or forfeited penalties under this Ordinance shall deliver them to the Village Treasurer at least once in each seven days.
- (5) Citations. Citations for all nonmoving traffic violations under this Chapter shall conform to Section 345.28 of the Wisconsin Statutes, and shall permit direct mail payment of the applicable minimum forfeiture plus costs to the Village Police Department within ten days of the issuance of the citation in lieu of court appearance. The issuing officer shall specify thereon the amount of the applicable forfeiture as provided by this Chapter.
  - (a) Forfeitures. The forfeiture for violation of all nonmoving traffic violations under this Chapter shall double if the applicable minimum forfeiture is not paid to the Village Police Department within the later of ten days of the issuance of the citation or the first arraignment date after the issuance of the citation as set forth above.

#### **4.07 REFERENCE TO STATUTES.**

Reference to specific statutory sections wherever used in this Ordinance shall mean the Wisconsin Statutes of 1971 and the laws amendatory thereto.

#### **4.08 SEVERABILITY.**

The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid and if any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

## **CHAPTER V**

### **FIRE PROTECTION**

#### **5.01 CONTRACT FOR FIRE PROTECTION.**

The President and Board of Trustees of the Village shall be empowered to provide fire protection for the Village by contract with the Village of Sturtevant, the Town of Mt. Pleasant, the City of Racine, or with any other adjoining municipality, or with more than one municipality upon such terms and conditions as they may deem just and proper.

#### **5.02 VILLAGE FIRE DEPARTMENT.**

The Fire Department or Volunteer Fire Department of the municipalities with which the Board may contract for fire protection is hereby officially recognized as the fire department of the Village of Elmwood Park, and the duty of fire fighting and the prevention of fires in the Village of Elmwood Park is hereby delegated to such department or departments.

#### **5.03 POWERS AND DUTIES OF CHIEF.**

The Chief and personnel of the Fire Department or Departments of the municipalities with which the Village may contract for fire protection shall have the following powers and duties:

- (1) The Chief shall have general supervision of the Department subject to this Ordinance and the By-Laws of the Department and shall be responsible for the personnel and general efficiency of the Department.
- (2) It shall be the duty of the Chief to preside at all meetings of the Department, to call special meetings, to preserve order, to decide all points of order that may arise and to enforce a rigid observance of this Ordinance and the By-Laws.
- (3) It shall be the duty of the Chief or any assistant to be present at all fires, to have complete command of and entire responsibility for all fire fighting operations, to plan the control of the same, to direct the action of the companies when they arrive at a fire, to observe that every company does its duty, to grant leaves of absence at a fire when he may deem it proper, and to see that the fire apparatus is kept in proper condition at all times.

- (4) The Chief shall have the power to demote or expel any officer or member of the Department for neglect or refusal to perform his departmental duties, such demotion or expulsion to be subject to an appeal to the governing body of the parent municipality of the Department.
- (5) Not later than October 1st of each year, the Chief shall file with the Village Clerk a detailed estimate of the appropriations needed for the conduct of the Department during the ensuing fiscal year.
- (6) It shall be the duty of the Chief to submit a written report to the Village Board not later than February 1st of each year, and at such other times as he deems desirable, relating to the conditions of the various pieces of apparatus and appurtenances, the number of fires occurring since the previous report, the date of same and loss occasioned thereby, the number of members of each company, the total number of active members in the department and resignations and expulsions from the Department. He shall also report upon the drill and training program of the Department, together with other pertinent information, including recommendations of such improvements as he deems proper and necessary for the operation of the Department.
- (7) He shall enforce all fire prevention ordinances of the Village and State laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and on the activities of the Department.
- (8) He shall keep a fire record book of every fire to which any company was called and shall enter in such book the locality of fire, time alarm was received, cause of fire, where fire started, cause of delay (if any) in responding, method of extinguishment and equipment used, amount of insurance carried on building and contents, estimated fire loss, time fire was extinguished, names of men responding and general remarks.
- (9) He shall keep an inventory of all apparatus and equipment and an inventory of all hose showing dates and results of tests on each length, which shall be individually identified.
- (10) He shall perform such other duties as are incumbent on the commanding officer of the Fire Department.

#### **5.04 FIRE DEPARTMENT PROPERTY.**

- (1) The Chief shall have control of all apparatus used by the Department and shall be responsible for its proper maintenance. Emergency repairs may be authorized by the Chief.
- (2) No apparatus shall be used for any purpose except for fire fighting within the limits of the municipalities contracting therefor. With the approval of the Chief, such apparatus may be used for emergency purposes other than fire fighting within such municipalities. A written report of all such uses shall be made quarterly to the Village Board.
- (3) No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the Department, Departments or Village, and no vehicle shall be driven over an unprotected hose of a fire department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire without the consent of the Fire Department official in command.

## **5.05 POLICE POWER OF DEPARTMENT.**

- (1) The Chief and assistants or officers in command at any fire are hereby vested with full and complete police authority at fires. Any officer of the Department may cause the arrest of any person failing to give the right-of-way to the Fire Department in responding to a fire.
- (2) The Fire Chief may prescribe certain limits in the vicinity of the fire within which no persons, excepting firemen and policemen and those admitted by order of any officer of the Department, shall be permitted to come. The Chief shall have the power to cause the removal of any property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he shall have the power to order the removal or destruction of any property necessary to prevent the further spread of the fire. He shall also have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during the progress of a fire.
- (3) It shall be lawful for any fireman while acting under the direction of the Fire Chief or other officer in command to enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire and in case any person shall hinder, resist or obstruct any fireman in the discharge of his duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting fireman in the discharge of their duty.
- (4) Every person who shall be present at a fire shall be subject to the orders of the Fire Chief or officer in command and may be required to render assistance in fighting the fire or in removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders.

## **5.06 FIRE INSPECTORS: DUTIES.**

- (1) The Chief of the Fire Department shall hold the office of fire inspector, with power to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the fire inspector.
- (2) It shall be the duty of the fire inspectors to inspect quarterly all buildings, except private dwellings, premises and thoroughfares within the Village in order to bring about the correction of any conditions likely to cause fire. The inspectors shall also investigate the storage and handling of explosives and inflammable liquids within the Village.
- (3) Whenever and wherever in the Village any inspection by the Fire Chief or his deputies reveals a fire hazard, the Chief or his deputies shall serve a notice in writing upon the owner of the property giving said owner a reasonable time in which to remove the hazard. In the event that the fire hazard is not removed within the time allowed, it shall be deemed a nuisance. The Fire Chief or his deputy is authorized to request the same be removed by the Village, and the cost of such removal shall be recovered in an action by the Village against the owner of the property.
- (4) The Chief shall keep a written record of each property inspected which shall conform to the requirements of the Industrial Commission and shall make the quarterly report of inspections required by the Industrial Commission.
- (5) No person shall hinder or obstruct the fire inspector in the performance of his duty or refuse to perform any lawful direction given by him.

## **5.07 FALSE FIRE ALARMS.**

It shall be unlawful for any person by any means or in any manner to give or make, or cause anyone to give or make any false, misleading or untruthful call or fire alarm which causes or which is given under such circumstances as likely to cause, any fire department to respond with men and equipment as if to attend an actual fire, and any person who violates this provision in addition to being required to pay the charge submitted to the Village for the answering of such false fire alarm, shall upon conviction thereof be subject to penalty as provided in Section 15.04 of this Code.

## **5.08 PENALTIES.**

Any person, firm or corporation that shall violate any of the provisions of this chapter shall be subject to the penalties set forth in Section 15.04 of this Code.

# **CHAPTER VI**

## **PUBLIC WORKS**

### **6.01 STREET AND SIDEWALK GRADES.**

- (1) Establishment. The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board and the same recorded by the Village Clerk in his office. No street, alley or sidewalk shall be worked until the grade thereof is established.
  - (a) The grade at the top of curb line or elevation of curb of the following named streets is altered, fixed and permanently established, assuming as a base the City of Racine Datum, the grade established to be a straight line from point to point as hereinafter described.

1A - Green Meadow Lane

Sta. 0+00 = Centerline of Taylor Avenue

<u>Description</u>	<u>Station</u>	<u>Top of Curb Elevations</u>	
		<u>Left</u>	<u>Right</u>
P.T. of Radius	0+42	65.77	
P.T. of Radius	0+50		65.80
	4+50	67.40	67.40
	6+75	66.50	66.50
End of C & G	9+35	67.54	67.54

1B - Kensington Court

0+00 = Centerline of Maryland Avenue  
(Sta. incr. to North)

Center of Radius		63.27	63.24
	0.80	63.60	63.60
Center of Cul-de-Sac			
Radius		62.60	62.60
0+00 = Centerline of Maryland Avenue			
(Sta. incr. to South)			
Center of Radius		63.33	63.36
	0+46	63.70	
	0+65		63.60
	1+40	64.10	
	1+85	64.60	
Center of Cul-de-Sac			
Radius		65.50	65.50

1C - Wheelock Drive

Centerline of Maryland Avenue = -0+05  
(Sta. incr. to North)

<u>Description</u>	<u>Station</u>	<u>Top of Curb Elevations</u>	
		<u>Left</u>	<u>Right</u>
P.T. of Radius	0+38		64.65
P.T. of Radius	0+42	64.57	64.67
	3+00	65.60	65.70
End of C & G	4+08	65.00	65.00

1D - Elm Tree Court

0+00 = Centerline of Taylor Avenue  
(Sta. incr. to North)

	0+50	65.12	65.03
	1+50		64.00
	2+10	64.40	
Center of Cul-de-Sac			
Radius		65.00	65.00

1E - Saratoga Court

0+00 = Centerline of Lathrop Avenue  
(Sta. incr. to East)

	0+50	65.92	66.10
	0+85		66.30
	1+50	65.50	
	2+10	65.80	
	2+80		65.20

#### 1F - Maryland Avenue

0+00 = Centerline of Lathrop Avenue

(Sta. incr. to East)

Begin C & G	0+44	66.63	66.63
	1+50	66.04	
	2+00		65.76
	3+25		64.81
	4+30	64.92	
Center Radius	4+50+	64.48	
	4+75		64.21
P.T. Radius	5+16	64.41	
	5+25		64.41
	5+50	64.18	

<u>Description</u>	<u>Station</u>	<u>Top of Curb Elevation</u>	
		<u>Left</u>	<u>Right</u>
	6+00	63.85	
	6+50	63.58	
	6+70		63.83
	6+89	63.42	
Center Radius	7+00+		
Center Radius	7+09+	63.27	
Center Radius	7+59+	63.24	63.33
	7+82		63.44
	7+85	63.34	
P.C. Vert. Curve	9+00	63.88	63.91
P.I. Vert. Curve			
El. 64.11 (L & R)	9+50		
Top of Curve Elev.	9+50	64.36	64.37
P.R.C. Vert. Curve	10+00	65.37	65.37
P.I. Vert. Curve			
El. 66.00 (L & R)	10+25		
Top of Curve	10+25	65.82	65.82
End of C & G	10+37	65.95	65.95
P.T. Vert. Curve	10+50	66.00	66.00

#### 1G - North Elmwood Drive

Sta. 0+00 = Centerline South Elmwood Drive

(Sta. incr. to North)

P.T. Radius	0+25	66.41	
P.T. Radius	0+63		66.26
P.T. Radius	3+57		65.08
P.T. Radius	3+88	64.96	
P.T. Radius	4+53	65.12	
P.T. Radius	5+70		65.43

	5+75	66.00	
	6+00		65.55
	7+25	65.40	65.05
	8+75		65.85
P.C. Vert. Curve	9+60	66.34	
P.C. Vert. Curve	9+75		65.45
P.I. Vert. Curve			
Left = Elev. 66.54	10+10		
Top of Curb	10+10	66.14	
P.I. Vert. Curve			
Right = Elev. 65.25	10+25		
Top of Curb	10+25		65.02
P.T. Vert. Curve	10+60	65.16	
P.T. Vert. Curve	10+75		64.20
P.C. Radius	12+08		61.12
P.C. Vert. Curve	12+50	59.92	
End C & G (Left)	12+80	59.27	
P.T. Radius			58.64

### 1H - South Elmwood Drive

Sta. 0+00 = Centerline of Taylor Avenue  
(Sta. incr. to East)

	0+50	65.30	65.30
P.C. Vert. Curve	1+50	64.90	64.90
P.I. Vert. Curve			
(L & R) El.=64.70	2+00		
Top of Curb	2+00	64.88	64.88
P.T. Vert. Curve	2+50		65.20
P.R.C. Vert. Curve	2+50	65.20	
P.I. Vert. Curve			
(Left) El. 65.70	3+00		
Top of Curb	3+00	65.63	
P.T. Vert. Curve(L)	3+50	65.92	
P.C. Vert. Curve(R)	3+50		66.20
P.C. Radius	3+66+	65.99	
P.T. Radius		66.41	
P.I. Vert. Curve			
(Right) El. 66.70	4+00		
Top of Curb	4+00		66.52
P.C. Radius		66.26	
P.T. Vert. Curve	4+50		66.50
P.T. Radius		66.43	
P.C. Vert. Curve	5+00	66.58	
P.I. Vert. Curve			
(Left) El 66.80	5+50		
Top of Curb	5+50	66.64	
P.T. Vert. Curve	6+00	66.37	
P.C. Vert. Curve	6+50		65.70
P.C. Radius	6+65+	65.79	
P.I. Vert. Curve			
(Right) El. 65.50	7+00		

Top of Curb	7+00		65.23
P.C. Radius	7+42+	64.26	

<u>Description</u>	<u>Station</u>	<u>Top of Curb Elevations</u>	
		<u>Left</u>	<u>Right</u>
P.T. Vert. Curve	7+50		64.00
P.C. Vert. Curve	8+00	62.51	62.50
P.I. Vert. Curve			
(L & R) El. 61.00	8+50		
Top of Curb	8+50	61.16	61.16
P.T. Vert. Curve	9+00	60.12	60.12
P.T. Radius	9+59	59.09	59.09

#### II - McArthur Place

Sta. 0+00 = Centerline of South Elmwood Drive  
(Sta. incr. to North)

P.C. Radius		65.78	64.26
P.T. Radius	0+40+	65.56	64.41
	2+00		65.05
P.C. Radius	2+68+	64.00	
P.C. Radius	2+97+		64.50
P.T. Radius		65.08	

#### 1J - Standish Lane

Sta. 5+00 = South line of Block 19, Elmwood No. 3, Extended  
(Sta. incr. to North)

Beg. C & G	0+50	54.72	54.30
	2+75	57.87	
P.C. Radius	3+00+		57.30
P.T. Radius			57.00
P.C. Radius			57.31
P.C. Radius	3+66+	58.43	
P.T. Radius	3+77+		57.61
P.T. Radius		59.09	
P.C. Radius		59.09	
Center Radius		58.66	
P.T. Radius	4+43	58.81	
	7+00	60.10	
	8+25	60.60	59.40
	11+00	58.90	
P.C. Radius	11+65+	58.64	
End of C & G	12+20		57.82

(b) All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed. This ordinance shall be in force and takes effect from and after its passage and publication.

(2) Alteration of Grade Prohibited. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Elmwood Park by any means whatsoever unless

authorized or instructed to do so by the Village Board or the Building Inspector. All such alterations of grade shall be recorded in the office of the Village Clerk by the Clerk or the officer authorizing the alteration.

- (3) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 15.04 of this Code.

## **6.02 SIDEWALK CONSTRUCTION AND REPAIR.**

- (1) Permit Required. No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village of Elmwood Park unless he is under contract with the Village to do such work or has obtained a permit therefor from the Village Board at least seven days before work is proposed to be undertaken. No fee shall be charged for such permits.
- (2) Penalty. The penalty for violation of this section shall be a penalty as provided in Section 15.04 of this Code.

## **6.03 DRIVEWAYS.**

- (1) Approval Required. No person shall construct or maintain any driveway without first obtaining a building permit from the Building Inspector.
- (2) Specifications for Driveway Construction.
- (a) Width. No driveway shall exceed twenty-four (24) feet in width at the outer or street edge unless special permission is obtained from the Village Board.
- (b) Interference with Intersections Prohibited. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village Board for effective traffic control or for highway signs or signals.
- (c) Interference with Street. No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right of way. When required by the Building Inspector to provide for adequate surface water drainage along the street, the property owner shall provide any necessary culvert pipe at his own expense.
- (d) Number of Approaches Limited. No more than one driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible without undue impairment of safety, convenience and utility of the street by the Building Inspector. Any two approaches shall be at least ten feet apart.
- (e) Permittee Liable for Damage or Injury. The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances. When curb or gutter is removed, the new connection shall be of equivalent acceptable material and curb returns provided or restored in a neat, workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a neat, workmanlike manner. Any sidewalk

area which is damaged or is inadequate by reasons of vehicle travel across the sidewalk shall be replaced in a neat, workmanlike manner.

- (3) Penalty. The penalty for violation of any provision of this Section shall be a penalty as provided in Section 15.04 of this Code.

#### **6.04 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS.**

- (1) Permit Required. No person shall make or cause to be made any excavation or opening in any street, alley, highway, sidewalk or other public way within the Village of Elmwood Park without first obtaining a permit therefor from the Building Inspector.
- (2) Bond. Before a permit for excavating or opening any street or public way may be issued, the applicant must execute and deposit with the Village Clerk an indemnity bond, approved by the Village President, in the sum of not less than \$1,000.00 nor more than \$5,000.00 conditioned that he will indemnify and save harmless the Village of Elmwood Park and its officers from all liability for accidents and damage caused by any work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any openings he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Building Inspector for a period of one year, and that he will pay all fines imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Village Board, and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Village. Such bond shall also guarantee that if the Village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violations during the period of excavation for which it is given. An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the Village.
- (3) Insurance. Prior to commencement of excavation work, a permittee must furnish the Building Inspector satisfactory written evidence that he has in force and will maintain during the life of the permit and the period of excavation, public liability insurance of not less than \$100,000 for one person, \$300,000 for one accident, and property damage insurance of not less than \$50,000.
- (4) Regulations Governing Street and Sidewalk Openings.
- (a) Frozen Ground. No opening in the streets or sidewalks for any purpose shall be permitted when the ground is frozen, except where necessary as determined by the Building Inspector.
- (b) Removal of Paving. In opening any street or other public way, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing material and together with the excavated material from trenches shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.

- (c) Protection of Public. Every person shall enclose with sufficient barriers each opening which he may make in the streets or public ways of the Village. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his agents or employees. Red lights or torch lamps shall be kept burning from sunset to sunrise, one red light or torch lamp to be placed at each end of the opening in the street or way and other lights sufficient in number and properly spaced to give adequate warning. Except by special permission from the Building Inspector, no trench shall be excavated more than 100 feet in advance of pipe laying nor left unfilled more than 100 feet where pipe has been laid. All necessary precautions shall be taken to guard the public effectually from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles, or property of any kind.
- (d) Replacing Street Surface. In opening any street or sidewalk, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which in the opinion of the Building Inspector is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street or sidewalk in perfect repair, the same to be so maintained for a period of one year. In refilling the opening, the earth must be puddled or laid in layers not more than six inches in depth and each layer rammed, tamped or flushed, to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, branching, lagging, sheathing or other lumber shall be left in any trench except with the permission of the Building Inspector. The Village may elect to have the Village make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and maintaining it for one year shall be charged to the person making the street opening.
- (5) Excavation in New Streets Limited. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Village Clerk shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate said street for a period of five (5) years after the date of improvement or repaving unless in the opinion of the Building Inspector, an emergency exists which makes it essential that the permit be issued.
- (6) Emergency Excavations Authorized. In the event of an emergency, any person owning or controlling any sewer, water main, conduit or utility in or under any street and his agents or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit; provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining an excavation permit hereunder.

- (7) Village Work Excluded. The provisions of this section shall not apply to excavation work under the direction of the Village Board by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets.
- (8) Maintenance of Sewer Services. All sewer service within the limits of the Village at the point of connection to the street main and all street mains shall be maintained and repaired by the Village without expense to the property owner, except when they are damaged as a result of negligence or carelessness on the part of the property owner or occupant, in which case they will be repaired at the expense of the property owner. All building sewers from the point of connection to the street main and all facilities throughout the premises served must be maintained free of defective conditions by and at the expense of the owner or occupant of the property served.
- (9) Penalty. The penalty for violation of any provisions of this Section shall be a penalty as provided in Section 15.04 of this Code.

## **6.05 OBSTRUCTIONS AND ENCROACHMENTS.**

- (1) Obstructions and Encroachments Prohibited. No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in subparagraph (2).
- (2) Exceptions. The prohibition of subparagraph (1) shall not apply to the following:
  - (a) Public utility encroachments duly authorized by state law or the Village Board.
  - (b) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on the sidewalk, provided such goods, wares, etc. do not remain thereon for a period of more than two hours.
  - (c) Temporary encroachments or obstructions authorized by permit under subparagraph (3).
  - (d) Excavations and openings permitted under Section 6.04.
- (3) Street Privilege Permit.
  - (a) When Required. Permits for the use of the streets, alleys, sidewalks, or other public ways or places of the Village may be granted to applicants by the Building Inspector for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk, or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this subsection and has obtained a building permit if required by Section 8.01 of this Code.
  - (b) Bond. No street privilege permit shall be issued until the applicant executes and files with the Village Clerk a bond in an amount determined by the Building Inspector, conditioned that the applicant will indemnify and save harmless the Village of Elmwood Park from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the Village resulting from such building or moving operations.

- (c) Conditions of Occupancy. The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Building Inspector for violation thereof:
1. Such temporary obstruction shall cover not more than one-third of any street or alley.
  2. Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  3. Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four feet in width guarded by a closed fence at least four feet high on both sides may be maintained during the period of occupancy.
  4. The process of moving any building or structure shall be as continuous as practicable until completed, and if ordered by the Building Inspector shall continue during all hours of the day and night.
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5. No building or structure shall be allowed to remain overnight on any street, crossing or intersection or so near thereto so as to prevent easy access to any fire hydrant.
  6. Buildings shall be moved only in accordance with the route prescribed by the Village Board.
  7. Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (d) Termination. All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Building Inspector.
- (4) Removal by Village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk or road shall refuse or neglect to remove such obstruction within twenty-four (24) hours after notice from the Building Inspector to do so, it shall be the duty of the Building Inspector to remove such obstruction and make return of the cost and expense thereof to the Village Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.
- (5) Penalty. The penalty for violation of any of the provisions of this section shall be a penalty as provided in Section 15.04 of this Code.

## **6.06 SNOW AND ICE REMOVAL.**

- (1) Responsibility of Owner, Occupant, Etc. The owner, occupant or person in charge of each and every building or structure or unoccupied lot in the Village of Elmwood Park fronting or abutting any street shall clean or cause to be cleaned the sidewalk in front of or adjoining each such home, building or unoccupied lot as the case may be of snow or ice, to the width of such sidewalk by 10:00 a.m., on each day and shall cause the same to be kept clear from ice and snow, provided that when the ice has formed on any sidewalk so that it cannot be immediately removed, the persons herein referred to shall keep the same sprinkled with ashes, sawdust or sand; provided also that in case snow shall continue to fall during and after 10:00 a.m., then it shall be removed within three (3) hours of daylight after it shall cease to fall.
- (2) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 15.04 of this Code. A separate rate offense shall be deemed committed during each hour or part thereof during which a violation occurs or continues.

## **6.07 TREE TRIMMING AND SANITATION.**

- (1) Trees to be Kept Trimmed. Trees standing in and upon any public street or place, or upon any lot or land adjacent thereto shall be pruned and trimmed by the owner or owners or occupants of the property on or in front of which such trees are growing so that the lowest branches projecting over the public street or alley or road will provide a clearance of not less than fourteen (14) feet and a clearance of not less than ten (10) feet over any other public place and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous.
- (2) Hazardous and Infected Trees. Any tree or part thereof, whether alive or dead, which the Weed Commissioner shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Village, or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The Weed Commissioner shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken which shall be within not less than twenty-four (24) hours or more than fourteen (14) days as determined by the Weed Commissioner on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the Weed Commissioner shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk, who shall thereupon enter such cost as a special charge against the property.
- (3) Cottonwood and Box Elder Trees Prohibited. No person shall plant or maintain within the Village of Elmwood Park any female tree of the species Populus Deltoides, commonly called the "Cottonwood", or any tree commonly called the seed-bearing Box Elder or Acer Negundo, which may now or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance. Any person having such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within thirty days after receiving a written notice from the Weed Commissioner, the Commissioner shall cause the removal of such tree and report the full cost thereof to the Village Clerk who shall place such charge upon the next tax roll as a special charge against the premises.

- (4) Planting of Certain Trees Restricted. No person shall hereafter plant any species of Elm, Catalpa, White Poplar, Lombardy Poplar or Willow Tree.
- (5) Cut Tree/Stump Removal. Any person cutting down a tree for any reason shall be required to remove the tree, and its stump, to below the ground level.
- (6) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 15.04 of this Code.

## **6.08 WEED CONTROL.**

- (1) Destruction of Weeds Required. Any persons owning, occupying or controlling any land in the Village of Elmwood Park shall, without notice, destroy noxious Weeds growing on such land at least once during each of the following periods of time:
  - Between June 7 and June 15
  - Between July 24 and August 1

The term "Noxious Weeds" includes Canada Thistle, Leafy Spurge, Field Bindweed, unsightly and troublesome plants which are detrimental to cultivated crops, public health, public welfare and to the general appearance of the surrounding area, or such uncultivated rank plants which create unpleasant or noxious odors or grow to such height as to permit the concealment of filthy deposits.

- (2) Penalty. The penalty for violation of any provision of this Section shall be a penalty as provided in Section 15.04 of this Code.

## **6.09 RECYCLING OF GARBAGE AND REFUSE REQUIRED.**

- (1) Collection Procedure and Mandatory Recycling. Every residential unit shall cooperate in the collection and recycling of garbage and refuse in accordance with this Section.
- (2) Definitions.
  - (a) "Collector" means the person or persons specifically authorized by the Village Board to collect garbage and recyclable materials and dispose of same.
  - (b) "Containers" means those containers used for the storage of recyclable materials.
  - (c) "Recyclable Materials" means plastic HDPE two liter soda and laundry bottles; brown, green or clear glass bottles and jars; bimetal, metal and aluminum cans, newspapers that are bundled or placed in recyclable brown paper bags, and bundled corrugated cardboard. Such "recyclable materials" must be clean, uncontaminated, dry, not food or oil stained, and must meet any other material specifications of the secondary market for said materials pursuant to any agreement made with the collector then selected by the Village.
  - (d) "Non-Recyclable Materials" means all pyrex glass, window glass, light bulbs, mirrors, broken glass and china, all styrofoam and melamine type plastics, all waxed paper, waxed cardboard, envelopes with gummed labels or plastic windows, glossy paper, magazines and all other paper, garbage and rubbish, telephone directories, etc., not defined as recyclable materials.

- (3) Method of Separation and Collection. All recyclable materials shall be separated from other garbage and refuse and grouped together and placed for collection in their proper containers in the same manner as regular garbage collection occurs. Recyclable materials shall be grouped together in the following manner:
- (a) Glass Container. Brown, green and clear glass shall be unbroken, rinsed and have covers removed.
  - (b) Newspaper. All newspaper shall be bundled or placed in paper bags and be kept dry so as not to render them useless as a recyclable item and should be placed on top of all other recyclable materials in their proper container.
  - (c) Corrugated Cardboard. All corrugated cardboard shall be flattened but need not be bundled.
  - (d) Aluminum Cans. All aluminum cans and aluminum foil shall be cleaned and rinsed. Bimetal and metal cans shall also be cleaned and rinsed.
  - (e) Plastic Milk Containers. All plastic containers shall have the covers removed and be rinsed before being placed in their proper container.
- (4) Collection by Unauthorized Person. From the time of placement at the authorized location for the recycling containers, items shall be and become the property of the Village of Elmwood Park or its collector. It shall be a violation of this Ordinance for any unauthorized person to collect or pick up or cause to be collected or picked up any such items during the twenty-four (24) hour period commencing at 6:00 p.m. on any day preceding an day designated for collection. Any and each such collection in violation hereof during said twenty-four (24) hour period shall constitute a separate offense punishable as hereinafter provided.
- (5) Publication of Rules and Regulations. All rules and regulations for the collection and disposal of garbage, refuse and recyclable materials shall be effective as of their date of adoption and posting in the same manner as other Ordinances of the Village.
- (6) Penalty. The penalty for violation of any of the provisions of this section shall be a penalty as provided in Section 15.04 of this Code.

CHAPTER VII  
SEXUAL PREDATORS RESIDENCY RESTRICTIONS

7.1. SEXUAL OFFENDER RESIDENCY RESTRICTIONS.

(a) *Finding and intent.*

- (1) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to public safety. Sexual offenders are likely to use physical violence; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. Thus, the cost of sexual offenders to society at large is difficult to calculate.
- (2) It is the intent of this chapter not to impose a criminal penalty, but instead to serve the village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the village by creating areas around the locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from entering or residing.
- (3) This Chapter is not intended to limit any persons from exercising their right to assemble or engage in any other constitutionally protected activity. The Chapter only applies to individuals with the requisite intent to induce or lure a child away from a child's location within a Child Safety Zone.

(b) *Definitions.* The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

*A Crime Against Children* shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

§ 940.22(2) Sexual Exploitation by Therapist; § 940.30 False Imprisonment where victim was a minor and not the offender's child; § 940.31 Kidnapping where victim was minor and not the offender's child; § 944.01 Rape (prior statute); § 944.06 Incest; § 944.10 Sexual Intercourse with a Child (prior statute); § 944.11 Indecent Behavior With a Child (prior statute); § 944.12 Enticing Child for Immoral Purposes (prior statute); § 948.02(1) First Degree Sexual Assault of a Child; § 948.02(2) Second Degree Sexual Assault of a Child; § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child; § 948.05 Sexual Exploitation of a Child; § 948.055 Causing a Child to View or Listen to Sexual Activity; § 948.06 Incest with a Child; § 948.07 Child Enticement; § 948.075 Use of a Computer to Facilitate a Child Sex Crime; § 948.08 Soliciting a Child for Prostitution; § 948.095 Sexual Assault of a Student by School Instructional Staff; § 948.11(2)(a) or (am) Exposing Child to Harmful Material, felony sections; § 948.12 Possession of Child Pornography; § 948.13 Convicted Child Sex Offender Working with Children; § 948.30 Abduction of Another's Child; § 971.17 Not Guilty by Reason of Mental Disease, of an included offense; and § 975.06 Sex Crimes Law Commitment.

*Child* or *Children* means person(s) under the age of 18 years for purposes of this chapter.

*Designated Offender* means a person who (1) has been convicted of a Crime Against Children; (2) has been adjudicated delinquent for a Crime Against Children; (3) has been found guilty by reason of disease or mental defect of a Sexually Violent Offense and/or a Crime Against Children; (4) is or was required to register under Section 301.45, Wisconsin Statutes, for any sexual offense; or (5) any person who is or was required to register under Section 301.45, Wisconsin Statutes, and who has been designated a Special Bulletin (SBN) sex offender pursuant to Sections 301.46(2) and (2m), Wisconsin Statutes.

*Minor* means a person under the age of 17 years.

*Permanent Residence* means a place where the Designated Offender lodges or resides for 14 or more consecutive days.

*Sexually Violent Offense* shall have the meaning as set forth in Wis. Stat. § 980.01(6), as amended from time to time.

*Temporary Residence* means either: (1) a place where the person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address; or (b) a place where the person routinely abides, lodges or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's Permanent Residence.

## **7.2 PROHIBITED LOCATION OF RESIDENCE FOR DESIGNATED SEX OFFENDERS.**

- (a) *Protected Locations.* No Designated Offender shall establish a Permanent Residence or Temporary Residence on property that is within 750 feet of real property consisting of any of the following uses:
- (1) A "public school" as defined by Wis. Stat. § 115.01(1); a "private school" as defined by Wis. Stat. § 115.001(3); a "charter school" as defined by Wis. Stat. § 115.001(1); a "specialty school," meaning any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, or music school.
  - (2) A "day care center" means a facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before- and after-school daycare," which has the meaning as defined by Wis. Stat. § 120.125(1).
  - (3) A "library" means any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.
  - (4) A "park" means any area held open for use by the public for active or passive leisure purposes, including, but not limited to, any park, recreation area or beach.
  - (5) A "playground" means any public outdoor area set aside for recreation and play and includes any area with playground equipment including, but not limited to, swings, slides, sandboxes, seesaws, and any area where athletics may be played and is public property.
  - (6) "House of worship" means a church, synagogue, mosque, temple or any other building where congregations gather for prayer.
  - (7) "Swimming pool" means any swimming pool, wading pool, or other aquatic facility held open for use by the public.
  - (8) Racine County North Shore Trail that runs in a north/south direction near the eastern boundary line of the Village from the northern boundary line to the southern boundary line as mapped and identified by Racine County.
- (b) *Original Domicile Restriction.* In addition to and not the exclusion or prejudice of the foregoing, no Designated Offender shall be permitted to reside in the Village of Elmwood Park unless the person was domiciled in the Village of Elmwood Park at the time of the offense resulting in the person's most recent conviction or a Designated Offender crime.
- (c) *Distances; Child Safety Zones.* For purposes of this chapter, distances shall be measured from the closest boundary line of the real property supporting the residence of a person to the

closest real property boundary line of the applicable above-enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances of 750 feet (referred to herein as the "Child Safety Zones"), as amended from time to time, is on file at the office of the Village Clerk for public inspection pursuant to section 7.6 of this chapter.

- (d) *Exceptions.* A Designated Offender residing within a prohibited area as described in subsection 7.2(a) or 7.2(b) does not commit a violation of section 7.2 if any of the following apply:
- (1) The person established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Wis. Stats. § 301.45 (if required to register) before the effective date of this chapter.
  - (2) The person was a Minor at the time of the offense and is not required to register under Wis. Stats. § 301.45 or § 301.46.
  - (3) The applicable use described in subsection 7.2(a) began after the person established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Wis. Stats. § 301.45.
  - (4) The residence is also the primary residence of the Designated Offender's parents, grandparents, siblings, spouse or Child(ren), provided that such person established the residence at least one year before the Designated Offender established residence at the location and the Designated Offender resides with such person(s) at this residence.
  - (5) The Designated Offender is subject to release supervised by the Wisconsin Department of Corrections under Ch. 980 of the Wisconsin Statutes, is residing under an order under such supervised release, and such person is in compliance with all court orders issued under Ch. 980 of the Wisconsin Statutes. (Intent: This exception is intended to comply with Wis. Stat. Sec. 980.135).

### 7.3 DESIGNATED OFFENDER PRESENCE AT PROTECTED LOCATIONS.

No Designated Offender shall enter, loiter or otherwise be present upon any real property supporting an enumerated use under section 7.2(a).

### 7.4 EXCEPTIONS TO PRESENCE AT PROTECTED LOCATIONS.

A person does not commit a violation of section 7.3 and the enumerated uses under Section 7.2(a) may allow such person on the property supporting such use if any of the following apply:

- (1) The property supporting an enumerated use under section 7.2 also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:
  - a. Entrance and presence upon the property occurs only during hours of worship or other religious program/services as posted to the public; and
  - b. Written advance notice is made from the person to an individual in charge of the property and approval from an individual in charge of the property as designated by the property is made in return, of the attendance by the person; and
  - c. The person shall not participate in any religious education programs which include individuals under the age of 18.
- (2) The property supporting an enumerated use under section 7.2 also supports a use lawfully attended by a person's natural or adopted Child(ren), which child's use reasonably requires the attendance of the person as the Child's parent upon the property, subject to the following conditions:

- a. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
  - b. Written advance notice is made from the person to an individual in charge of the use upon the property, and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person; and
- (3) The property surrounding an enumerated use under section 7.2 also supports a polling location in a local, state or federal election, subject to the following conditions:
- a. The person is eligible to vote;
  - b. The designated polling place for the person is an enumerated use; and
  - c. The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the designated sex offender vacates the property immediately after voting; and
- (4) The attendance is authorized by the Designated Offender's conditions of supervision, if on parole.

#### 7.5 OTHER PROHIBITED ACTIVITY.

It is unlawful for any Designated Offender to participate in a holiday event in the Village of Elmwood Park involving one or more Children by means of: distributing candy or other items to such Child or Children on Halloween; wearing a Santa Claus costume on or during any of the 30 days preceding Christmas; wearing an Easter Bunny costume on or during any of the 30 days preceding Easter; or by engaging in any other similar type(s) of activity that may, under the circumstances then present, tend to entice a Child to have contact with a Designated Offender. Holiday events in which the Designated Offender is the parent or legal guardian of the Child or Children involved, and no other Children are present, are exempt from this paragraph.

#### 7.6 CHILD SAFETY ZONE MAP.

The Village Clerk shall maintain an official map showing locations identified in subsection 7.2(a) of this chapter and the resulting Child Safety Zones under subsection 7.2(c). The Village Clerk shall cause such map to be updated at least annually to reflect any changes in the location of protected locations and Child Safety Zones. The map is to be displayed in the office of the Village Clerk. In the event of a conflict between the map and the written terms of this Chapter, the written terms of this Chapter shall control.

#### 7.7 PENALTIES.

- (a) Any violation of this Chapter shall be subject to a forfeiture not exceeding \$1,000.00. Each day of each violation that exists shall constitute a separate offense.
- (b) Violation of this Chapter shall constitute a public nuisance, which, in addition to monetary forfeitures shall be subject to action by the Village to abate and enjoin such nuisance in accordance with applicable ordinance and Wisconsin Statutes.

#### 7.8 INJUNCTIVE RELIEF.

If a person violates any provision of this Chapter, without any exception(s) as set forth above, the Village Attorney, upon referral from the Village Board and the written determination that upon all of the facts and circumstances and the purpose of this Chapter, such residence occupancy presents an activity or use of property that violates this Chapter and interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the Village in the Circuit Court for Racine County to permanently enjoin such residence as a public nuisance.

## 7.9 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO SEXUAL OFFENDERS.

It is unlawful to let or rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a Permanent Residence or Temporary Residence by any person prohibited from establishing such Permanent Residence or Temporary Residence pursuant to the terms of this Chapter, if such place, structure or part thereof, manufactured home, trailer, or other conveyance, is located within a Child Safety Zone, which is not currently rented to a Designated Offender on the effective date of this Ordinance.

## 7.10 NOTIFICATION.

Consistent with state requirements, the state agency working with the Designated Offender must notify the Village Board and the Racine County Sheriffs Department a minimum of 28 days prior to establishing either a Permanent Residence or Temporary Residence within the Village of Elmwood Park.

## 7.11 APPEAL FOR AN EXEMPTION.

- (a) A Designated Offender may seek an exemption from this Chapter by appealing to the Village Board.
- (b) The Village Board shall approve of an official appeal form. A Designated Offender shall fill in the official form and submit it to the Village clerk, who shall forward it to the Village Board. The Village Board shall hold a hearing on each appeal, during which the Village Board may review any pertinent information and may accept oral and written statements from any person. The Village Board shall consider the public interest as well as the affected party's presentation and concerns. In making its determination under this provision, the Village Board may consider any or all of the following factors that may be applicable in the particular request:
  - (1) The circumstances of the case(s) that have led to the Designated Offender status including:
    - a. Relationship of offender and victim.
    - b. Presence or use of force.
    - c. Presence of enticement.
    - d. Proximity in time.
    - e. Time out of incarceration.
    - f. Credibility of offender.
    - g. Remorse.
    - h. Proximity of proposed residence to a child safety zone.
    - i. Support network of offender.
    - j. Counseling and treatment history.
- (c) The Village Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or be set to a certain address or time. A written copy of the decision shall be provided to the Racine County Sheriff's Department for its information and to the applicant. Any decision of the Village Board may be appealed to circuit court.

## **CHAPTER VIII**

### **BUILDING CODE**

#### **8.01 SCOPE.**

The purpose of this Ordinance is to regulate and control the design, construction, quality of materials, use and occupancy, location and repair of all buildings and structures erected or altered within the corporate limits of the Village of Elmwood Park, in order to promote the public health, safety, morals, prosperity, aesthetics and general welfare of the community.

No building, structure or fence, or any part thereof, shall hereafter be erected, enlarged, altered or demolished within the Village of Elmwood Park or ground broken for same, except as hereinafter provided in this Ordinance. These provisions also cover plumbing, electrical, heating or ventilating work, or anything affecting the fire hazards or safety of any building or structure.

#### **8.02 ADMINISTRATION.**

##### **(1) Building Inspector.**

- (a) **Appointment.** A Building Inspector shall be appointed as provided in Chapter II of this Ordinance. To be eligible for appointment, he shall have had experience as an architect, professional engineer, or a practical builder who shall be generally informed on the quality and strength of building materials, and on the prevailing methods of building construction.
- (b) **Powers and Duties.** The Building Inspector shall have the power and duty to enforce the provisions of this Ordinance and any other Village Ordinance and law, and order of the State of Wisconsin which relates to building construction, alteration, repair, demolition, use and occupancy, and location of buildings or structures. He shall have the right to decide if and when materials and forms of construction not covered by this Ordinance may be used. It shall be his duty to receive applications required by this Ordinance, issue permits and furnish prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections. In addition:
  1. The Building Inspector shall have the power of a police officer.
  2. The Building Inspector shall have the power to call on any inspector, engineer, or architect or other trade professional with experience in assessing compliance with all applicable codes.
  3. The Building Inspector or his authorized representative may enter any building or premises for the purpose of inspection or to prevent violations of this Code, upon presentation of the proper credentials, except that the Building Inspector shall not enter any dwelling, apartment or guestroom after the same is occupied without the consent of the occupant.
  4. Whenever any building work is being done or structure erected contrary to the provisions of this Code, or in an unsafe or dangerous manner, the Building

Inspector may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the Building Inspector to recommence and proceed with the work.

5. Whenever any building or portion thereof is being used or occupied contrary to the provisions of this Code, the Building Inspector shall order such use or occupancy discontinued and the building or portion thereof vacated by notice served on any person using or causing such use or occupancy to be continued, and such person shall vacate such building or portion thereof within ten (10) days after receipt of such notice, or make the building or portion thereof comply with the requirements of this Code.
6. Any building or portion thereof which is in violation of the provisions of this Code due to removal, decay, deterioration of any thing, appliance, device or requirement required by this Code, or which has become damaged by the elements or fire to an extent of fifty (50%) per cent of its value may be condemned by the Building Inspector.
7. The Building Inspector may order portions of the structural frame of a building or structure to be exposed for inspection when in his opinion they are in an unsafe condition.
8. In any of the aforesaid cases, the Building Inspector shall serve notice in writing on the owner, reputed owner or person in charge of such building or premises, setting forth what must be done to make such building or structure safe.
9. The person receiving such notice shall commence within forty-eight (48) hours thereafter to make the changes, repairs, or alterations set out in such notice and diligently proceed with such work or demolish the building. No such building shall be occupied or used for any purpose after the Building Inspector serves written notice of its unsafe and dangerous condition until the instructions of the Building Inspector have been complied with.
10. If at the expiration of the time as set forth in the first notice, the instructions as stated have not been complied with, a second notice shall be served personally upon the owner, his agent or the person in possession, charge or control of such building or structure or part thereof, stating such precautionary measures as may be necessary or advisable to place such building or structure or part thereof in a safe condition or its removal. Should the necessary changes or removal not be made within thirty (30) days after service of such second notice, the Building Inspector shall institute an appropriate action or proceeding at law or in equity, to restrain, correct or remove such violations and compel compliance. In case of emergency or where such second notice has not been complied with, the Building Inspector may proceed with the work specified in such notice, and cause the cost of same to be paid and levied as a lien against the property.
11. The Building Inspector, his authorized representative and/or the Village Police Liaison Officer (Village Representative) may upon stating their proper credentials enter any building or premises provided said building or premises is not occupied as a living quarters for the purpose of inspecting or determining whether the

building work or improvement is in compliance with zoning permits, including but limited to, Conditional Use Permits, Variances and/or Site Plans. In the event the building or premises is occupied as a living quarters the Building Inspector shall request permission to enter from the owner/or tenant of said living quarters. An inspection to the extent necessary may also be made from outside the improvement or premises without the consent or permission of the owner or tenant.

The Building Inspector shall prepare a written report to the Village Clerk of his/her findings. The report shall state whether the building or improvement is in compliance with the zoning permits and, if not the reasons for the non-compliance.

The clerk shall forward the report on to either the Planning Commission or the Village Board – whichever body granted the zoning permit, conditional use, site plan or variance. The Board or Planning Commission shall schedule the reported non-compliance for its next scheduled meeting assuming the owner or tenant alleged to be non-compliant may be given 10 days notice of the date and time for the hearing. If notice cannot be given within the time period the Board shall schedule the item at the next meeting following at least 10 days notice.

In the notice, the Board or Planning Commission shall set forth the reasons for the non-compliance and invite the owner/tenant, or his representatives to appear and present any arguments or evidence. The Board or Commission may rely upon any report or evidence prepared and submitted by the Village representative and any arguments or evidence set forth by the owner or tenant to be non-compliant.

The Board or Planning Commission shall make a decision as to whether the improvements/project of the owner/tenant is compliant with the zoning permit, conditional use permit, site plan or variance and, in the case on non-compliance, shall set forth the reasons in writing therefore. The Board or Planning Commission shall also include in the notice the penalty/fine imposed.

The Building Inspector or Village Representative shall deliver the written notice to the premises either by hand or by United States mail.

#### Penalties:

In the event of a determination by the Village Board and/or Planning Commission that an individual or entity is found to be non-compliant with the zoning permit. The fine/penalty shall be as follows:

a. First Phase.

- i. The individual/entity shall be given an order to take all measures to be found compliant with the applicable zoning permit within 30 days following service of the notice following hearing or such other time period as prescribed by the Board or Planning Commission.

- ii. The individual or entity shall be given a citation in the amount of \$350.00 payable within 30 days after service.

b. Second Phase.

- i. In the event the individual or entity fails to comply with the order to take all measures to be found compliant with the zoning permit within 30 days or the period fixed by the Board or Planning Commission, the Building Inspector or Village Representative shall issue a stop work order and further order that the premises or structure may not be occupied or utilized and further serve notice that the non-compliance must be corrected within 30 days.
- ii. The Building Inspector or Village Representative shall also serve a citation for non-compliance (2<sup>nd</sup> violation) upon the owner/tenant with a fine in the amount of \$750.00 for each day the non-compliance continues.
- iii. In the event the non-compliance continues for a period in excess of 30 days past the service of the second citation, the Building Inspector or Village Representative may serve a "raze order" ordering the individual or entity (owner or tenant) to permanently remove the non-compliant improvement or structure. In the event the owner or tenant refuses the Village may take the appropriate steps to remove, raze or demolish the non-compliant improvement or structure and pass the entire cost of the demolition, removal and/or razing process cost to the owner of the property to be placed upon the property tax roll.

- (c) Assistance. With the consent of the Village Board, he may appoint one or more Deputy Building Inspectors and may delegate his powers and duties to them.
- (d) Records. The Building Inspector shall keep a record of all permits, fees and inspections and shall make an annual written report thereof to the Village Board. The record shall show the amount for which the building permit was taken out, the date of the building permit and the date of the Certificate of Occupancy. The Building Inspector shall also include in this report a recommendation of any changes to be made in the Building Code.

(2) Building Permits and Fees.

- (a) Building Permit. No building or structure or any part thereof, shall be constructed, altered, remodeled or demolished; and no plumbing or electrical work shall be performed in the Village of Elmwood Park unless a permit therefor shall be first obtained from the Building Inspector.

No permit is required for normal maintenance or for any minor repairs or alterations valued at \$500.00 or less, which does not change the construction, occupancy, area, structural strength, exists, light sanitation and ventilation of the building or structure.

*(Amended January 9, 1997)*

(b) Application. Any person desiring a building permit as required by this Ordinance, shall file an application therefor in writing on blank forms to be furnished by the Building Inspector. Such application shall be made by the owner, his agent, or the architect, engineer or builder employed by the owner, and shall state the name and address of the owner of the land, also the owner of the building, if different, the legal description of the land upon which the building is to be located, with aggregate estimated cost of all proposed improvements, and shall contain such other information as the Building Inspector may require for effective enforcement of this section.

(c) Plans and Specifications.

1. All applications for building permits shall be accompanied by specifications and plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of the lot of the buildings and accessory buildings existing, and the lines within which the buildings or structures shall be erected or altered, the existing and intended use of each building or part of building, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Code. All dimensions shown on those plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and location of the building thereon shall be staked out on the ground before construction is started.
2. Plans shall be drawn to scale upon substantial paper or cloth and the essential parts shall be drawn to a scale of not less than one-eighth (1/8) inch to one foot; such plans and specifications shall be of sufficient clarity to indicate the nature and character of the work proposed and to show that the law will be complied with.
3. Computations, strain sheets, stress diagrams and other data necessary to show the correctness of the plans shall accompany the plans and specifications when required by the Building Inspector.
4. All plans shall bear the name of the architect, engineer, or person responsible for their preparation.
5. After plans for any proposed work shall have been approved, one set of such plans shall be filed and kept in the office of the Building Inspector, and another set of such plans with the approval of the Inspector stamped or written thereon, shall at all times be kept on or about the building or other structure to be erected thereunder, while the same is in course of construction.
6. No changes in plans and specifications shall be made without first filing an amendment to the original application, and securing the approval of the same by the Building Inspector.
7. All plans and specifications shall be signed by the designer and have the approval or waiver of the Plan Commission as required by Section 9.08 of these Ordinances. Plans for buildings required to comply with the State Building Code shall bear a stamp of approval from the Industrial Commission.

8. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations or repair, provided the cost of such work does not exceed \$1,000. The Building Inspector may demand and view written estimates of the work being done.

(d) Issuance of Permits.

1. After the application, plans and specifications have been filed with the Building Inspector, and if after approval or waiver by the Plan Commission, the Building Inspector determines that the proposed building will comply in every respect with all Ordinances of the Village and all applicable laws and orders of the State of Wisconsin, he shall officially approve and stamp one set of plans and return it to the owner, and shall issue a building permit therefor which shall be kept and displayed in a conspicuous place at the site of the proposed building.

After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned ordinances, laws and orders, or which involves the safety of the building or occupants, except with the written consent of the Building Inspector and reapproval of the Plan Commission. The issuance of a permit upon specifications and plans shall not prevent the Building Inspector from thereafter requiring the correction of errors in the specifications and plans, or from preventing building operations being carried on thereunder when in violation of this Code or any laws of the State of Wisconsin.

2. The approval of plans and specifications is not to be construed as the assumption of any responsibility for the design.
3. A building, electrical or plumbing permit shall lapse and be void unless operations under the permit are commenced within six (6) months from the date of issuance thereof; and the permit shall lapse one (1) year after the date of issuance if the work for which the permit is issued is not completed.
4. If the Building Inspector shall find at any time that any ordinance, law, order or the plans and specifications are not being complied with, and that the holder of the permit refuses to conform after a written warning or instruction has been issued to him, he shall revoke the building, electrical or plumbing permit by written notice at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is reissued, excepting such work as the Building Inspector may order to be done as a condition precedent to the reissuance of the permit, or as he may require for the preservation of human life or the preservation of property for public welfare, or to abate a public nuisance. The Building Inspector shall have the power to order such work done forthwith.
5. It shall be the duty of all Village officers, whether elected or appointed, to report at once to the Building Inspector any building, structural, electrical or plumbing work which is being carried on without a permit as required by this Ordinance.

(e) Fees. The fees for permits shall be as follows:

1. Placement of building material or equipment in street fees.
  - a. Each permit under this section shall be issued for a period not to exceed six months. The permit fee for the temporary blocking of any sidewalk, street or alley and for a temporary enclosure or canopy is \$50.00 per month or fraction thereof.
  - b. The permit fee for use of any street, alley or other public space for the purpose of depositing material thereon is \$50.00 per month or fraction thereof. The permit fee for the use of both street and sidewalk is \$50.00 per month or fraction thereof.

***\*\*Begin Alternate sub 1\*\****

1. Minor Repairs and Alterations. The Building Inspector may waive any fee for work of an estimated value of less than \$1,000.00.

***\*\*End Alternate sub 1\*\****

2. Building Permit Fees.
  - a. Residential: New and additions, \$0.40 per square foot or fraction thereof (minimum \$250.00).
  - b. Accessory buildings (garages and sheds): New and additions, \$0.25 per square foot or fraction thereof (minimum \$100.00).
  - c. Business, office, institutional: New and additions, \$0.40 per square foot or fraction thereof (minimum \$300.00).
  - d. Industrial and manufacturing: New and additions, \$0.40 per square foot or fraction thereof (minimum \$300.00).
  - e. Remodeling (repairs and alterations to all buildings where square footage cannot be calculated): \$15.00 per \$1,000.00 of valuation or fraction thereof (minimum \$300.00).
  - f. Heating units (new or replacement units): \$60.00 per unit, 150,000 Btu's or less. Additional \$20.00 for each 50,000 Btu's or fraction thereof (maximum \$750.00 per unit).
  - g. Air conditioning (other than wall units): \$60.00 per unit.
  - h. Air conditioning (permanently installed wall units): \$30.00 per unit.
  - i. Wrecking (or razing) of structures: \$30.00 for garages and accessory buildings, \$150.00 for primary building 1,000 square feet or less, \$250.00 for primary buildings over 1,000 square feet.

- j. Moving of buildings: \$100.00 plus \$0.15 per square foot or fraction thereof for garages and accessory buildings, \$150.00 plus \$0.15 per square foot or fraction thereof for all primary buildings.
- k. Curb openings: \$75.00
- l. Private swimming pools: \$50.00
- m. Signs: \$75.00 for 50 square feet or less; \$125.00 for 51-100 square feet; \$175.00 for over 100 square feet (per sign).
- n. Failure to obtain a permit (before commencement of work): Double fee.
- o. Street storage: \$50.00 per 10 days, maximum 30 days. Additional \$5.00 each day after 10 days.
- p. Vacant building permit: Annual fee of \$200.00 per building for the first year, \$500.00 for the second year, \$750.00 for the third year and \$1,000.00 for the fourth year.

3. Plan Review Fees.

- a. One and two family residential: \$250.00 (includes \$30.00 to be forwarded to state).
- b. All other building plans: \$0.20 per square foot or fraction thereof (minimum \$250.00).
- c. Heating, cooling, ventilating, illumination, structural and energy conservation plans (when submitted separately): \$250.00.
- d. Erosion control plans: \$150.00 per plan as required.
- e. Revisions (to previously examined plans): \$75.00.

4. Other Fees.

- a. Special inspections (re-inspections and occupancy inspections): \$75.00 (paid in advance).
- b. Request for letter or report: \$100.00 (paid in advance).

*All charges will be rounded up to the next higher dollar amount.*

5. Electrical Permit Fees:

- a. Initial permit fee to be \$10.00 and in addition, fees shall be paid as indicated in the following schedule:

b.	Outlets	\$0.40 each
c.	Fixtures	\$0.40 each
d.	Fluorescent Fixtures Per Tube (No. of fixtures)	\$0.30 each
e.	Furnaces, Dishwasher, Garbage Disposal, Ranges, Water Heater, Clothes Dryer	\$5.00 each
f.	SERVICES:	
	1. 0 through 100 Amperes (Size of Service)	\$25.00 each
	2. 101 through 400 Amperes (Size of Service)	\$50.00 each
	3. 401 through 1,200 Amperes (Size of Service)	\$100.00 each
	4. 1,201 and up (each additional 1,000 Amperes)	\$200.00 each
g.	Temporary Service	\$25.00 each
h.	Refrigerators, Air Cooling, etc.	\$5.00 each
i.	Motors per Horsepower or fraction thereof (not to exceed \$20.00 each)	\$0.30 each
j.	Rectifiers, Capacitors, Transformers, Welders and Generators	\$10.00 each
k.	Electric heaters (space, baseboard, etc.) per unit	\$2.00/unit
l.	Electric furnaces, ovens, etc. per K.W. or K.V.A fractions thereof (not to exceed \$20.00 each)	\$0.30 each
m.	Exhaust or Ventilation Fans	\$1.00 each
n.	Signs (Neon per transformer)	\$5.00 each
o.	Plug-in strip, Trol-e-Duct, etc., light track systems, Etc. per foot	\$0.30/foot
p.	Flood Lights, Mercury Lights, H.P.S. lights	\$1.00 each
q.	Feeders or Sub Feeders	
	1. No.6 to 3/0	\$5.00 each
	2. 4/0 and above	\$10.00 each
r.	Fuel Dispensing Pumps	\$10.00 each
s.	X-Ray Machines, Motion Picture Machines, Stereopticon, etc.	\$5.00 each
t.	Dimmers per 1,000 watts	\$1.00 each

u.	Busways, Under floor runways, Wire ways	\$0.50/foot
v.	Swimming Pool wiring	
	1. In ground	\$25.00
	2. Above ground	\$10.00
w.	Flat conductor cable system	\$0.30/foot
x.	Smoke detectors and fire alarm stations (over 24 volts – A.C. or D.C.)	\$1.00/device
y.	To change, alter, repair or correct an electric installation where none of the above specific fee schedule applies.	\$10.00
z.	Re-inspection fees (No access)	\$50.00
aa.	Re-inspection fees (Non-compliance)	\$50.00
bb.	Failure to call for final inspection	\$75.00
cc.	Minimum permit fees charge	\$20.00

Unless the permits are issued before the job is started, the permit fee will be twice the amount in the foregoing schedule.

#### 6. Plumbing Permit Fees.

- a. Each plumbing inspection fee will be \$50.00.
- b. If plumbing rough-in installation is started before securing a permit, the fee will be twice the amount in the schedule.
- c. Re-inspection fees (No access or Non-compliance): \$50.00.

#### (6) Inspection.

- (a) **Inspection of Work.** The builder shall notify the Building Inspector when ready, and the Building Inspector shall inspect all buildings upon completion of the foundation forms, or before the foundation is laid, and again when ready for lath and plaster, or before paneling is applied. After completion, he shall make a final inspection of all new buildings and alterations. Under no condition will a builder proceed to close a building until inspection certificates or stickers are placed in the building by the Building Inspector, Electrical Inspector and Plumbing Inspector.
- (b) **Certificate of Occupancy.** No building shall be occupied until the Building Inspector shall issue a Certificate therefor.
  - 1. If at final inspection the Building Inspector finds that the building complies with the requirements of this Chapter and Chapter IX, he shall issue a Certificate of Occupancy and record the date thereof in his annual report.

2. A Certificate of Occupancy shall be required each time a building is sold or the occupancy changed. Such certificate shall be issued by the Building Inspector only if he finds that the building complies with the requirements of this Chapter and Chapter IX.

## **8.03 DEFINITIONS.**

For the purpose of this Code, words and terms are defined as follows: Words used in the present tense include the future; words in the singular number include the plural, and words in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory.

- (1) **Alter and Alteration.** Any change, addition or modification in construction or occupancy.
- (2) **Approved.** As to materials and types of construction, refers to approval by the Building Inspector as the result of investigation and tests conducted by him, or by reason of accepted principles or tests by national authorities, technical or scientific organizations.
- (3) **Area.** As applied to the dimensions of a building, means the maximum horizontal area of the building at finished grade, exclusive of unroofed porches, terraces, steps and area ways.
- (4) **Attic or Attic Story.** Any story situated wholly or partly in the roof, so designated, arranged or built as to be used for business, storage or habitation.
- (5) **Basement.** A story whose floor line is below grade at any entrance or exit and whose ceiling is not more than five (5) feet above grade at any such entrance or exit.
- (6) **Building.** Any structure used or built for the shelter or enclosure of persons, animals, chattels or movable property of any kind; and when separated by a fire wall, each portion of such building as separated shall be considered a separate building.
- (7) **Building Inspector.** The officer or other person charged with the administration and enforcement of this Ordinance, or his duly authorized representative.
- (8) **Building Line.** The line established by law beyond which a building shall not extend.
- (9) **Concrete, Plain.** Concrete cast in place without metal reinforcement or reinforced only for shrinkage or temperature change.
- (10) **Concrete, Reinforced.** Concrete in which reinforcement, other than provided for shrinkage or temperature changes, is embedded in such a manner that the two materials act together in resisting forces.
- (11) **Court.** An open, unoccupied space bounded on two or more sides by the exterior walls of a building or by exterior walls and lot lines.
- (12) **Dwelling.** A building occupied or intended to be occupied as an abode by one or more persons.
- (13) **Dwelling Unit.** A dwelling or a portion thereof providing complete living facilities for one family.

- (14) Existing Building. A building already erected, or one for which a legal permit has been issued prior to the adoption of this Code.
- (15) Fire Door. A door construction consisting of door, frame, and sill which under approved fire-test conditions meets the requirements for the location in which it is to be used.
- (16) First Floor. The floor next above the basement, or the lowest floor if there is no basement.
- (17) Floor Area. The area included within exterior walls, fire-walls, or by a combination of such walls.
- (18) Footing or Foundation. The spreading course at the base or bottom of a foundation wall, column or pier.
- (19) Frame Construction. A building is of frame construction if the structural parts and enclosing walls are of wood, or of wood in combination with other materials. If such enclosing walls are veneered, encased or faced with stone, brick, tile, concrete, plaster or metal, the building is also termed a frame building.
- (20) Garage. A building or portion thereof in which one or more motor vehicles containing gasoline, distillate or other volatile, inflammable liquid in its tank, is stored, repaired or kept. For the purpose of this Code the term "vehicle" includes land, air and water vehicles.
- (21) Grade. When in connection with lumber for structural purposes, grade is a classification with respect to strength and suitability for use as a structural member.
- (22) Grade, Finished. The line formed at the junction of a building and the area immediately surrounding the building to which the ground is to be or has been cut or filled.
- (23) Grade, Natural. The surface of the ground prior to excavation.
- (24) Habitable Room. Any room used for habitation by human beings, such a living, dining, bedroom or recreation room.
- (25) Lintel. A structural member supporting masonry above an opening in a wall or partition.
- (26) Load, Dead. The weight of walls, floors, roofs, partitions and other permanent portion of the structure.
- (27) Masonry. Stone, brick, structural clay tile, concrete masonry units, gypsum tile or block, structural glass block, or other similar building units or materials, or a combination of same, bonded together with mortar. Masonry also includes plain concrete.
- (28) Masonry, Solid. Masonry built without hollow spaces.
- (29) Occupancy. It is the purpose for which a building is used or intended to be used.
- (30) Owner. As used in this Code, includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary and a person having a vested or contingent interest in the property in question.
- (31) Partitions. (See Walls).

- (32) Person. A natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the agents of the aforesaid.
- (33) Pier. An isolated column of masonry; a bearing wall not bonded at the sides into associated masonry the length of which does not exceed four times its thickness.
- (34) Repair. The reconstruction or renewal of any part of any existing building for the purpose of its maintenance. The word "Repair" or "Repairs" shall not apply to any change of construction.
- (35) Restore. The reconstruction or renewal of any part of any existing building that has suffered major damages.
- (36) Shaft. An enclosed shaft way or space, extending through one or more stories of a building, connecting a series of two or more openings in successive floors, or floors and roof.
- (37) Walls. Defined as follows:
- (a) Walls, Bearing. A wall which supports any vertical load in addition to its own weight.
  - (b) Wall, Cavity. A wall built of masonry units or of plain concrete, or a combination of these materials, so arranged as to provide a continuous air space within the wall from bottom to top, and in which the inner and outer parts of the wall are tied together with metal ties.
  - (c) Wall, Enclosure. An exterior non-bearing wall between columns or piers and supported at each story.
  - (d) Wall, Faced. A wall in which the masonry facing and backing are so bonded as to exert common action under load.
  - (e) Wall, Frame. A wall constructed of wood or of wood in combination with other materials.
  - (f) Wall, Hollow. A wall built of solid masonry units so arranged as to provide an air space within the wall, bonding between separate vertical widths being affected by the same masonry units used in the wall construction so that the widths exert common action under load.
  - (g) Wall, Interior. A wall entirely surrounded by the exterior walls of a building.
  - (h) Wall, Metal. A wall in which the structural supports are metal and in which the walls or other enclosures are of sheet metal.
  - (i) Wall, Non-Bearing. A wall which supports no vertical load other than its own weight.
  - (j) Wall, Parapet. A parapet wall is that part of any wall entirely above the roof line.
  - (k) Wall, Retaining. A retaining wall is any wall used to resist the lateral displacement of any materials.

- (l) Wall, Spandrel. A part of a wall between the top of a window or door of one story and the sill or a window or door above.
- (m) Wall, Veneered. A wall having a facing which is not attached and bonded to the backing so as to form an integral part of the wall for purposes of load bearing and stability.

## **8.04 REPAIR AND MAINTENANCE REQUIREMENTS.**

- (1) Unsafe or Damaged Buildings. Whenever the Building Inspector finds any building or part thereof within the Village to be in his judgment so old, dilapidated, damaged or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, he shall order the owner to raze and remove such building or part thereof, or if it can be made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option. Such order and proceeding shall be as provided in Section 66.05(5) of the Wisconsin Statutes. Every building or structure that may be damaged by fire or otherwise, shall be examined by the Building Inspector before a permit is issued to repair or replace the same, and such parts of said building as in his opinion are unsafe or damaged to an extent that will impair the safety of the reconstructed building shall be taken down.
- (2) Repairs to Existing Buildings. Every building and structure heretofore or hereafter erected shall be kept in good repair to maintain the conditions of safety and habitability prescribed by this Code, and rainwater shall be drained and conveyed therefrom so as to prevent dampness in the walls and ceilings.

## **8.05 MINIMUM CONSTRUCTION STANDARDS.**

- (1) General.
  - (a) Periodic Review. The Building Inspector shall include in his annual report, or more frequently as the Board may require, recommended amendments to this Code to improve safety and stability of buildings or to permit the use of new or improved methods or materials. Acceptance by the Board by a vote of two-thirds (2/3) of all members of these recommendations shall constitute approval of administrative authority within this Ordinance. The Board shall have, in addition, on its own motion the authority to amend, define or interpret this Code with or without recommendation by the Building Inspector.
  - (b) Quality of Materials. All building materials shall be of good quality, conforming to generally accepted standards. Except as may be otherwise provided in law, or in this Code, or in duly promulgated regulations, the specifications of the American Society for Testing Materials or other generally accepted standards shall serve as a guide in determining the acceptability and use of materials wherever referred to.
  - (c) Designs and Workmanship. Design of structural members, and workmanship in the fabrication and preparation of materials and in their installation, shall conform to generally accepted good practice. Specific provisions of this Code shall be controlling, but shall not be deemed to suspend other requirements or good practice which shall be regarded as supplementing such specific provisions. Except as may be otherwise provided in law, or in this Code, or in duly promulgated regulations, the standards of Federal or State agencies, national technical organizations, or fire underwriters shall be deemed to be generally accepted good practice.

(d) New Methods and Materials. The provisions of this Code are not intended to prevent the use of types of construction or materials offered as an alternate for the types of construction or materials required by this Code, but such alternate types of construction or materials to be given consideration shall be offered for approval as specified in this section. Corresponding materials or types of construction referred to in this Code, the use of which is the same as is intended for the new materials or construction and which has been approved, shall be considered as standards of quality and strength if no specification is provided. Any person desiring to use types of construction or materials not specifically mentioned in this Code shall file with the Building Inspector authentic proof in support of claims that may be made regarding the sufficiency of such types of construction and materials and request approval and permission for their use.

(2) Footings and Foundations.

(a) Soil Bearing Capacity.

1. The safe carrying capacity of soil may be assumed, for the purpose of this Code, as at least two tons per square foot, provided that this shall be modified where necessary in accordance with rulings of Order 5302, Wisconsin State Building Code.
2. All stumps and roots shall be removed from the soil for a distance of twelve (12) inches around and beneath the space to be occupied by a dwelling or other structure.
3. No dwelling or other structure shall be placed upon filled ground until the safe sustaining power that may be assumed has been fixed by test or inspection.

(b) Foundations.

1. All dwellings or other structures shall have foundation walls or piers, except when supported by concrete slabs whose design is approved by the Building Inspector.
2. Except when erected upon solid rock, foundation walls or piers shall be carried below frost line and not less than twelve (12) inches below natural grade. For the purpose of this Code, the frost line shall not be less than four feet zero inches.
3. No dwelling or other structure shall be built upon frozen ground.

(c) Footings.

1. Footings of walls, columns and piers shall consist of plain concrete, reinforced concrete, or solid masonry units.
2. Footings of walls, chimneys, piers, and columns shall be of dimensions to maintain a safe load on the soil and shall be so designed that the pressure on the soil per unit of area shall, so far as practicable, be uniform under all parts of the building or structure. Footings shall rest on level ground or rock. Whenever excavation for footings is carried below the planned depth, the space so excavated, below the proposed footings, shall be filled solidly with concrete. The maximum projection

of a footing shall be one-half of its depth unless reinforcement is provided to resist bending.

3. Three inch drain tile shall be required around all footings of dwellings containing a basement; such tile shall be covered with eight inches of porous materials such as gravel, crushed stone, etc., with provision for draining water away from building.

(d) Foundation Walls.

1. Foundation walls shall be of sufficient strength and thickness to resist lateral pressures from adjacent earth and to support their vertical loads safely.
2. In no case shall a foundation wall be less in thickness than the wall immediately above, provided that masonry veneered walls may project not more than 3/4 inch beyond the outside face of the supporting wall.
3. One and two story frame or masonry residential buildings and all other buildings not otherwise regulated by the Wisconsin State Building Code shall have the exterior foundation walls built of masonry from the top of the footings to the first floor joints or sills, the thickness of which shall be not less than eight inches of monolithic concrete or ten inches of concrete blocks, if such walls do not extend more than seven feet below the adjacent ground level.
4. When foundation walls are built of hollow masonry units, the top course shall be of solid masonry materials and shall be not less than four inches in height.
5. Foundation walls, when the area within the walls is not excavated, shall be not less in thickness than the wall above, and in no case less than eight inches if of masonry units and six inches for poured concrete.
6. Foundation walls supporting wood or light steel structural members shall extend at least four inches above the adjoining outside finish grade.
7. Masonry foundation walls enclosing building space below grade shall be plastered on the outside with cement mortar one-half inch thick from the footing up to the outside grade level.
8. An opening of not less than two by two feet square shall be installed to provide access for inspection and repair in each excavated space under wood and metal floor construction, and under concrete slabs where piping, duct work, etc., requiring periodic inspection or repair are located.
9. Foundation wall vents proportioned on a basis of two square feet for each twenty-five lineal feet of exterior wall shall be installed for ventilating all unexcavated spaces and each such space shall have at least two vents. Non-corrodible screening of not over one-quarter inch mesh shall be installed in each opening.

(3) Masonry and Concrete Construction.

(a) Masonry.

1. In all buildings, the section of masonry supporting trusses or girders shall be considered as isolated piers, the least dimension of which, in inches, shall not be less than one-thirtieth of the span of the truss or girder, in inches, and the height shall not exceed twelve times the minimum horizontal dimension. The height of masonry piers which are not built into, and as a part of bearing walls, shall be not more than ten times the minimum horizontal dimension.
2. Masonry veneer applied to masonry walls shall be tied to the wall by full-length headers of non-corrodible metal wall ties spaced every fifth course or fifteen inches vertically and not more than thirty-two inches on centers horizontally. Veneer shall not be considered a part of the required wall thickness unless bonded as required for masonry construction.
3. The ends of girders framing into walls constructed of hollow masonry units shall bear upon solid masonry construction at least eight inches in depth or upon other suitable bearing securely anchored to masonry walls. In such walls all floor joists shall bear upon solid masonry not less than four inches in depth and lintels over openings shall be supported upon solid masonry materials equivalent in depth to at least two courses of brick.
4. Masonry veneer applied to wood frame walls shall have a thickness of not less than three and three-quarter inches and a height of not more than 35 feet; and veneer shall be anchored to the wood frame with non-corrodible metal ties spaced every fifth course or 15 inches vertically and not more than thirty-two inches o.c. horizontally. A one inch space between the veneer and the wood construction shall be provided and in all cases the veneer shall be backed up with waterproof building paper or saturated asphalt felt which shall extend down and under the bottom course of veneer.
5. When masonry walls extend above the roof, such walls shall be not less than eight inches in thickness and shall be capped with stone, corrosion-resisting sheet metal, Portland cement, or terra cotta coping.
6. Adequate lintels or properly designed masonry arches will be required in the heads of all openings in masonry veneered walls.
7. All exterior masonry walls less than twelve inches thick above the basement which are to be plastered, shall be furred with two inch thick furring tile or with one inch wood furring strips spaced sixteen inches o.c.

(b) Mortars.

1. Mortar Mixture. Mortar mixture shall be as follows:
  - a. For all masonry below grade, Portland cement mortar; one part Portland cement and three parts sand by volume. Lime, not more than twenty-five (25%) percent of the cement by volume, may be added.
  - b. All other masonry:

Portland Cement Mortar. See (1)(a) above.

Cement-Lime Mortar: One part Portland cement, one part lime putty, six parts sand by volume.

Prepared Masonry Cement Mortar. One part masonry cement, three parts sand by volume; add no materials other than sand and water.

- c. Water shall be clean and free from harmful material.
- d. Re-tempering of mortar is prohibited.

2. Joints.

- a. Maximum thickness five-eighths (5/8) inches. All joints to be uniform in thickness.
- b. Point all joints solid both sides of wall. Weather or tool outside and exposed inside joints unless otherwise acceptable to the Building Inspector.

(c) Concrete.

Except as may be otherwise provided for in this Code, the "Building Regulations for Reinforced Concrete" A.C.I., 318-41, latest published edition, of the American Concrete Institute as adopted shall be deemed to be generally accepted good practice.

Poured Concrete Mixture. Poured Concrete Mixture shall be as follows:

1. For plain concrete: One part Portland cement; Three parts sand; Five parts gravel or crushed stone.
2. For reinforced concrete: One part cement; Two parts sand; Four parts gravel or crushed stone.
3. The proportion of water shall be such as to produce a mixture which will work readily into the corners and angles of the forms and around reinforcement with the method of placing employed on the work, but without permitting the materials to segregate or excess free water to collect on the surface. The water shall be clean and free from harmful materials.

(d) Concrete Floors, Driveways and Walks.

1. Garage, terrace and porch floors, walks and driveways, if of concrete construction, shall have a minimum thickness of four inches and shall be properly surfaced on a bed of gravel or cinders or other approved materials.
2. Garage floors shall be laid separately from the garage foundation walls and footings. Provide an approved expansion joint between the driveway slab and the

concrete apron at the garage door. Driveways over thirty feet in length shall have expansion joints not more than thirty feet o.c. Garage floors shall not be less than four inches in thickness.

3. Basement floor slabs shall be not less than four inches concrete if finished monolithic.

(e) Miscellaneous Requirements.

1. There shall be no chases in walls that are eight inches or less in thickness or within the required area of any pier, and no chase in any wall or pier shall be deeper than one-third the wall thickness, provided that a chase not exceeding four inches in wide and four inches deep may be built for a height of eight feet into an eight inch wall if any space not otherwise occupied is filled with incombustible insulating material. No horizontal chase shall exceed four feet in length, nor shall the horizontal projection of any diagonal chase exceed four feet in length.
2. Chases and recesses shall not be cut in solid eight inch walls or in hollow walls, cavity walls, or walls of hollow masonry units, but may be built in.
3. No masonry construction shall be supported on wood girders or other form of wood construction.
4. Caulking is required around all exterior openings in masonry or masonry veneer walls and at other intersections of wood and masonry where considered necessary to make watertight.

(4) Frame Construction.

(a) General.

1. All wood structural members shall be of sufficient quality, size and strength and so conditioned and used as to carry their imposed loads safely and without exceeding the allowable working stresses as specified in the Wisconsin State Building Code.
2. All softwood lumber shall meet all the grading requirements of the Association recognized in the trade as covering the species and under whose grading rules it was produced. (The word "softwood" as use herein, shall be interpreted to include Douglas Fir, White Fir, Cypress Western Larch, West Coast Hemlock, California Redwood, Cedar, Eastern Hemlock, Tamarack, Sitka Spruce, Engelmann Spruce, Eastern Spruce, Southern Yellow Pine, Ponderosa Pine, Sugar Pine, Idaho White Pine, Northern White Pine).
3. All framing lumber shall be No. 2 dimension (common) and better.
4. All board lumber for subflooring, sheathing, roof boarding, shingle lath, etc., shall be No. 2 common or better, or shall be plywood of sufficient thickness to carry required loads between bearing points.

5. All lumber shall be dry and well seasoned, and the moisture content shall not exceed nineteen (19%) per cent.
6. All rough lumber dimensions given under "wood framing" are nominal sizes. Finished dimensions of all lumber shall comply with the American Lumber Standards.

(b) Wood Framing.

1. Splicing of structural wood framing members between bearing points will not be permitted. In all cases regardless of location where the structural strength of framing members is definitely impaired by cutting, drilling, or by inherent defects, such members shall be replaced or reinforced as required by the Building Inspector.
2. All wood floor and roof framing shall be kept at least two inches away from the chimney masonry, except when eight inches of masonry is used outside the flue lining, in which case the framing may be built flush with the chimney masonry. The two inch space between the chimney masonry and the floor framing shall be filled with fire-resistant material to form a fire stop. In no case shall wood framing members bear on the masonry of chimneys, except on piers which are built integral with the chimney masonry.

(c) Girders.

1. Girders may be structural steel, solid wood, built-up wood, or reinforced concrete.
2. All joints of solid and built-up wood girders shall be made over pier or column supports.
3. Wood posts, when used as columns in basements, shall bear on a cement base which shall extend not less than three inches above the finish floor. The base shall bear directly on the post footing.
4. Wood girders in residence buildings shall be of materials having a minimum fiber stress of 1,200 pounds. Spans and size of girders shall be determined by established engineering practice.
5. Bearing plates of sufficient size shall be provided under girders resting on masonry.

(d) Floor Joists.

1. Where floor joists frame into the side of wood girders, the joists shall be supported on metal hangers or on a bearing strip or ledger board on the side of the girders. Size of ledger shall be at least two by three inches. The notch in the end of the joist shall be no more than one-fourth of the joist depth.

2. Ends of floor joists framing into masonry walls shall have not less than four inch bearing and shall have at least a three inch bevel fire cut. The ends of floor joists and girders which frame into the masonry walls below outside finish grade shall receive a good brush coat of creosote.
3. Each fourth joist in wood floor construction framing into masonry walls shall have a T-shaped metal strap anchor applied at the side and near the bottom of the joist and shall extend into the masonry wall. Masonry walls running parallel to the floor joist shall be tied to the floor construction with metal strap anchors spaced not over six feet apart and extending over and secured to at least three joists.
4. Floor joists shall be doubled under all partitions which run parallel to the floor joists.
5. Headers and trimmer shall be doubled except that headers four feet or less in length may be of single thickness provided the header is supported in metal joist hangers or on not less than two by three inch ledger boards and header is secured by spikes driven through one thickness of the trimmers into the ends of the header. Headers receiving more than four tail beams shall have ends supported in metal joist hangers.
6. Tail joists ten feet or more in length framing into the side of headers or trimmers shall have ends supported in metal joist hangers.
7. Ends of lapped joists shall rest on girders or on bearing partitions and shall be securely nailed to plate and to each other.
8. All joists shall have a minimum bearing of three inches except when supported on a ribbon board and nailed securely to the adjoining stud.
9. Overhanging cantilevered construction and all projection carrying floor and roof loads, which are not supported directly by a foundation, shall be fully detailed on the drawings submitted with the application for building permit.
10. Floor, including attic floor, and flat roof joists shall be cross bridged with not less than one by three inch bridging at intervals not to exceed eight feet and securely nailed at each end. Metal bridging may be used when approved by the Building Inspector.
11. Maximum spans for all wood floor joists shall be based on a maximum deflection of 1/360 of the span, for a total live and dead load of fifty pounds per square foot, uniformly distributed.
12. The cutting of floor joists to facilitate the installation of piping and duct work will be permitted with the following limitations: The top or bottom edges of joists may be notched in the outer one-fourth of the length not to exceed one-sixth of the joist depth. Notching the top or bottom edge of joists will not be permitted in the middle half of the length of any joist. If cutting of a floor joist more than one-sixth of its depth is found necessary, a header the full depth of the joist shall be cut in to support the end of the joist.

13. Where location of pipes necessitates passing through the joist, holes shall be drilled to receive the pipes. The diameter of the holes shall not be more than one-half inch greater than the outside diameter of the pipe and in no case greater than two and one-half inches. The edge of the holes shall not be located nearer than two inches from the top or bottom edge of the joist.

(e) Ceiling Joist and Roof Rafters.

1. Maximum spans for wood ceiling joists shall be based on a maximum deflection of 1/360 of the span, for a dead load of ten pounds per square foot (no live load), uniformly distributed.
2. Ceiling joists shall, wherever possible, serve as ties for the rafters and shall be securely nailed to the rafter.
3. Collar beams of 1 x 6's or 2 x 4's shall be installed on at least each third pair of roof rafters and shall be securely nailed to the rafters. Maximum spacing of collar beams, five feet o.c.
4. Where ceiling joists serve as collar beams and occur above the mid-point of the rafter, adequate provision shall be made for tying the lower end of the rafter to the floor construction. When the installation of this tie is not possible because of structural conditions, rafter size shall be increased sufficiently to support the roof load without thrust or undue bending in the lower end and the size of the collar beams shall be not less than that of the rafters.
5. In flat roof construction when the ceiling is suspended from the roof, the spans for the roof joists shall be as required for floor joist. The ceiling joists shall be 2 x 4's of same spacing as roof joists and supported by 1 x 4 inch hangers spaced not more than six feet o.c. and securely nailed to sides of the roof and ceiling joists.
6. Chimney saddles shall be installed on the upper side of all chimneys that are not in contact with the ridge.

(f) Roof Rafters.

1. Rafters shall be securely spiked to the wall plate. Opposing rafters shall be framed directly opposite each other at the ridge. There shall be a ridge board at all ridges and a valley rafter shall be not less than the cut end of the abutting rafters. Valley rafters shall be not less than two inches thick for spans less than twelve feet and not less than four inches thick for spans over twelve feet.
2. All openings in roof construction for dormer windows which are not supported on partitions, shall be framed with doubled rafters and headers.
3. Requirements for headers and trimmers for roof framing around chimneys shall be the same as required for floor except that for a sloping roof where headers are less than four feet in length and a chimney is either at the ridge or eaves, the trimmers may be single.

4. Roof rafters shall be covered with one inch roof sheathing not more than eight inches in width, laid closed for tile, slate, asbestos cement, or asphalt shingles; 1 x 4 inch shingle lath for wood shingle roof, spaced according to shingle exposure. All roof sheathing and shingle lath shall be securely nailed with two eight-penny nails to rafters at each bearing.
5. Maximum span for wood roof rafters shall be based on a total live and dead load of 40 pounds per square foot. Rafters on roof with slopes less than five to twelve shall be figured same as floor joists.

(g) Exterior Walls.

1. Wood stud walls shall have corner posts built up with three 2 x 4's set to receive interior finish.
2. Studs in exterior frame walls may run from sill to roof line, provided they do not exceed twenty feet in length. Studs shall be in continuous lengths without splicing. Floor joists supported on exterior frame walls shall bear on 1 x 4 inch ribbons set into the inside face of the Studs and securely nailed. Joists bearing on ribbons shall be securely spiked and nailed to the stud. Where the wall height exceeds twenty feet, doubled 2 x 4 inch plate shall be installed continuous at the second floor level.
3. All walls and partitions shall be constructed to develop a strength and rigidity equivalent to wooden studding, not less than two inches by four inches, spaced not to exceed sixteen inches o.c.
4. Window and Door Openings. Inner stud on jambs; extend in one piece from header to bearing and nail to outer stud.
5. Headers. Overall openings in one and two-story dwellings should be doubled and shall be set on edge. Size shall be sufficient to carry required loads between bearing points. If desired, truss construction may be used.
6. Sill Construction. All sills and girders on top of foundation walls and piers shall be leveled, shimmed up and thoroughly bedded in cement mortar.
7. All sills and bearing plates for roof rafters framing into masonry walls shall be bolted to the masonry with one-half inch bolts eighteen inches in length beaded firmly in the masonry and spaced not more than eight feet apart.
8. Plates. Walls of frame construction shall be provided with soles or plates with dimensions not less than the intersecting partitions. All such laps shall be securely spiked.

(h) Interior Partitions.

1. All bearing partition Studs shall be not less than 2 x 4's spaced not more than sixteen inches o.c. set the four-inch way.

2. Non-bearing partition Studs may be 2 x 3's spaced sixteen inches o.c., set the two-inch way for walls around closets and chimneys, for walls not exceeding six feet of unsupported length which contain openings and for walls exceeding six feet provided they are devoid of openings.
3. All openings in interior bearing partitions shall have jambs and heads double-framed as required for exterior openings.
4. The top plates of all bearing partitions shall be doubled. All partition plates shall lap at all intersection partitions and at outside walls and shall be securely spiked.
5. When partitions frame on top of the joists or subfloor, the Studs shall bear on a sole plate at least two inches thick.
6. Where non-bearing partitions run parallel to the second floor joists, a lathing member shall be placed above the partition plate and shall be wide enough to provide nailing surface to ceiling lath.
7. Wood bearing partitions in cellars or basements will not be acceptable.
8. No stud shall be cut more than half its depth to receive piping and duct work. If more depth is required, the partition Studs shall be increased accordingly. Where the running of piping and duct work necessitates the cutting of plates, prior provision, acceptable to the Building Inspector, shall be made for tying together and supporting all structural members affected by such cutting.
9. Corners for all rooms shall be framed solid with 2 x 4's for lath or other interior finish or a 1 x 8 inch board nailed to the back of stud may be used provided that solid two inch blocking is framed between studdings at the intersection of partition, at intervals not to exceed three feet and securely nailed. In no case will lath be allowed to run back of any partition.
10. All interior partitions connecting with masonry walls shall have the end studs anchored to the masonry walls by bolts, spikes or other approved method at intervals not exceeding three feet.

(i) Fire Stops.

1. Fire stops 1-5/8 inch in thickness shall be provided at all intersections of exterior and interior walls with floors, ceilings and roof space and shall be so arranged as to cut off all concealed draft openings and form an effectual fire barrier between stories and between the upper story and the roof space. Where such fire stopping is done by incombustible insulation materials full depth, wood blocking may be omitted.
2. Furred spaces. For all masonry walls that are furred or studded off, the space created by furring or studding shall be properly fire stopped once in each story.

3. Spaces around chimneys shall be fire stopped with incombustible material.

(5) Floors, Walls and Roof.

(a) General. All board lumber for subflooring, sheathing, roof boarding, shingle lath, etc., shall be No. 2 Common or better.

(b) Flooring.

1. All first floor joists shall be covered with one inch subflooring not more than eight inches in width. All subfloors shall be laid diagonally and ends shall be cut over joists. This requirement also applies to subfloors when used on the second floor. End-matched (T & G) boards may be used for subflooring provided no two adjoining boards break joints over the same joist space, and each board shall bear on at least two joists. All such subfloors shall be nailed with not less than two eight-penny common nails to each floor joist in each piece of floor. Plywood used in subflooring shall be not less than 5/8 inch thick, 5-ply, maximum joist space sixteen inches o.c.
2. All subflooring shall be covered with building paper or deadening felt before laying the finish floor, except where floor is insulated.
3. Finish flooring not less than 13/16 inch thick T & G may be used on the second floor, in a one-family residence, without a subfloor, provided the ends of the flooring boards are cut over the joists.
4. Floor coverings of linoleum, composition or rubber tile on wood construction shall be applied over T & G wood flooring not less than 5/8 inch in thickness nor more than four inches in width, blind and surfaced nailed, and either sanded or scraped smooth before covering is applied; plus plywood 5/8 inch thick.

(c) Exterior Walls.

1. Wood sheathing boards shall be one inch (25/32) thick, not more than eight inches wide, laid closed with each board drawn up tight and securely nailed to each stud or bearing point. Break joints over center of studs unless end-matched (T & G) boards are used; no two adjoining end-matched boards to break joints over same stud space and each board to bear on at least two studs.
2. Under asbestos-cement shingles and siding, if 5/16 inch thick plywood is used, apply siding or shingle materials with barbed nails. Do not apply over wood nailing strips.
3. Plywood. Plywood used on exterior of outside wall panels shall be Exterior Grade complying with requirements of the United States Commercial Standard 45-42 for Douglas Fir Plywood or its equal. If the stock size sheets are re-cut in the manufacturing process, then all such re-cut edges shall be treated and sealed with a waterproof agent equal to that of the manufacturer's original process.
4. Fiber Board: Structural.

- a. Under wood siding: Apply 1" x 2" nailing strips over sheeting, spaced according to shingle exposure.
    - b. Not acceptable as a nailing base under asbestos-cement siding or shingles.
    - c. Special methods for applying finish on fiber board may be used provided the methods are acceptable to the Building Inspector.
  5. Gypsum Board. May be used under any exterior finish except asbestos-cement siding and shingles. Minimum thickness 1/2 inch; maximum stud spacing 16 inches. Under wood shingle siding, apply 1" x 2" nailing strips over sheeting spaced according to shingle exposure.
  6. Sheeting Paper. All sheeting, except gypsum or fiber board factory treated to be moisture resistant and each piece marked "water-repellent" shall be covered with water-resistant building paper or asphalt saturated felt applied shingle fashion, four inch lap. Lap four inches over paper strips around openings. Use six inch wide strips behind exterior trim of all exterior openings.
  7. Asbestos Siding.
    - a. When asbestos siding is used, the wall shall be covered with one or more layers of fifteen pound per square or better asphalt saturated building paper over which the asbestos siding is placed and nailed on by using non-corrodible nails of sufficient length to insure solid nailing into the frame structure.
    - b. Furring strips shall be provided whenever necessary to insure solid bearings around the edges of such materials. All window and door caps and other similar projections shall be capped with metal caps extending not less than two inches up in back of the siding or by some other approved method of making the job water-tight.
- (d) Interior Partitions.
1. Every habitable room shall have frame walls, ceilings and partitions surfaced with plaster, incombustible wall-board or wood 3/4 inch in thickness unless otherwise provided for, except that in one-story, one-family dwellings, and in the upper story of a one and one-half story one-family dwelling, the wall ceilings and partitions may be surfaced with materials which are not more combustible than 3-ply 1/4 inch plywood as rated by a nationally recognized and approved testing laboratory.
  2. Soft textured pulp or fiber boards and similar materials shall not be used as an interior surface covering for walls, partitions and ceilings in habitable rooms unless applied over plaster or incombustible wall board or gypsum lath not less than 3/8 inches thick.

(e) Roofs.

1. Plywood may be used under any roofing material of minimum thickness to carry required load between bearing points.
2. Under wood and asphalt shingles, apply 1" x 2" nailing strips over plywood less than 1/2 inch thick spaced according to shingle exposure.
3. Protect exposed edges of sheeting along eaves and rake the roof with moldings or sheet metal flashing.
4. Fiber board is not acceptable for roof sheeting.
5. Wooden Shingles. Dwellings, private garages and accessory buildings separated by at least ten feet from buildings, may be roofed with wooden shingles.

## **8.06 GARAGES.**

- (1) Walls. When a wall or ceiling of any garage also is common with an adjoining building, such walls or ceiling on the garage side shall be fire-stopped and shall be covered with fire-resistive materials equal to one-hour construction.
- (2) Floor. Garage floors shall be made of concrete or equal fire-resistive and impervious materials. There shall be no floor drains installed in private garages.
- (3) Doors. Openings from dwelling into garage shall be restricted to a single doorway. The door sill shall be raised at least four inches above the garage floor level and the door shall be of solid wood without glass.

## **8.07 HEATING AND VENTILATION.**

(1) Chimneys.

- (a) Chimneys hereafter erected within or attached to a structure shall be constructed with the provisions of this section.
- (b) Chimneys shall be wholly supported on masonry foundations for self supporting fireproof construction unless otherwise provided for.
- (c) All masonry chimneys shall be lined throughout with fireclay flue lining and shall have not less than 3-1/2 inches of solid masonry around the flue lining. All flue lining shall extend at least two inches above the top of the masonry.
- (d) When three or more flues are contained in the same chimney, each group of two flues shall be separated by masonry not less than 3-1/2 inches thick bonded into the masonry wall of the chimney. When flue linings are not separated, the bed joints of the flue linings shall be staggered not less than seven inches.
- (e) Chimneys shall extend at least five feet above flat roofs and not less than two feet above the highest ridge within ten feet of the chimney.

- (f) No chimney shall be corbeled from a wall more than six inches and the corbeling shall not exceed one inch projection for each course of brick; nor shall a chimney be corbeled from a wall which is less than twelve inches in thickness unless it projects equally on each side of the wall.
- (g) All chimneys shall be capped to form a wash from the flue to the outside edge of the chimney and there shall be a metal clean out door provided at the base of each flue arranged to remain tightly closed when not in use.
- (h) All heating equipment shall connect into individual flues except that domestic hot water heaters may connect into the house heating flue.
- (i) Flue sizes for heating appliances burning solid fuel shall be of adequate sectional cross area to meet the condition of the appliance to be connected. Minimum flue sizes: for heating plants 8-1/2 by 8-1/2 inches; for fireplaces 8-1/2 by 13 inches.
- (j) Chimneys and flues not conforming to the requirements of this section for chimneys, or vents for oil and gas burning appliances, shall not be used unless listed as approved by the Underwriters' Laboratories, Inc., and installed to comply with their recommendations.
- (k) Gas vent shall mean approved vent piping on noncombustible, corrosion resistant material of adequate strength and heat insulation value.
- (l) Chimneys or flues installed for the use of gas burning appliances but which are not suitable for solid or liquid fuels, shall be labeled "THIS FLUE IS FOR USE OF GAS BURNING APPLIANCES ONLY". The label shall be attached at a point near where the vent pipe enters the chimney, or when an approved type gas vent is used in the place of a chimney, at a point near where the gas vent enters a wall, floor or ceiling.
- (m) No wood shall be built into or in contact with any chimney.

(2) Smoke Pipes.

- (a) Every smoke pipe shall connect with a smoke flue by means of a tight joint, and shall not pass through any floor, outside window or door, nor through any combustible roof or combustible outside wall, nor through any closet, attic or similar concealed space. Smoke pipes shall enter chimneys through a fire clay or metal thimble or flue ring of masonry built in at the time the chimney is built. Neither the intake pipe nor the thimble shall project into the flue.
- (b) Smoke pipes shall not pass through combustible partitions unless protected by double metal ventilated thimbles eight inches larger in diameter than the pipe or four inches larger than the pipe with the space between the pipe and the thimble filled solidly with approved incombustible insulating material, or by some other approved method, provided that smoke pipes from ordinary ranges and stoves may do so if they are guarded by double metal ventilated thimbles six inches larger in diameter than the pipe, or by a double safety thimble made of two concentric rings of sheet metal with at least one inch open air space between and with the outer ring covered with at least 1/4 inch asbestos.

(c) No part of any smoke pipe shall be placed nearer to any non-fire-resistive partition or wall than the diameter of the pipe, nor nearer to any non-fire-resistive ceiling than 1-1/2 times the diameter; but the above distances may be reduced by one-half, if the wall or ceiling is covered with not less than 1/4 inch asbestos board covered with sheet metal, or with equivalent protection.

(3) Fireplaces.

- (a) All fireplaces shall have hearths supported on fireproof construction. The hearths shall project at least twelve inches measuring from the chimney breast, and the width shall be not less than the width of the fireplace opening plus twelve inches.
- (b) Open fireplaces shall be constructed with smoke chambers and dampers and shall be lined with fire brick or other materials approved by the Building Inspector. When an ash dump is provided, ashes shall empty into an enclosed chamber of fireproof material provided with a metal clean-out door.

(4) Warm Air Heating.

- (a) Ducts.
  - 1. Every warm air duct on forced and gravity heating systems installed in dwellings must have all joints properly sealed with an asbestos binder tape. A clearance of not less than 5/16 inches shall be maintained between combustible construction and warm air heating stacks, floor or wall ducts and their inlets and outlets, except this distance may be reduced provided the wood surrounding them is covered with a separate metal housing.
  - 2. The cold air ducts of heating systems within six feet of their connection with the furnace shall be of metal or approved incombustible material. The remainder of the ducts shall have a smooth liner surface and shall be made dust tight.
- (b) Registers. All registers shall be of metal and may be single covered as required in (a) above for warm air ducts, provided, however, that the wood surrounding these registers is covered with a separate metal housing.
- (c) One-Pipe Furnace. When a register box is placed in a combustible floor directly over a one-pipe furnace, the register box shall be constructed double with a vented air space of not less than four inches between except where the warm air passage is surrounded by cold air passage.

(5) Steam and Hot Water Heating.

- (a) Steam and Hot Water Pipes. No steam pipe or pipe carrying hot water at a temperature exceeding 180 degrees shall be placed within one inch of any woodwork. Every such steam or hot water pipe passing through a combustible floor, ceiling or partition shall be protected by a metal tube one inch larger in diameter than the pipe and shall be provided with a metal cap. All wooden boxes or casings enclosing steam or hot water pipes or wooden covers in recesses in walls in which steam pipes are placed shall be lined with metal.

- (b) All attics and spaces between flat roofs and ceilings shall be ventilated by screened louvers or other means approved by the Building Inspector.

## **8.08 PLUMBING AND DRAINAGE.**

- (1) State Code Applies. The construction, reconstruction, installation and alteration of all plumbing, drainage and plumbing ventilation shall conform to the Wisconsin Administrative Code, Chapter H 62 (State Plumbing Code) adopted by the State Board of Health, which is hereby adopted by reference as a part of this Ordinance, and declared to apply to all plumbing work.
- (2) Permit. No plumbing or drainage of any kind shall be installed or altered, except that leakage or stoppage repairs may be made, without first securing a permit therefor from the Building Inspector. The application for such permit shall be on a form furnished by the Building Inspector and shall State clearly the work planned, alterations to be made, and equipment and materials to be used. All later deviations from such plan must be submitted to and shall be subject to approval by the Building Inspector. Permit fee shall be as set out in Section 8.02 of this Ordinance.
- (3) Licensed Plumber Required. All plumbing work shall be done only by a plumber licensed by the State Board of Health, except that a property owner may make repairs or installations in a single-family building owned and occupied by him as his home, provided that the cost of such repairs and installations does not exceed \$250.00, and provided that a permit is issued and the work and materials are in compliance with the provisions of this Ordinance.
- (4) Inspection of Work. Upon completion of the plumbing work on any premises, the person doing such work shall notify the Building Inspector before such work is covered up, and the Building Inspector shall at once inspect or cause to be inspected the work. If he finds that the work conforms to the State Plumbing Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Building Inspector. No person shall use or permit to be used any plumbing or drainage until it has been inspected and approved by the Building Inspector.
- (5) Ground and Storm Water Sewer System. No sewage, whether from septic or sanitary systems shall be introduced into the storm sewer system, which includes open ditch used to carry off ground water.

## **8.09 ELECTRICAL PROVISIONS.**

- (1) State Code Applies. All electrical work shall conform to the standards of the Wisconsin State Electrical Code and amendments and revisions thereto as shall be adopted by the Industrial Commission of Wisconsin, and to the performance standards as recommended by the American Institute of Electrical Engineers. The Wisconsin State Electrical Code is hereby adopted by reference as part of this Ordinance and declared to apply to all electrical work.
- (2) Permit. No electrical wiring or other equipment shall be installed or altered without first securing a permit therefor from the Building Inspector, except that repairs or replacements of broken or defective sockets, switches or base receptacles may be made without a permit. The application for such permit shall be on a form furnished by the Building Inspector and shall State clearly the work planned, alterations to be made, and equipment and materials to be used, and all later deviations from such a plan must be submitted to and shall be subject to approval by the Building Inspector. Permit fees shall be as set out in Section 8.02 of this Ordinance.

- (3) Inspection of Work. After roughing in the wiring of any building and before any such work is covered up, or upon completion of any outside wiring construction work, it shall be the duty of the person doing such work to notify the Building Inspector, who shall at once inspect or cause to be inspected the same. Upon completion of such wiring, the Building Inspector shall be notified and shall inspect or cause to be inspected the finished work. If he finds that the work conforms to the State Electrical Code, he shall issue a Certificate of Compliance which shall contain the date and an outline of the result of such inspecting, a duplicate of which shall be filed by location in the office of the Building Inspector. It shall be unlawful to use any such electrical equipment until such Certificate has been issued.

## **8.10 FLAMMABLE LIQUIDS.**

The Wisconsin Administrative Code, Chapter Ind. 8 (Flammable Liquids Code) issued by the Industrial Commission of Wisconsin, is hereby adopted by reference as a part of this Ordinance, and it shall be the duty of the Building Inspector to enforce the provisions thereof.

## **8.11 VIOLATION AND PENALTY.**

Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 15.04 of this Code. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

## **8.12 PRIVATE SWIMMING POOLS.**

- (1) Definition. A swimming pool within the meaning of this Ordnance shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground in which water of more than 18 inches in depth is contained and which is used primarily for the purpose of bathing or swimming.
- (2) Location. No swimming pool shall be erected to the front of the residence of the owner or occupant of premises connected therewith; in the case of lots bordered on two sides by public streets, no swimming pool may be erected in the area between the setback liens of the main building and the street right-of-way line; and in no case less than five feet from any lot line or building wall.
- (3) Age of Children. A child of tender years, within the meaning of this Ordinance, shall be any child who has not attained the age of eight years.
- (4) Protective Devices. Every person, every member of a partnership and every corporation that owns, directly or indirectly, or operates or uses or has custody or control of or has the right to use any swimming pool located in the Village of Elmwood Park shall erect and maintain a fence or suitable barrier around such swimming pool of not less than five feet, nor more than six feet in height and of such construction as to safeguard a child of tender years to prevent such child from falling into such swimming pool or shall install and maintain a cover or other protective device over such swimming pool of such design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or other protective device shall be securely fastened at all times when the swimming pool is not in actual use for bathing or swimming purposes.
- (5) Drainage. No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank, nor to overflow upon or cause damage to any adjoining property. Provision may be made for draining the contents of any swimming pool into a storm

sewer, but such installation shall be subject to prior approval of the Building and Health Inspector. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval of the State Board of Health shall be necessary before the construction of any such pool may commence.

- (6) Filtration System. All private swimming pools within the meaning of this Ordinance must have in connection therewith some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- (7) Inspection. All installations of swimming pools, drains or other equipment made under the provision of this Ordinance shall be subject to periodic inspection by the Building and Health Inspector of the Village of Elmwood Park.
- (8) Finish. All swimming pools of a permanent type shall have the sides and bottom of a smooth finish and no sand or dirt bottom shall be permitted.
- (9) Fencing. All swimming pools existing at the time of passage of this Ordinance not satisfactorily fenced shall comply with the terms of this Ordinance within forty-five (45) days after its passage and posting.
- (10) Penalty. Any person or persons violating the provisions of this Ordinance shall upon conviction thereof, be assessed a forfeiture of not less than \$1.00 nor more than \$200.00 together with the cost of prosecution.
- (11) Validity. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid, or be repealed, the remainder of this Ordinance shall not by reason thereof be affected thereby.

### **8.13 ADOPTION OF WISCONSIN UNIFORM DWELLING CODE.**

- (1) Chapter IND 22, Wisconsin Administrative Code, Energy Conservation Standards of the One and Two Family Dwelling Code, as adopted and effective December 1, 1978, and Chapters IND 20, 21, 23, 24 and 25, adopted and effective June 1, 1980, and all amendments thereto, are adopted and incorporated in this Code by reference.
- (2) The Building Inspector, as certified by the Department of Industry, Labor and Human Relations, is hereby authorized and directed to administer and enforce all of the provisions of the Wisconsin Uniform Dwelling Code.
- (3) Any existing Ordinances pertaining to the construction of new dwellings that conflict with the Uniform Dwelling Code are hereby repealed.
- (4) Building Permit Required. No person shall build or cause to be built any one or two family dwelling without first obtaining a State Uniform Building Permit for such dwelling. Such building permit shall be furnished by the Village of Elmwood Park. A copy of such permit issued shall be filed with the Village Building Department. No addition, alteration or repair to any existing one or two family dwelling not deemed minor repair by the Building Inspector, shall be undertaken unless a building permit for this work shall first be obtained by the owner or his agent, from the Building Inspector.
- (5) Building Permit Fee. The building permit fee shall be determined by the Village Board.

- (6) Penalties. The Board shall provide for the enforcement of the section and all other laws and Ordinances relating to buildings by means of the withholding of building permits, imposition of forfeitures and in juncture action, pursuant to Wis. Stat. 62.23(9).
- (7) Severability. If any section, clause, provision or portion of this Ordinance or Wisconsin Administrative Code Chapters Ind. 20, 21, 22, 23, 24 and 25 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby.

#### **8.14 RESIDENTIAL DISCHARGE OF GROUND WATERS.**

- (1) All footing tile sump pump discharge and/or down spout pipes which discharge above finished grade toward a street shall be a minimum of five (5) feet from the nearest edge of the traveled portion of the roadway and if such down spout and/or discharge pipes are more than twelve (12) feet from the residence, the pipes shall be buried.  
*(Amended August 9, 1990)*
- (2) Upon violation of 8.14(1), the Village Building Inspector shall issue a written notice to the affected landowners giving the latter fifteen (15) days to correct the violation.
- (3) Any person who shall violate the provisions of 8.14 shall be subject to a penalty as provided in Section 15.04 of this Code. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

## **CHAPTER IX**

### **LAND DEVELOPMENT AND ZONING**

#### **9.01 PURPOSE AND INTENT.**

The purpose of this Ordinance is to promote the public health, safety, prosperity, aesthetics, and general welfare of the community; and to regulate and control the division of land within the corporate limits and extra-territorial plat approval jurisdiction of the Village.

It is the general intent of this Ordinance to regulate division of land so as to lessen congestion in the streets and highways; to further the orderly layout and appropriate use of land; to secure safety from fire, panic and other dangers; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to facilitate the further division of larger tracts into smaller parcels of land; and to insure adequate legal description and proper monumentation of subdivided land.

It is the further intent of the Ordinance to regulate and restrict the use of all structures, land and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures; provide adequate light, air, sanitation and drainage, facilitate the adequate provisions of public utilities and facilities; stabilize and protect property values; further appropriate use of land and conservation of natural resources; preserve and promote beauty of the community; and implement the community's plan components.

#### **9.02 AUTHORITY AND JURISDICTION.**

These regulations are adopted under the authority granted by Sections 236.45, 61.35, and 62.23(7) of the Wisconsin Statutes. Jurisdiction of these regulations shall include all lands within the corporate limits of the Village of Elmwood Park as well as the unincorporated area within one and one-half miles of the corporate limits.

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

## **9.03 DEFINITIONS.**

For the purpose of this ordinance, the following definitions shall be used:

- (1) **Accessory Structure.** A structure or building that: 1) is subordinate to and services a principal building or a principal use legally existing on the same zoning lot; 2) is subordinate in area, extent and purpose to the principal building or principal use; 3) contributes to the comfort, convenience or necessity of the occupants of the principal structure or use served and 4) is located on the same zoning lot as the principal structure or principal use served. For the purpose of this ordinance, detached sheds shall be considered accessory structures.
- (2) **Accessory Use.** A use that: 1) is subordinate to and services a principal building or a principal use legally existing on the same zoning lot; 2) is subordinate in area, extent and purpose to the principal building or principal use; 3) contributes to the comfort, convenience or necessity of the occupants of the principal structure or use served and 4) is located on the same zoning lot as the principal structure or principal use served.
- (3) **Attached Accessory Building.** An accessory structure that is permanently attached to a principal structure by a solid connecting roof or wall.
- (4) **Building.** A building is a structure having a roof supported by columns or walls, used or intended to be used for shelter or enclosure of persons, equipment or materials.
- (5) **Building Line.** Building line shall mean the closest allowable structural portion of a building to the property line, such as wall, chimney or foundation. Roof overhangs, terraces and similar protrusions shall be permitted to extend not more than two feet beyond any building line.
- (6) **Family.** A family is a body of persons who live together in one building as a single housekeeping entity in a domestic relationship, based upon birth, marriage or similar domestic bond as distinguished from a group occupying a boarding house, lodging house, club, cooperative living unit, fraternity or hotel.
- (7) **Frontage.** Frontage is defined to mean all property abutting on one side of a street between two intersecting streets, or all of the property abutting on one side of a street between an intersecting street and the dead-end of a street.
- (8) **Home Occupation.** A home occupation is a gainful occupation conducted by members of the family only, within its place of residence, provided that the specified use is incidental to the residential use.
- (9) **Fence.** An accessory structure that creates an enclosure, barrier or boundary having a permanent location on the ground or is attached to something that has a permanent location on the ground. This includes walls made of brick, masonry, stone, rock, cement or other such material.
- (10) **Fence, Ornamental.** A fence whose only purpose is to decorate, accent, or frame a feature of the landscape. These types of fences are commonly used to identify a corner of a corner lot, frame a driveway, walkway or planting bed and are over 75% open for free passage of light and air.
- (11) **Fence, Security.** A fence whose purpose is to provide unwarranted entry and/or views to protect equipment, materials or products contained within a non-residential property.

- (12) Lot. A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot depth, yard, parking area and other provisions of this ordinance.
  - (13) Lot Width. The horizontal distance between side lot lines. Lot width shall be measured between side lot lines at the required front setback line.
  - (14) Lot Area. The area contained within the property lines of a lot, excluding any street, easement for street purposes, or street right-of-way.
  - (15) Lot Line. A line framing a boundary of a lot that divides one lot from another or from a street or any other public or private space.
  - (16) Lot Line, Front. That part of an interior lot abutting a street or that part of a corner lot extending across the narrowest part of a lot abutting a street.
  - (17) Lot Line, Side. Any lot line that other than a street or rear lot line.
  - (18) Lot Line, Rear. That lot line which is parallel to and most distant from the front lot line.
  - (19) Lot, Interior. A lot other than a corner lot.
  - (20) Lot, Corner. A lot abutting two streets at their juncture.
  - (21) Lot, Zoning. A parcel of land: (1) comprised of 1 or more recorded lots that are contiguous and under the same ownership and in the same zoning district; (2) occupied or intended to be occupied by a principal building or buildings, or principal use or uses, along with permitted accessory buildings or uses; and (3) meeting all of the requirements for area, buildable area, frontage, width, setbacks, and any other requirements set forth in this Ordinance. Lots separated by streets or alleys shall not be considered contiguous for the purposes of this definition.
  - (22) Setback, Street. A setback extending the full width of the lot between the street lot line and building line.
  - (23) Setback, Side. A setback extending the full length of the lot between the side lot line and side building line.
  - (24) Setback, Rear. A setback extending the full width of the lot between the rear lot line and the rear building line.
  - (25) Shed. A detached accessory structure as defined by this ordinance, that is intended, designed, and used for the private storage of lawn and garden tools and materials and/or for the storage of personal property that affords comfort and convenience to a property owner.
- (26) Street. A way for vehicular traffic.
- (a) Major streets and highways are those which are used primarily for fast or heavy traffic.

- (b) Collector streets are those which carry traffic from minor streets to the system of major streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
  - (c) Minor streets are those which are used primarily for access to the abutting properties.
  - (d) Marginal access streets are minor streets which are parallel to and adjacent to major streets and highways and which provide access to abutting properties and protection from through traffic.
- (27) Street Yard. A setback area that extends across the full width of the lot between the street lot line and the building line of the principal structure on the lot.
- (28) Side Yard. A setback area that extends the full depth of the lot between the side building line of a principal structure and the adjacent side lot line.
- (29) Rear Yard. A setback extending the full width of a lot in an area between the rear lot line and the rear building line of the principal structure.
- (30) Structure. Anything man-made constructed, erected, or placed which requires more or less permanent location in or on the ground or is attached to something having a permanent location on the ground. Typical examples of the term structure shall include fences, pools, signs, sheds, garages or other building.
- (31) Principal Structure. A structure in which is conducted or is intended to be conducted, the main or principal use of the lot on which it is located.
- (32) Structural Alteration. Any change in the supporting members of a structure, such as bearing walls, beams, columns, or girders is a structural alteration.
- (33) Use. The purpose or activity for which land, or any structure thereon, is designed, arranged, or intended, or for which it is occupied or maintained.
- (34) Nonconforming Use. A nonconforming use is a building or premises occupied by a use that does not conform to the regulations of the district in which it is situated.
- (35) Professional Office. The office of a doctor, practitioner, dentist, minister, architect, professional engineer, lawyer, author, musician, or other recognized profession is a professional office.
- (36) Additional Definitions as set out in Chapter 236 of the Wisconsin Statutes of 1965 are hereby adopted for inclusion herein by reference.

## **9.04 DIVISION AND USE OF LAND.**

- (1) Compliance. No person, firm or corporation shall divide any land located within the jurisdictional limits of these regulations which result in a subdivision, and no street shall be laid out or improvements made to land without compliance with all requirements of this ordinance, and
- (a) Provisions of Chapter 236, Wisconsin Statutes;

- (b) Rules of the Wisconsin State Board of Health regulating lot size and lot elevation if the land to be subdivided is not served by a public sewer;
  - (c) Duly approved planning components, including the Zoning Section of this Ordinance, official maps, official street plats and profiles, and all other applicable ordinances.
- (2) Proposed Plat. The proposed plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Section 236.20 of the Wisconsin Statutes. In addition to the information required by Section 236.20, the plat shall show the following:
- (a) Existing Items:
    1. Easements or covenants running with the land.
    2. Underground structures and utilities within the plat or adjacent thereto.
    3. Topography of the tract with one foot vertical contours.
    4. Ground water table and percolation tests as to those areas not served by a permanent improved municipal public sewer.
    5. Trees of six inches or greater diameter by size and species.
  - (b) Proposed Items:
    1. Easements to be dedicated according to the requirements of Section 9.04(3) and 9.05(6).
    2. Utilities to be installed according to the requirements of Section 9.07(2)(a)(1).
    3. Topography of the tract with one foot vertical contours designed to provide storm water drainage to public ways.
    4. Building lines.
    5. Tree planting.
- In addition, the Village Plan Commission may require that borings be made in certain areas to ascertain subsurface soil, rock and water conditions. Where the subdivision will not be served by public sanitary sewer service, the provisions of Chapter H65 of the Wisconsin Administrative Code shall be complied with.

(3) Subdivision of Land – Minor Land Division.

- (a) No land within the Village of Elmwood Park shall be divided, subdivided, split/ or transferred into smaller parcels unless such land is contained in a recorded subdivision submitted to and approved by the Village as provided in Chapter 236 of the Wisconsin Statutes, and in conformance with the requirements of this Chapter or by way of a Certified Survey Map as set forth below. No land division shall be effective unless

accompanied by way of the subdivision platting process (Ch. 236 Wis. Stats.) or Certified Survey Map.

- (b) With respect to any land divisions which do not come within the definition of a "Subdivision" as defined in Section 236.02(12) of the Wisconsin Statutes (a "minor land division: for which a recorded plat is not required under the law), the Village Board may approve the minor division of land into smaller parcels by way of certified survey map if all of the proposed resulting parcels 1) meet all of the applicable requirements of Section 9.04, 9.05, 9.06, 9.07, 9.08, and 9.09 of this code, and 2) each resulting parcel is in compliance with the size requirements of the zoning district in which it is located, and 3) the entire frontage of the parcel is located along a dedicated public right of way.

In addition to any other reasons or grounds that the Village Board may find to exist requiring the denial of the said minor division of land, the Village Board may in its discretion choose not to approve the foregoing minor division of land based upon the following:

1. The proposed division would create an irregular and inappropriate development pattern;
2. The proposed division is not consistent with the character and layout of the abutting lots and surrounding area;
3. The proposed division cannot be provided with adequate public health safety, or general welfare services.

- (c) Before requesting approval for a minor division of land, the subdivider must submit to the Planning Commission, a certified survey map, prepared by a registered land surveyor, showing all information required by Section 236.34 of the Wisconsin Statutes as amended and the following additional information:

1. Existing Items:
  - a. Easements or covenants running with the land.
  - b. Underground structures and utilities within the plat and within adjacent road rights of way
  - c. Topography of the tract with one foot vertical contours.
  - d. Ground water table and percolation tests as to those areas not served by a permanent improved municipal public sewer.
  - e. All existing structures.
2. Proposed Items:
  - a. Easements to be dedicated according to the requirements of this Section of the Village of Elmwood Code of Ordinances.
  - b. Placement of any proposed new structures..

\*\*Alternate 2\*\*

b. Building lines.

\*\*End alternate\*\*

c. Ingress and egress.

\*\*Alternate 3\*\*

c. Tree plantings.

\*\*End alternate\*\*

The foregoing provisions for the approval of minor divisions of land shall apply to both (1) previously platted lands and (2) unplatted lands.

Any plat and/or certified survey map submitted shall be referred to the Plan Commission, which shall return its recommendations to the Village Board in not less than thirty (30) days following receipt of a completed submission. Incomplete submissions shall be returned to the subdivider as if no submission had occurred.

No land within the Village of Elmwood Park shall be divided, subdivided, transferred or used unless access is provided to each parcel thereof by a dedicated public way accepted by the Village.

Land division and use, including the dedication and development of public ways shall take into account any water course, water shed, drainage way, channel or stream, and a storm water and drainage easement, adequate and acceptable to the Plan Commission, shall be provided.

(4) Creation of Larger Parcels/Lots.

(a) No land or lots within the Village of Elmwood Park may be enlarged by the reduction or elimination of contiguous land and/or lots without the owner or agent/representative submitting a certified survey map containing the information required by 236.36 Wis. Stats. As amended and 9.04(3) of this ordinance to the Planning Commission. The Village Board shall review any such proposed enlargements pursuant to the intent and requirements of 9.04(3) of this ordinance. This provision shall not apply to de minimus lot line adjustments at the discretion of the Planning Commission.

*(Amended June 15, 2006)*

The use of all land, whether subdivided or not, shall be subject to the provisions of this Chapter.

**9.05 DESIGN STANDARDS.**

Land division and plats shall be designed to the standards set out and to permit use and building in conformity with requirements hereinafter set out.

(1) Streets. The streets shall be designed and located in relation to existing and planned streets, to topographical conditions and natural terrain features, to public convenience, transportation and

safety, and in their appropriate relation to the proposed uses of the land to be served by such streets, including consideration to efficient drainage, sewer and utility systems.

(a) Kind of Streets.

1. Minor Streets shall be laid out to discourage use by through traffic; to require the minimum amount of street necessary to provide convenient, safe access to property. The reasonable and intelligent use of curvilinear and cul-de-sac streets is encouraged.
2. Major Streets. Access ways and private entrances opening on major streets shall be kept to a minimum. There shall be no vehicular access to major streets and parkways, except as specified points or at street intersections. Vehicular access to residential lots adjoining or adjacent to a major street or a parkway shall be provided by one of the following means:
  - a. A parallel street supplying frontage for lots backing onto the major street. In such case, agreement shall be recorded in the office of the Register of Deeds prior to the approval of the Plan Commission of the final plat in which said residential lots are situated, which agreement shall prohibit vehicular access to the residential lots from the major street and which shall require the use of such parallel street for vehicular ingress and egress.
  - b. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the major street.
  - c. A public service street separated from the major street in its development by a planting or grass strip and having access thereto at suitable points.

(b) Design of Streets.

1. Street Width Minimum.
  - a. Major: 90 feet
  - b. Collector: 60 feet
  - c. Minor 45 feet.
2. Cul-de-Sac Turnarounds shall have a minimum radius of not less than 50 feet.
3. Street Grades shall not exceed the following:
  - a. Major and Collector: 6%
  - b. Minor 10%
4. Alignment and Visibility. Clear visibility, measured along the center line, shall be provided for at least 300 feet on major streets and 100 feet on minor streets.

5. Minimum Radii or Curvature on the Center Line.
    - a. Major Streets: 300 feet
    - b. Collector Streets: 200 feet
    - c. Minor Streets: 100 feet.
  6. Tangents. A tangent at least 100 feet long shall be introduced between reverse curves on major and collector streets.
- (c) Street Names. New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the name of the existing street.
- (2) Reserve Strips. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the Village under conditions approved by the Plan Commission.
- (3) Intersections.
- (a) Streets shall intersect as nearly as possible at right angles and the intersection of more than two streets at one point is discouraged. The number of streets converging at one intersection shall be reduced to the minimum possible.
  - (b) Property lines at street intersections shall be rounded with a radius of fifteen (15) feet or a greater radius where the Plan Commission considers it necessary. Cut-offs or chords may be permitted in place of rounded corners.
  - (c) Street jogs with center line offsets of less than 125 feet shall be avoided. Where streets intersect major streets, their alignment shall be continuous.
- (4) Alleys are prohibited.
- (5) Railroad Right-of-Way or Limited Access Highway. A buffer strip at least thirty (30) feet in width in addition to the normal depth of lot required in the district shall be provided adjacent to a railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This Strip is Reserved for the Planting of Trees and Shrubs by the Owner. The Building of Structures Hereon is Prohibited." Yard size and building set-back lines designated in Section 9.08(3) shall be increased thirty (30) feet adjacent to such right-of-way or highway.
- (6) Easements. In addition to easements required under Section 9.04, easements not less than ten (10) feet wide centered on side and rear lot lines shall be provided for utilities, unless waived by the Plan Commission.
- (7) Sewerage Disposal. A proposed plat will be disapproved unless it shall conform as a minimum to the requirements prescribed by the Statutes of the State of Wisconsin as they may apply hereto. In addition, the plat will be disapproved as to the use of any lots for other than parks or open areas:

- (a) Where the ground water table at any point is less than three (3) feet from the proposed finished surface grade, unless the area is served by a permanent improved public sanitary sewer.
  - (b) Where one hour or more is required for the water to fall one inch in a percolation test unless the area is served by a permanent improved public sanitary sewer.
  - (c) Where the area is served by a permanent improved public sanitary sewer as to any lots which do not have access to such sewer.
- (8) Lots and Building Sites shall be the size, shape and orientation appropriate to the Village and shall conform as a minimum to the requirement of this Ordinance and the Wisconsin Statutes of 1965. In addition, the plat will be disapproved as to the use of any lots for other than parks or open areas or addition to adjacent lots or building sites:
- (a) Where the width measured at the front building line in a direction parallel to the front property line, if this be a straight line; or parallel to a chord of the front property line if it be a curved line, is less than 85 feet, or
  - (b) Where the depth measured at the center axis of the lot normal to the front property line of this be a straight line, or normal to a chord of the front property line if it be a curved line, is less than 120 feet.

## **9.06 PUBLIC SITES AND OPEN SPACES.**

- (1) Whenever a plat is filed of a subdivision in which is located the site of a proposed park, parkway, playground or other public use, the subdivider shall be required to dedicate such site on the plat. If so agreed, the subdivider may convey such site to the Village.
- (2) A subdivider who is required to dedicate a site for public use or who deeds such site shall be compensated therefor from the Public Site Reserve Fund herein created according to the market value of the property conveyed, to the extent that such site is not necessitated primarily by his subdivision, but is of general public belief or will serve and will benefit property other than that included in the subdivision.
- (3) Where a plat is offered of a subdivision which will be served and is benefitted by a proposed public improvement for which a site has been or will be acquired pursuant to this Ordinance but such site is not located within the subdivision, the subdivider shall, prior to approval of his plat, be required to pay into the Public Site Reserve Fund a public site fee equal to his proportionate share of the cost of such acquisition.
- (4) The market value of the property conveyed and the proportion of the cost of acquisition to be borne by each subdivider shall be determined by the Plan Commission at the time application for approval of a plat is made. Any such determination may be appealed to the Village Board whose decision shall be conclusive.
- (5) Expenditures from the Public Site Reserve Fund shall be made only upon authorization of the Village Board, and only for the purpose of acquiring the dedication or conveyance of sites for proposed public use. Appropriations to such fund shall be made by the Village Board from time to time as they may deem necessary.

## **9.07 REQUIRED IMPROVEMENTS.**

- (1) The subdivision shall be monumented as required by Section 236.15 of the Wisconsin Statutes.
- (2) Streets, Utilities and Improvements.
  - (a) Before the final plat of a subdivision located within the corporate limits will be approved, the subdivider shall provide the following facilities, give satisfactory proof that he has contracted to install such facilities, or file a performance bond insuring that such facilities will be installed within the time required by the Village Board:
    1. Water and sanitary sewer mains and laterals to the lot line, where connection to existing or proposed systems can be designated.
    2. Streets graded to full width and the roadway graded to subgrade. After installation of the water and sewer facilities, the roadway shall be surfaced with six inches of crushed gravel and a seal coat.
    3. Adequate facilities and grading as shown on the plat according to Section 9.04(2)(b)(3) to provide surface water drainage.
    4. Planting as shown on the plat according to Section 9.04(2)(b)(5).
  - (b) The adequacy of such facilities shall be subject to approval of the Village Board.

## **9.08 DISTRICT ESTABLISHMENT, USE AND REGULATION.**

- (1) District Establishment.
  - (a) The Village of Elmwood Park is hereby divided into the following zoning districts:

R-1	Single Family Residential District
B-1	Neighborhood Business District
P-1	Public and Semi-Public District
PRD-1	Planned Residential District

*(Amended December 13, 1990)*
  - (b) Boundaries of these districts are hereby established as shown on map entitled "Zoning Map, Village of Elmwood Park, Wisconsin" which accompanies and is a part of this Ordinance.
  - (c) 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 to or consolidations with the Village subsequent to the effective date of this Ordinance shall be placed in R-1 Single Family Residential District until definite boundaries and regulations are adopted by the Village Board.

## **(2) General Provisions.**

- (a) Permits Required.

The Plan Commission shall approve all applications for a building permit that involve the following:

1. Any new structure
2. Any alteration or change to an existing structure that changes the exterior dimensions of the structure.
3. Any modification or change to the interior of an existing structure for any home occupation.

(b) Application Requirements.

1. Form of Application: Applications to the Plan Commission shall be submitted in a format and in such numbers as required by the Village Clerk. Application submittal requirements and format information shall be made available to the public with the Village Clerk.
2. Application Completeness: An application shall be considered complete if it is submitted in the required format, includes all mandatory information and is accompanied by the established fee. Any application that is determined to be incomplete shall, within 3 days of its submittal, be returned to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies have been corrected. Once the deficiencies have been corrected, the application may be resubmitted without payment of additional fees.
3. Application Fees and Refunds: Applications shall be accompanied by the fee amount that has been established by the Village Board for the respective application. Fees shall not be required for applications initiated by the Village Board. Fees are non-refundable after notices have been mailed and the application has been processed.

(c) Notices.

1. Neighbor Notice: Upon the Village Clerk receiving an application for the Plan Commission and having found it to be in acceptable form, the Village Clerk shall notify the adjacent and abutting property owners of the application via regular mail or personal delivery no less than 10 days prior to the application being considered by the Commission.
2. Newspaper Notice: When an application involves a variation, rezoning or conditional use permit applications shall be published in the newspaper of general circulation. Upon the Village Clerk finding that the application is in acceptable form, the application shall be published in accordance with the provisions of the State Statutes.

(d) Plan Commission.

The Plan Commission shall not approve any application unless the applicant can show that the following conditions can be met. The minutes of the proceedings shall so state the reasons for approval or denial of said application to the Plan Commission. Applications to the Plan Commission shall be approved, conditionally approved or denied in writing within 30 days of being acted on by the Commission.

1. The application shall be consistent with the purpose and intent Section 9.01 of this ordinance.
2. The proposed structure or use in its proposed location will not have adverse impacts on any of the following:
  - a. Light, air, views, privacy, drainage or similar aspects that would restrict, limit or deny the ability of adjacent lot owner to enjoy their property,
  - b. the character of the neighborhood,
  - c. infrastructure, or
  - d. any other matters affecting the public health, safety, or general welfare.

(3) Accessory Structures.

(a) General Standards for Accessory Structures

1. No person shall erect or construct an accessory structure on any lot within the Village of Elmwood Park without having first filed an application in accordance with 9.08(2)(b) of this Ordinance, obtained approval from the Plan Commission, and secured the proper permits for construction from the Village.
2. Nonconforming accessory structures that were constructed prior to the adoption of this Ordinance and fail to comply with the terms and requirements of this Ordinance may continue to exist subject to the following conditions:
  - a. Normal maintenance practices shall be permitted when such practices will keep the accessory structure in a safe, structurally sound, and in an aesthetically appealing condition.
  - b. Except as otherwise provided by this ordinance, upon the destruction, removal or deterioration of a nonconforming accessory structure beyond 50% of its replacement cost, said structure shall not be constructed or reconstructed unless it complies with the provisions of this Ordinance.
  - c. Plan Commission Review Standards. The Plan Commission shall review applications for accessory structures in accordance with Section 9.08(2)(d) of this Ordinance. As part of the Commission's approval, the Commission may impose restrictions on height, length, setback, materials, foundation, landscaping and color provided such restrictions are not in conflict with any provisions of this Ordinance that is prohibited.

(b) Fences and Walls:

1. Materials. Fences shall be constructed of wood or wood products provided such products present a natural appearance. Walls shall be constructed of brick, masonry, architectural stone or similar materials. In the R-1 District, chain link style or wrought iron fences may be permitted in the side or rear yards when the fence is consistent with an existing fence on an adjacent property or for security purposes for a swimming pool. In the B-1 and P-1 Districts, chain link style or wrought iron fences may be permitted in all yards.
2. Prohibited Fences. No fence shall be constructed to provide an electrical shock, barbed wire, agricultural fences, snow fences, construction fences or chain link fences with inserts or similar materials shall be permitted. No fence shall have sharp edges or pointed pickets that could be dangerous to personal safety. No fence, wall or hedge shall be constructed or installed in the vision triangle specified in Section 9.09(1) of this Ordinance.
3. Exempt Fences. The following fences may be constructed in all districts and do not require a building permit or approval from the Plan Commission.
  - a. Underground fences for confinement of domestic animals.
  - b. Ornamental fences when less than 2.5 feet in height.
  - c. Temporary construction and/or erosion control fencing when used in conjunction with a building project.
4. Location.
  - a. Unless otherwise restricted in this Ordinance, fences or walls may be located on a lot line provided the owner has knowledge of the location and extent of their property line where the fence or wall will be constructed. By approving a fence or wall application, the Village assumes no responsibility for knowing the location of the owner's lot dimensions or knowledge of the property boundaries. This responsibility is placed solely on the owner of the property.
  - b. Within all zoning districts, fence posts, supporting framework and walls shall be located on the interior side of the lot facing the property being enclosed. The "finished" side of a fence shall face, the neighboring or adjacent property.
  - c. Street Yards.
    - i. In the R-1 Single Family Residential District, on an interior lot, no fence or wall shall extend from the rear of the existing residence toward the street right-of-way line.
    - ii. On corner lots, a fence shall not extend beyond the exterior limits of the principal structure toward the street right-of-way line unless approved by the Plan Commission as part of the application for site

plan approval. On corner lots, any fence that is approved to extend into a street yard shall not be less than 75% open to light and shall incorporate landscaping on the side of the fence facing the street. Walls shall not be permitted to extend into any street yard on corner lots in the R-1 District.

iii. In the B-1 and P-1 Districts, fences may extend into a street yard provided the fence is over 75% open to light and landscaping is incorporated on the side of the fence facing the street. Walls shall not be permitted within a street yard of a B-1 or P-1 Districts unless the wall is to serve as a buffer against a residential use or district. In this instance, an adequate landscape buffer placed adjacent to the residential property shall be incorporated in the design of the wall to soften the impact on the neighboring property. Unless approved by the Plan Commission, a fence or wall shall not be constructed parallel with the front lot line adjacent to a street.

- d. Side and Rear Yards. In all districts, fences or walls may extend into the side or rear yard provided all other locational requirements of this Ordinance are met and the application meets the requirements of Section 9.08(2)(d) of this Ordinance.
- e. Alleys. For lots adjacent to an alley, fences or walls may be constructed not closer than 2 feet from the right-of-way of an alley to permit the ease of snow removal and maneuvering of vehicles.

5. Height.

- a. In the R-1 District, fences or walls shall not exceed the height of 4 feet within the side and rear yards unless adjacent to a nonresidential use or district, an alley, in association with a swimming pool or where topographic conditions limit the effectiveness of the fence. At that time, the height of the fence or wall shall not exceed the height of 6 feet.
- b. In the B-1 and P-1 Districts, fences shall not exceed the height of 6 feet in any yard unless associated with a recreational use or for security purposes and 75% open to the air. In these instances, the fences shall not exceed the height of 10 feet. Walls shall not exceed the height of 6 feet in any yard.
- c. When approved by the Plan Commission, on corner lots, fences located in the street yard shall not exceed the height of 4 feet and shall incorporate landscaping on the side of the fence adjacent to the street right-of-way.

- (c) Detached Accessory Structures and Buildings. Detached accessory structures are structures, including buildings, which are permitted by this ordinance and are disconnected from the principal structure. These structures and buildings provide comfort and convenience for the principal use of the property. Detached accessory structures may be permitted provided the application requirements of Sec. 9.08(2)(b) and 9.08(3)(a) are met and the following number, location and design standards are met.

1. Limitation on Number of Accessory Buildings. With the exception of a permanent pool, there shall be no more than one detached garage and one shed permitted on any zoning lot.
2. Shed Standards.
  - a. Area: Sheds shall not exceed 120 square feet in area.
  - b. Location: Sheds shall be located in the rear yard of the principal structure, and shall be located in a manner that they are not visible from a street. On corner or double-frontage lots, the structure may be visible from one of the streets, however, landscaping shall be incorporated in the site plan to buffer the structure from the street.
  - c. Setbacks: The minimum setback requirements for sheds shall be as follows:

Front Lot Line:	35 feet; 60 feet along Taylor Avenue
Side Lot Line:	10 feet
Rear Lot Line:	10 feet
  - d. Material and Design Standards: All applications for sheds shall not be approved unless the applicant can demonstrate that the following material and design standards have been met.
    - i. Foundation: All sheds shall be constructed on a concrete slab foundation or a concrete footing approved by the building inspector. If footings are used, the floor shall consist of landscape brick pavers on a base that has been prepared in accordance with landscape industry standards. Patio blocks or similar cement-based products shall not be permitted unless approved by the Plan Commission. No shed shall be constructed on a wood, dirt or aggregate floor.
    - ii. Architectural Design and Surface Materials: Sheds shall be constructed of wood frame construction and shall closely match the color, exterior surface, roof material and roof pitch of the principal structure. If the principal structure is made of brick, the shed may be constructed of beveled cedar siding, cement board installed so that it closely approximates beveled siding, aluminum or vinyl siding. Preconstructed plastic resin, steel, aluminum and/or tin frame sheds shall not be permitted.
    - iii. Wall Height and Door Width: The side wall height of a shed shall not exceed 6.5 feet. The width of the entry door shall not exceed 6 feet.
    - iv. Electrical Connection: A shed may be served by electricity provided permits have been obtained and the connection approved by the electrical inspector.

- e. All applications for sheds shall elude landscape plans for all sides that may be visible to adjacent properties and rights-of-way, instances where existing plant material exists on the property for which approval is sought, the existing plant material may be used to meet the landscape requirement provided that the quantity or condition of the material will not be negatively impacted by the construction of the shed.
  - f. All applications for shed shall be accompanied by the names and addresses of adjacent and abutting property owners so they may be given proper notice prior to the Plan Commission taking action on the application.
3. Detached Garages: Applications for detached garages that were legally established but fail to comply with the standards of this Ordinance may be considered for reconstruction if destroyed over 50% of their replacement value provided the following standards are met.
- a. The detached garage does not exceed the limitation on the number of accessory buildings stated in Section 9.08(3)(c)(i) of this Ordinance
  - b. Area: The garage shall not exceed 576 square feet in area. When there exists a shed on the property for which an application is to be considered, the total area of all accessory structures shall not exceed 700 square feet.
  - c. Location: detached garages may be constructed in the previous location with the approval of the Plan Commission provided the applicant can demonstrate that the previous location is the optimal location on the property and relocation of the garage to meet the standards of this section would create unusual conditions, an unnecessary hardship, or would impact their use of their property if the applicant was required to comply with the setback requirements of this Ordinance. When in the opinion of the Plan Commission, these conditions are not created; the following minimum setback requirements shall be met.

#### Setbacks:

Front Lot Line:	35 feet; 60 feet along Taylor Avenue
Side Lot Line:	10 feet
Rear Lot Line:	25 feet

- d. Material and Design Standards: All applications for detached garages shall not be approved unless the applicant can demonstrate that the following material and design standards have been met.
  - i. Foundation: All detached garages shall be constructed on a concrete slab foundation approved by the building inspector.
  - ii. Architectural Design and Surface Materials: Detached garages shall be constructed of wood frame construction and shall closely match the exterior surface, roof material and roof pitch of the principal structure. If the principal structure is made of brick, the

garage shall be constructed of beveled cedar siding, cement board installed so that it closely approximates beveled siding, or aluminum or vinyl siding.

- iii. Electrical Connection: A detached garage may be served by electricity provided permits have been obtained and the connection approved by the electrical inspector.

4. Private Swimming Pools.

- a. Definition. A swimming pool within the meaning of this Ordinance shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground in which water of more than 18 inches in depth is contained and which is used primarily for the purpose of bathing or swimming.
- b. Location. No swimming pool including accessory equipment, such as, decks, pumps and filters shall be erected to the front of the residence of the owner or occupant of premises connected therewith; in the case of lots bordered on two sides by public streets, no swimming pool including accessory equipment, such as, decks, pumps and filters may be erected in the area between the setback lines of the principal building and the street right-of-way line; and in no case less than five feet from any lot line or building wall.
- c. Age of Children. A child of tender years, within the meaning of this Ordinance, shall be any child who has not attained the age of eight years.
- d. Protective Devices. Every property owner, every member of a partnership and every corporation that owns, directly or indirectly or operates or uses or has custody or control of or has the right to use any swimming pool located in the Village of Elmwood Park shall erect and maintain a fence or suitable barrier around such swimming pool of not less than five feet, nor more than six feet in height and of such construction as to safeguard a child of tender years to prevent such child from falling into such swimming pool, or shall install and maintain a cover or other protective device over such swimming pool of such design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or other protective device shall be securely fastened at all times when the swimming pool is not in actual use for bathing or swimming purposes.
- e. Drainage. No private swimming pool shall be constructed so as to allow water to drain into any sanitary sewer nor to overflow upon or cause damage to any adjoining property. Provision may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval of the Building and Health Inspector.
- f. Filtration System. All private swimming pools within the meaning of this Ordinance must have in connection therewith some filtration system to

assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

- g. Inspection. All installations of swimming pool, drains or other equipment made under the provision of this Ordinance shall be subject to periodic inspection by the Building and Health Inspector of the Village of Elmwood Park.
- h. Finish. All swimming pools of a permanent type shall have the sides and bottom of a smooth finish and no sand or dirt bottom shall be permitted.
- i. Fencing. All swimming pools existing at the time of passage of this Ordinance not satisfactorily fenced shall comply with the terms of this Ordinance within forty-five (45) days after its passage and posting.
- j. Penalty. Any person or persons violating the provisions of this Ordinance shall upon conviction thereof, be assessed a forfeiture of not less than \$1.00 nor more than \$200.00 together with the cost of prosecution.

(4) R-1, Single-Family Residential District.

- (a) Use. No building or premises shall be used and no building shall be erected, moved or structurally altered within this district except for one or more of the following uses:
  - 1. Permanent one-family dwellings with attached accessory buildings. Unattached accessory buildings shall not be permitted.
  - 2. Temporary sheds for construction and similar purposes.
  - 3. Truck gardening and greenhouses operated as a hobby.
  - 4. Home occupations and professional offices incidental to the residential occupation and occupying not more than the lesser of 10% or 200 square feet, of the floor area of only one story of a structure.
  - 5. No advertising sign of any character shall be permitted except for professional offices, where one unlighted nameplate not exceeding one square foot in area displaying the name and profession of the occupant of the premises may be exhibited and except for one sign not exceeding four square feet in area pertaining to the lease, hire or sale of the building or premises on which the sign is located.
  - 6. No trailer, basement, tent, shack, garage, barn or other outbuilding, erected on the building site shall be used at any time as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No house being built shall be used as a residence until it has been finished to the extent that the concrete floor of the basement or the concrete slab of a basement less house has been poured, and all the walls of the living quarters shall have been lathed and plastered, or the finished material of other construction erected, and the rooms to be used as kitchen or bathroom shall have at least been covered with two coats of enamel or otherwise protected from moisture.

7. No building erected elsewhere shall be moved onto any building site in the Village.
- (b) Regulations. No building or premises shall be used and no building or structure shall be erected, moved or altered or changed except in accordance with the requirements of this Chapter and the requirements of Chapter VIII, including the procurement of a building permit.

1. Lot Size:

Minimum width of 85 feet.  
Minimum depth of 120 feet.

Contiguous lots or portions thereof which in the aggregate are not of smaller size than required by this section may be considered as one building site, and the minimum building line setback may be measured from the aggregate building site property lines rather than lot lines. An aggregate building site thus measured shall thereafter be considered as one parcel and shall not be further divided where such division would violate the minimum building line setback or building site size hereinbefore designated.

2. Living Space. In computing the minimum square feet of living space required, general utility areas, basements, attics, attached accessory buildings, such as garages, breezeways and porches, enclosed or otherwise, and similar areas, shall not be considered as living space.
  - a. One Floor residences erected in the Village shall have a minimum living space area of 1500 square feet.
  - b. Two Story residences shall have a minimum living space of 1850 square feet with not less than 1000 square feet on the ground floor.
  - c. Split Level residences shall have a minimum living space of 2000 square feet.

All automobile garages shall be a floor area sufficient to house at least two automobiles and shall be attached to the dwelling.

*(Amended June 8, 1989)*

3. Building Lines and Yards.

- a. Street Yard. No building shall hereafter be erected, and no existing building shall be reconstructed, moved or altered in such a way that any portion thereof shall be closer to the front property line than 35 feet, except that where a building site is located on Taylor Avenue a street yard shall be no less than 60 feet.

Where a building site is located between two building sites adjacent to it, each of which has a principal building location thereon, the front yard requirement on such building site shall be the average of the front yard setback from the front property line of said existing buildings, and

Where a building site adjoins only one building site having a principal building located thereon, the front yard requirement shall be the average of the setback from the front property line of said existing building and the 35 foot front yard setback line prescribed herein.

- b. Side Yard. There shall be provided on every building site two side yards, each of which shall be not less than ten feet wide, except for side yards abutting residential districts which shall be no less than fifty feet wide. On corner lots there shall be only one side yard which shall extend from the principal street.
- c. Rear Yards. There shall be provided on every building site a rear yard not less than twenty-five feet in depth, except for rear yards abutting residential districts which shall be no less than fifty feet deep. On corner lots, the rear yard shall be generally parallel to the principal street.
- d. Where a building site is located between two building sites adjacent to it, each of which has a principal building located thereon, the front yard requirement on such building site shall be the average of the front yard setback from the front property line of said existing buildings; and where a building site adjoins only one building site having a principal building located thereon, the front yard requirement shall be the average of the setback from the front property line of said existing buildings and the setback lines prescribed in 1(a) above.

4. Use of Incinerators Prohibited. Notwithstanding anything else contained in the Municipal Code of the Village of Elmwood Park, it shall be unlawful for any owner or licensee in said neighborhood business district B-1 to permit the use of an incinerator for the disposal of combustible waste material. The term "incinerator" as used in this section shall include any device used for burning trash, refuse, scrap, animal matter, or other waste material.

(5) Public and Semi-Public District.

- (a) Use. No building or premises shall be used and no building shall be erected, moved or structurally altered within the District except for one or more of the following uses:
  1. Public administrative offices and meeting rooms, parks, public and private schools, churches and religious institutions and extended care facilities, libraries, museums, art galleries and concert halls and offices housing charities.
  2. All uses included in the provisions of R-1 single family residential districts and B-1, Neighborhood Business District.
- (b) Regulations. No building or premises shall be used and no building or structure shall be erected, moved or altered or changed except in accordance with the requirements of this Chapter and the requirements of Chapter VIII, including the procurement of a building permit. The Plan Commission shall review all applications for P-1 Public and Semi-Public District Zoning and shall recommend approval or disapproval by the Village

Board of the site plans which may include proposed building height, building lines, street, side and rear yards.

(6) B-1 Neighborhood Business District

- (a) Purpose and characteristics. The B-1 Neighborhood Business District is intended to provide for a cluster of retail, service and office uses of a type and at a scale designed to serve the needs of the surrounding residential neighborhoods. The territory in each B-1 District shall be contiguous (corner to corner shall be sufficient), exclusive of intervening streets, highways, navigable waterways and wetlands. The area of each B-1 District shall include at least five acres but not more than 20 acres, both exclusive of intervening streets, highways, navigable waterways and wetlands. No such district shall be established unless it is in compliance with duly adopted or amended comprehensive, neighborhood and conceptual plans.
- (b) Permitted uses. The following listed principal uses, and certain unspecified principal uses approved pursuant to Subsection (c) below, are allowed as permitted uses in the B-1 District, subject to the requirements of all other applicable provisions of this chapter and other Village ordinances and codes:
  - (1) Retail uses. The retail sale of any of the following goods or products is a permitted use in the B-1 District: antiques; apparel; appliances; art; art supplies; audio recordings; automotive supplies; bakery goods; bicycles and accessories; books; camping supplies; candy; cameras and photographic supplies; cards; carpets; cosmetics; electronic equipment; eye glasses and related products; fabric; firearms and accessories; flowers; frames; furniture and home furnishings; gifts; glassware; groceries (with or without alcoholic beverages as package goods in a grocery store or convenience store); hardware; hobby and craft supplies; home improvement supplies; ice cream; jewelry; kitchen and/or bathroom fixtures or accessories; lawn and garden equipment and supplies (but not including a nursery or greenhouse); luggage; novelties; marine supplies; musical instruments and accessories; newspapers and magazines; office supplies; paint; pets and pet supplies; pharmaceuticals; prepared food not for consumption on the premises; shoes and accessories; souvenirs; sporting goods; sundries; telephones; toys; and videorecordings.
  - (2) Service uses. The following service uses are permitted uses in the B-1 District: art gallery; audio recording rental; bakery (not selling wholesale); barbershop; beauty salon; book rental; caterer; coffeehouse; day spa; dance studio; dry cleaning; equipment rental; equipment repair; financial institution; locksmith; mailing service; photocopying center; photography studio; photographic development and printing; physical fitness facility; restaurant (whether or not alcoholic beverages are served or sold and with or without a dedicated bar, but not including a drive-in restaurant, a restaurant with a drive-through facility); shoe shine or repair service; skilled trade office, shop and/or retail facility; tailor; tanning salon; ticket sales; travel agency; upholstery shop; and video recording rental.
  - (3) Office or clinic uses. The following office or clinic uses are permitted uses in the B-1 District: accounting; architectural; dental; engineering; financial services; informational services; insurance; legal; medical (but no ambulance service); and real estate.

(c) Unspecified permitted uses. The Plan Commission shall have authority to approve as a permitted use in the B-1 District a proposed principal use not listed in Subsection (b) above if the proposed use is similar in character to one or more of the listed permitted uses in the B-1 District and is free of potential problems requiring special regulation. The Plan Commission shall make written findings supporting any such decision. Any use so approved shall be subject to all requirements of Subsection (b) above. Notwithstanding the foregoing authorization, and without limitation, the following uses shall not be construed to be permitted uses in the B-1 District:

- (1) Funeral home.
- (2) Hotel.
- (3) Motel.
- (4) Indoor/outdoor flea market.
- (5) Pawnshop.
- (6) Psychic/tarot card/astrology reading.
- (7) Truck stop and/or truck service facility.
- (8) Sale or storage of fireworks.
- (9) Nursery.
- (10) Greenhouse.
- (11) Bakery selling wholesale.
- (12) Adult-oriented uses, including, without limitation, an adult bookstore, adult cabaret, adult club, adult dry cabaret, adult movie theater, adult video rental store, adult video store or adult viewing facility.
- (13) Any use involving the serving or selling of alcoholic beverages that is not specifically listed in Subsection (b) above.
- (14) Wrecking, junk, demolition and scrapyards.
- (15) Smoking supplies.

(d) Conditional uses. The following listed uses may be permitted as conditional uses in the B-1 District (as principal uses or accessory uses, as appropriate) pursuant to all other applicable provisions of this Chapter and other Village ordinances and codes:

- (1) Service uses. The following service uses may be permitted as conditional uses in the B-1 District:
    - (a) Carwash.
    - (b) Day-care facility, either for children or adults.
    - (c) Gasoline station.
    - (d) Restaurant (not including a drive-in restaurant or a restaurant with a drive-through facility), whether or not alcoholic beverages are served or sold, with or without a dedicated brewing facility, with or without a dedicated bar, and with or without outdoor seating.
  - (2) Miscellaneous uses. The following miscellaneous uses may be permitted as conditional uses in the B-1 District: Reserved for future use.
- (e) Special licensed uses. Uses requiring a Village adult-oriented use license, cabaret license or liquor license granted by the Village Board (including nonconforming uses) may only be conducted pursuant to and in accordance with such a license.

- (1) Without limitation, such uses include the following:
    - (a) Any restaurant in which alcoholic beverages are served or sold (some are prohibited in the B-1 District).
    - (b) Any cabaret (prohibited in the B-1 District).
    - (c) Any tavern (prohibited in the B-1 District).
    - (d) Any liquor store (prohibited in the B-1 District).
    - (e) Any adult-oriented use, including, without limitation, an adult bookstore, adult cabaret, adult club, adult dry cabaret, adult movie theater, adult video rental store, adult video store or adult viewing facility (all prohibited in the B-1 District).
  - (2) The granting of a Village license by the Village Board is not assured either by permitted use status or by the granting of a conditional use permit or of any other permit or approval under this Chapter.
- (f) Combination of uses. Except as otherwise specifically provided in this section, two or more principal uses and their related accessory uses may be located and conducted in the same principal building in the B-1 District, subject to all other applicable provisions of this chapter and of other Village ordinances and codes, in accordance with each of the following restrictions to the extent such restrictions are applicable:
- (1) Permitted uses allowed in the B-1 District and their related accessory uses may be located separately or together, and may be conducted separately or together, with other such permitted uses and their related accessory uses in the same principal building in the B-1 District.
  - (2) Conditional uses allowed in the B-1 District and their related accessory uses may be located separately or together, and may be conducted separately or together, with other such conditional uses and their related accessory uses in the same principal building in the B-1 District; provided, however, that the area of a building occupied by a conditional use and any related accessory uses shall be a physically separate defined area in which any proposed new use of any kind (or any use of any kind existing as of the time when the conditional use permit for such conditional use or any amendment of such permit is approved) shall be allowed only pursuant to and in accordance with the conditional use permit issued for such conditional use
  - (3) Permitted uses allowed in the B-1 District and their related accessory uses and conditional uses allowed in the B-1 District and their related accessory uses may be located separately or together, and may be conducted separately or together, in the same principal building in the B-1 District; provided, however, that the area of a building occupied by a conditional use and any related accessory uses shall be a physically separate defined area in which any other use or any proposed new use of any kind (or any use of any kind existing as of the time when the conditional use permit for such conditional use or any amendment of such permit is approved) shall be allowed only pursuant to and in accordance with the conditional use permit issued for such conditional use under Subsection (F)(2).
  - (4) Nonconforming uses existing in the B-1 District as of the effective date of Ordinance No. 03-23 (June 4, 2003), and any related accessory uses as of such date, may be

continued in the same principal building with other uses; provided, however, that no nonconforming use and no accessory use to a nonconforming use may be extended or expanded into new areas, and no new accessory use related to such nonconforming use (and no prior accessory use to such nonconforming use that has been discontinued as an actively conducted use for a period of 12 or more consecutive months) may be commenced or recommenced, and further provided that the area of a building occupied by a nonconforming use and any related accessory uses shall be a physically separate defined area in which any proposed new use of any kind shall be prohibited.

- (g) Accessory uses.
- 1) Except as otherwise specifically provided in this chapter, accessory uses to principal uses allowed in the B-1 District are allowed, subject to and all other applicable provisions of this chapter and other Village ordinances and codes, as follows:
    - a. Accessory uses to principal permitted uses in the B-1 District are allowed.
    - b. Accessory uses to principal conditional uses allowed in the B-1 District are allowed, but only pursuant to and in accordance with a conditional use permit issued under Subsection (F)(2).
    - c.
  - 2) In the event of any issue about whether a particular use is properly an accessory use, the Zoning Administrator shall have authority to decide. The Zoning Administrator shall make written findings to support any such decision.
- (h) Prohibited uses. Uses that are not specifically allowed in the B-1 District by this chapter are prohibited in the B-1 District.
- (i) Dimensional standards. Except as otherwise specifically provided in this chapter, and without limitation, all uses, sites, buildings and structures in the B-1 District shall comply with the following dimensional standards to the extent applicable:
- (1) Lot size: one acre minimum.
  - (2) Open space: 30% minimum.
  - (3) Principal building standards:
    - (a) Gross floor area: 1,500 square feet minimum and 5,000 square feet maximum, except that the minimum gross floor area for a utility substation building shall be as prescribed by State Code and approved by the Planning Commission.
    - (b) Height: 35 feet maximum.
    - (c) Setbacks:
      - (1) Street setback: minimum of 65 feet from arterial streets or highways and a minimum of 30 feet from nonarterial streets or private roads.
      - (2) Side setback: 25 feet minimum.
      - (3) Rear setback: 25 feet minimum.
      - (4) Shore setback: 75 feet minimum.
      - (5) Wetland setback: 25 feet minimum.

- (4) Detached accessory building/trash enclosure standards:
- (a) Gross floor area: 300 square feet maximum.
  - (b) Height: 15 feet maximum.
  - (c) Shall only be located in the side or rear yard.
  - (d) Setbacks:
    - (1) Street setback: minimum of 65 feet from arterial streets or highways and a minimum of 30 feet from nonarterial streets or private roads.
    - (2) Side setback: 10 feet minimum.
    - (3) Rear setback: 10 feet minimum.
    - (4) Shore setback: 75 feet minimum.
    - (5) Wetland setback: 25 feet minimum.
  - (e) Distance between principal building and accessory building on the same lot: 10 feet minimum.
- (j) Design standards. Except as otherwise specifically provided in this chapter, and without limitation, all uses, sites, buildings and structures in the B-1 District shall comply with the following design standards to the extent applicable:
- (1) Number of principal structures per lot: one maximum; provided, however, that attached buildings are allowed if the attachment is a fire wall between each two attached buildings, with no pedestrian openings, and that the horizontal distance of the attachment is at least 75% of the length or width of one of each two attached buildings and a minimum of 25 feet, and, without limitation, that each such attached building individually satisfies the minimum gross floor area restriction for principal buildings and that all such buildings attached to one another collectively comply with any maximum gross floor area restriction for principal buildings, and further provided that one or more non-accessory commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building or structure are allowed.
  - (2) Number of detached accessory buildings and/or detached trash enclosures: one maximum (may be combined).
  - (3) All accessory uses or structures shall be on the same lot or approved site as the principal use.
  - (4) Site and operational plan requirements pursuant to State Code and approved by the Planning Commission.
  - (5) Parking, access and traffic requirements pursuant to State Code and approved by the Planning Commission.
  - (6) Sign requirements pursuant to State Code and approved by the Planning Commission.
  - (7) Fence requirements pursuant to Village Ordinances.
  - (8) Each use, site, building and structure shall be designed, laid out, constructed and maintained in full compliance with the approved site and operational plan, any required conditional use permit, any required license and all other applicable provisions of this chapter and of all other Village ordinances and codes.

(k) Operational standards. Except as otherwise specifically provided in this chapter, and without limitation, all uses, sites, buildings and structures in the B-1 District shall comply with the following operational standards to the extent applicable:

- (1) Hours of operation (when the public is allowed to enter or remain on site for business purposes), except for uses requiring a Village liquor license: 6:00 a.m. to 11:00 p.m. maximum; for uses requiring a Village liquor license: as provided in § 125.68(4), Wis. Stats.
- (2) Hours for deliveries, or any other activities outside the principal building that might cause a disturbance to neighboring residential areas (e.g., outside loading or unloading, the arrival of deliveries, idling of delivery trucks, beeping of backing vehicles, and garbage pickup), except for snow removal: 6:00 a.m. to 10:00 p.m. maximum.
- (3) Except as otherwise specifically permitted by this chapter, all business activities shall be conducted within a building.
- (4) No outside storage or display of merchandise is allowed, except for gasoline station and convenience store uses only and pursuant to the following:
  - (a) A maximum of one, eight-foot-by-six-foot-by-three-foot [(L x H x D) maximum size] outdoor ice storage bin is allowed per parcel.
  - (b) A maximum of one, eight-foot-by-six-foot-by-four-foot [(L x H x D) maximum size] outdoor liquid propane (LP) storage cage shall be allowed per parcel.
  - (c) The ice storage bins and LP storage cages:
    - (1) Shall be located against a solid front or side wall of the principal structure.
    - (2) Shall not be located against at rear or back wall of a building.
    - (3) Shall not be located in front of windows or doorways and shall not block or obstruct any windows or doorways.
    - (4) Shall not block or obstruct any walkways associated with handicapped accessibility to the main entrance of the building.
    - (5) Shall be maintained in a state of good repair; not dented, crushed or bent.
    - (6) Shall not contain rust and shall not have peeling/chipped paint.
    - (7) Shall not be allowed to have plastic banners, streamers or other signage affixed, placed or attached to the containers.
    - (8) Are allowed limited signage on the exterior of the storage units that is limited to the use therein (i.e. ice and LP gas advertising signage).

(2) Shall be protected by a bollard, raised sidewalk or some other acceptable means to provide protection against accidental vehicle impact or damage. The means of protection shall be reviewed and approved, on a case-by-case basis, by the Chief of the Fire & Rescue Department, or his/her designee. The Chief of the Fire & Rescue Department shall determine the location, spacing and the quantity of the bollard(s). The means of protection shall not obstruct or inhibit on-site vehicular or pedestrian traffic flow.

(e) All LP containers/cylinders shall be stored inside the LP cages.

- (1) No on-site residential uses are allowed.
- (2) Each use, site, building and structure shall comply with all applicable performance standards set forth in State and Village Code.
- (3) Each building, structure and site shall be maintained in a neat, presentable, aesthetically pleasing, structurally sound and nonhazardous condition. All litter and debris shall be promptly removed.
- (4) Each use, site, building and structure shall be operated in full compliance with the approved site and operational plan, any required conditional use permit, any required license and all other applicable provisions of this chapter and of all other Village ordinances and codes.

(l) Municipal services required. Except as otherwise specifically provided in this chapter, and without limitation, no proposed new, reconstructed or relocated principal building shall be permitted in the B-1 District unless it is connected to the Village's public sewer and water systems, and any existing principal building not already connected to the Village's public sewer and water shall be so connected before any addition is made to such building, or before any proposed change in the use of such building is made from one use category to another (e.g. residential to business); and before any proposed use is commenced or recommenced in such a building that has been vacant or unused for 12 consecutive months or longer.

(7) Planned Residential District.

(a) Intent of District. For the purpose of permitting and promoting development that would derive maximum benefit from coordinated area site planning and diversified location of structures resulting in the provision of a safe and efficient system for pedestrian and vehicular traffic and attractive landscaped open spaces and ensuring adequate standards of construction and planning, the unified and planned development of a site may be permitted in a Planned Residential District without the customary division into individual compliance with the district regulations as applicable to individual lots, subject to the following regulations:

(b) Principal Uses. Condominium multi-family dwellings and clustered one-family lot developments all served by a public sanitary sewer system:

1. The minimum project size shall be 100,000 square feet.
2. The minimum yard sizes shall be:
  - a. Front 50 feet
  - b. Rear 40 feet
  - c. Side (from any lands presently zoned B-1 Neighborhood Business District) 30 feet side  
Side (from any lands presently zoned R-1 Single-Family Residential District) 60 feet
3. The maximum height shall be 35 feet.
4. The minimum lot area shall be 5,000 square feet per residential living unit.

(c) **Pre-Petition Conference.** Prior to official submittal of a petition, the petitioner shall meet with the Plan Commission for a preliminary discussion as to the scope and proposed nature of the contemplated development.

(d) **Petition.** Following the pre-petition conference, a petition may be made to the Village Clerk by the owner or agent of the property proposed for such development to permit the use of such land under this district together with such requirements as may be imposed by a conditional use permit as provided in 9.08-7. Such petition shall be accompanied by a fee of \$100.00 and, in addition, the petitioner will be liable for all expenses incurred to review the petition and its contents including charges made by the Village Engineer, and legal fees and the following information in appropriate detail as to type of approval desired.

1. A statement describing the general character of the intended development including the following:
  - a. Statistical data on total size of the project area, area of open space, residential density computation and proposed number of units, population analysis, market analysis, economic analysis, impact upon municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
  - b. A general summary of financial factors such as value of structures, estimated improvement costs, amounts proposed for landscaping and special features, estimated sale price and total anticipated development cost of the project.

- c. A general outline of intended organizational structure related to property owners' association, deed restrictions, if any, and provision of private services.
2. A general development plan and related maps and plans including descriptive statements of objects, principles and standards used on its formulation of the project showing at least the following information as may be required by the Plan Commission and Village Board to apply the criteria for approval as hereinafter set forth:
  - a. An accurate map of the project area including its relationship to surrounding properties.
  - b. The pattern of public and private roads, driveways and parking facilities and intended design standards.
  - c. The size, arrangement and located of lots of proposed building groups.
  - d. The location of open space areas.
  - e. The type, size and location of structures.
  - f. General landscape treatment.
  - g. Architectural drawings and sketches illustrating the design and character of proposed structures.
  - h. The location of sanitary sewer and water facilities.
  - i. Existing topography and storm drainage pattern and proposed storm drainage system, if any, showing basic topographic changes.
3. Such petition shall be referred to the Plan Commission and processed as a zoning amendment. Upon completion of the necessary study and investigation, the Plan Commission shall make its recommendation to the Village Board as to the appropriateness and desirability of the application of this district as it relates to the suitability of the building, site and development plans and any additional conditions which it may feel necessary or appropriate.
4. Upon receipt of the Plan Commission's recommendation, the Village Board before taking affirmative action to approve such petition, shall hold a public hearing pursuant to statutory provisions for zoning amendments. Notice for such hearing shall include reference to the consideration of the proposed project development plans coincident with the requested zoning changes.

5. Compliance with the procedural and general requirements set forth as the basis for approval under this section shall supplant the requirement for separate processing of a petition for a conditional use grant.
6. The Plan Commission in making its recommendations and the Village Board in making its determination, shall give consideration and satisfy themselves:
  - a. That such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, and coordination with the overall plans for the neighborhood.
  - b. That the population composition of the development will not result in adverse effect upon the capacity to provide necessary municipal service facilities.
7. The Village Board after due consideration may deny the petition as submitted, approve the petition, or approve the petition subject to additional conditions.
8. After approval, any subsequent change or addition to the plans or use shall first be submitted for approval to the Plan Commission, and if in the opinion of the Plan Commission, such change or alteration constitutes a substantial alteration of the original plan, a public hearing before the Village Board shall be required and notice thereof be given pursuant to law.

*(Created December 13, 1990)*

**(8) Conditional Uses.**

- (a) The Village Plan Commission may authorize the Building Inspector to issue a conditional use permit after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance, and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment of the neighborhood or community.
- (b) The following public and semi-public uses shall be conditional uses and may be permitted:
  1. Governmental and cultural uses, such as fire and police stations, community centers, libraries, parks, playgrounds and museums.
  2. Public, parochial and private elementary and secondary schools and churches.
- (c) Lands now being used, or subsequently approved for one of the above-described conditional uses, shall on termination of such conditional use, cause the land to be placed in R-1 Single Family Residential District.

## **9.09 TRAFFIC, PARKING AND ACCESS.**

- (1) Traffic Visibility. No obstructions, such as structures, parking or vegetation, shall be permitted above a height of three feet in any district within the triangular space formed by any two intersecting street right-of-way lines, and a line joining points on such lines located a minimum of fifteen feet from their intersection.

In the case of major streets intersecting with other major streets or with collector streets, the corner cut-off distances establishing the triangular vision clearance space shall be increased to fifty feet.

- (2) Loading Requirements. In B-1 Neighborhood Business District, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways.
- (3) Parking Requirements. In all districts and in connection with every use, there shall be provided off-street parking for all vehicles in accordance with the following:
- (a) Location. The parking of any vehicle may occur in the front, side or corner street yard in all zoning districts only on an improved driveway or pad. In no event shall vehicles be allowed to park on grass in any yard.
  - (b) Additional Requirements. Single-family dwellings, duplexes and other multiple dwelling structures, when authorized by this ordinance, shall provide off-street parking facilities to accommodate two vehicles for the first dwelling unit and one additional space for each additional unit.
  - (c) B-1 Neighborhood Business District use shall have one stall for each 15 square feet of floor area.
  - (d) Churches, community centers and other places of public assembly shall have one stall for each five seats.
  - (e) Schools shall have one stall for each two employees.

- (4) Driveways. All driveways installed, altered, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

- (a) Width shall be at least ten feet wide for one-family dwellings and a minimum of twenty-four feet for all other uses.
- (b) Islands between driveway openings shall be at least twelve feet between driveways and six feet at all lot lines.

- (c) Openings for vehicular ingress and egress shall not exceed thirty feet at the roadway or curb line.
- (5) Access. No direct private access shall be permitted to existing or proposed rights-of-way of the following:
- (a) Major streets intersecting another major street within eighty feet of the intersection of the right-of-way lines.
  - (b) Collector streets intersecting a major street within fifty feet of the intersection of the right-of-way lines.

## **9.10 NONCONFORMING USES.**

The lawful use of land and buildings existing at the time of the adoption of this chapter, although such use does not conform to the provisions hereof, may be continued, but if such nonconforming use is discontinued for more than twelve months, or changed to another use, any future use of said premises shall be in conformity with the provisions of this chapter. A nonconforming use which has deteriorated or has been damaged by fire or other causes to the extent of 50% or more of its value, as determined by the Assessor, shall not be rebuilt nor repaired except in conformity with the requirements of this chapter.

## **9.11 VARIANCES AND APPEALS.**

Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the Plan commission or Building Inspector. Such appeal shall be taken within 30 days of the decision, as provided by the rules of the Board of Appeals, by filing with the Village Clerk and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Plan Commission or Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest and shall decide the same within a reasonable time. A filing fee in the amount periodically as set by the Village Board must accompany a Notice of Appeal to the Board of Appeals.

(1) Powers of the Board of Appeals. The Board of Appeals shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Plan Commission or Building Inspector.
- (b) To hear and decide special exceptions to the terms of this chapter upon which the Board of Appeals is required to pass.

- (c) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions peculiar to the property for which the variance is sought, literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done, but no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district. Use variances shall not be granted.
  - (d) In every case where a variance from these regulations has been granted by the Board of Appeals, the minutes of the Board shall affirmatively show that an “unnecessary hardship” or “practical difficulty” exists and the records of the Board shall clearly show in what particular or specific respects an “unnecessary hardship” or “practical difficulty” has been created by the regulations of this chapter.
  - (e) To have the powers provided by §62.23(7)(e) Wisconsin Statutes or by any Ordinance of the Village of Elmwood Park.
- (2) **Variance Standards.** No variance to the provisions of this Ordinance shall be granted by the Board of Appeals unless it determines that conditions of this Section are met and so indicates in the minutes of its proceedings. In addition, the following provisions shall be met:
- (a) **Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
  - (b) **Exceptional Circumstances.** There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
  - (c) **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.**
    1. No variance shall be granted solely on the basis of economic gain or loss.
    2. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
  - (d) **Preservation of Property Rights.** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

- (e) Absence of Detriment. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

(3) Variance Decision.

- (a) Authority. The Board of Appeals may reverse or affirm wholly or in part, or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Ordinance. The Board of Appeals shall make the reasoning of its decisions clear, either by issuing a written decision or by including adequate detail in the meeting minutes.
- (b) Time for Decision. The Board of Appeals shall decide all appeals and applications, within thirty (30) days after the final hearing. The Board shall transmit a signed copy of the Board's decision to the appellant or applicant, the officer from whom the appeal is taken, and the Plan Commission.
- (c) Expiration of Variances. Variances and substitutions granted by the Board of Appeals shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
- (d) Assistance from Other Officials. The Board of Appeals shall have the power to call on any other Village representative for assistance in the performance of its duties and such other representatives shall render such assistance as may be reasonably required.
- (e) Establishment of Conditions. In exercising the foregoing powers the Board of Appeals may in appropriate cases establish suitable conditions and safeguards in harmony with the general purpose and intent of this chapter.

**9.12 VIOLATION AND PENALTY.**

Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 15.04 of this Code and Sections 236.30-236.32 inclusive, and Section 62.23(8) of the Wisconsin Statutes of 1965. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

## CHAPTER X

### HEALTH AND SANITATION

#### **10.01 BOARD OF HEALTH.**

- (1) How Constituted. See Section 2.04 of this Code.
- (2) Duties. It shall be the duty of the Board of Health of the Village of Elmwood Park to assume the general administration of health and sanitation laws and regulations in the Village, to supervise the work of the Health Officer and to attend to the administration and enforcement of the health laws of the State and the rules and regulations prescribed by the State Board of Health and the Ordinances of the Village.
- (3) Powers. The Board shall take such measures and make such rules and regulations as shall be necessary and effectual for the preservation and promotion of the public health in the Village of Elmwood Park. All orders and regulations of the Board shall be posted in the manner required by law, and after posting shall have the force and effect of ordinances, including penalty for violation.

#### **10.02 HEALTH OFFICER: DUTIES AND POWER.**

- (1) How Selected. See Section 2.02 of this Code.
- (2) General Duties. The Village Health Officer under the supervision of the District State Health Officer shall:
  - (a) Make an annual sanitary survey and maintain continuous sanitary supervision over his territory.

- (b) Make a periodic sanitary inspection at least every four months of all school buildings, restaurants, dairies, grocery stores, meat markets and places of public assemblage and report thereon to those responsible for the maintenance thereof.
  - (c) Promote and spread of information as to the causes, nature and prevention of prevalent diseases and the preservation and improvement of health.
  - (d) Enforce the health laws, rules and regulations of the State Board of Health, the State and the Village, including the laws relating to contagious diseases contained in Chapter 143, Wisconsin Statutes.
  - (e) Take steps necessary to secure prompt and full reports by physicians of communicable diseases and prompt and full registration of births and deaths.
  - (f) Keep and deliver to his successor a record of all his official acts.
  - (g) Make an annual report to the State Board of Health and to the Village Board and such other reports as they may request.
- (3) Materials and Supplies. The Health Officer shall have the authority to procure at the expense of the Village all record books, quarantine cards and other materials needed by the Board of Health, except such as are furnished by the State Board of Health.

#### **10.03 GRADE "A" MILK REQUIRED.**

On and after the 11th day of May 1967, no person shall sell, offer or expose for sale any milk or milk product other than Grade "A" milk and milk products as those terms are defined in Wis. Adm. Code, Ch. Ag. 80, issued by the State Department of Agriculture and State Board of Health, which are hereby incorporated in this section by reference as if fully set forth herein. The Clerk is directed to file a certified copy of such regulations in his office for public inspection.

#### **10.04 COMPULSORY CONNECTION TO SANITARY SEWER AND WATER.**

- (1) When Required. Whenever a sanitary sewer or water main becomes available to any building used for human habitation, the Health Officer shall notify the owner or his agent in writing in the manner prescribed by Section 281.45 of the Wisconsin Statutes or by registered mail addressed to the last known address of the owner or his agent.
- (2) Contents of Notice. The notice required by this section shall direct the owner or his agent to connect the building to such main or mains in the manner prescribed by the Health Officer and to install such facilities and fixtures as may be reasonably necessary to permit passage of sewage incidental to such human habitation into the sewerage system and to furnish an adequate supply of pure water for drinking and prevent creation of a health nuisance.
- (3) Failure to Connect. If the owner or his agent fails to comply with the notice of the Health Officer within ten days of service or mailing thereof, the Health Officer may:

- (a) Make complaint that Section 10.04(2) of the Village Ordinances has been violated by failure to so connect. The penalty shall be a penalty as provided in Section 15.04 of this Code. A separate offense shall be deemed committed on each day on which a violation occurs, and/or
  - (b) Cause connection to be made and the expense thereof shall be assessed as a special tax against the property, in which event the provisions of Section 10.04(4) shall apply.
- (4) Installment Option. The owner or his agent may, within thirty days after completion of the work, file a written option with the Village Clerk stating that he cannot pay the cost of connection in one sum and electing that such sum be levied in five equal annual installments, with interest at the rate of six per cent per annum from the completion of the work.
- (5) Privies, Cesspools, Septic Systems, etc. Prohibited After Connection With Sewer. After connection of any building used for human habitation to a sewer main, no privy, cesspool or waterless toilet shall be used in connection with such human habitation.

## **10.05 KEEPING OF ANIMALS AND FOWL.**

- (1) Sanitary Requirements. All structures, pens, buildings or yards wherein animals are kept shall be maintained in a clean and sanitary condition, free of rodents, vermin and objectionable odors. Interior walls, ceilings, floors, partitions and appurtenances of such structures except structures or houses occupied by no more than one dog, cat, rabbit, skunk or similar animal kept as a pet, shall be whitewashed or painted annually or oftener as the Health Officer shall direct.
- (2) Animals Excluded from Food Handling Establishments. No person shall take or permit to remain any dog, cat or other live animal on or upon any premises where food is sold, offered for sale or processed for sale or processed for consumption by the general public.

## **10.06 DISPLAYED FOOD AND DAIRY PRODUCTS.**

The provisions of Chapter 97 of the Wisconsin Statutes relating to covering and display of food and dairy products are hereby adopted by reference and incorporated in this Code as if fully set forth herein.

## **10.07 SALE OF UNWHOLESOME OR TAINTED FOOD PROHIBITED.**

No person shall sell, offer for sale or hold for sale any meat, fish, fruits, vegetables or other article of food or drink which is not fresh or properly preserved, sound, wholesome and safe for human consumption or the flesh of any animal which died by disease. The Health Officer is hereby authorized and directed to seize and destroy any articles of food or drink which are offered or held for sale to the public which have become tainted, decayed, spoiled or otherwise unwholesome or unfit for human consumption.

## **10.08 RESTAURANT REGULATIONS.**

- (1) **Definition.** The term "restaurant" as used in this section shall mean any place, kitchen or conveyance where meals or lunches are prepared for sale, sold or served to transients or the general public.
- (2) **General Sanitation.** All restaurant premises shall be kept clean and free of litter or rubbish. All garbage and rubbish shall be kept in suitable, airtight containers so as not to become a nuisance and shall be disposed of daily in a sanitary manner. No living or sleeping room, urinal, water closet, ash pit or coal bin shall connect directly with any room used for preparation, storing, or serving of food. Between May 1 and October 1, all doors, windows and apertures shall be effectively screened and doors shall be self-closing to prevent the entrance of flies. All equipment shall be kept clean and free from dust, dirt, insects and other contaminating material.
- (3) **Cleanliness and Health of Employees.**
  - (a) **Clothing and Conduct.** All restaurant employees or workers shall wear clean clothing, hair nets or caps and shall keep their hands clean at all times while engaged in handling food, drink, utensils or equipment. Employees or workers shall not expectorate or use tobacco in any form in any area in which food is prepared.
  - (b) **Disease.** No person infected with any disease in a communicable form or who is a carrier of any contagious disease shall work in any restaurant and no restaurant owner or operator shall employ any such person to work in any restaurant.
  - (c) **Duty of Health Officer.** If the Health Officer shall suspect that an employee or worker in any restaurant is afflicted with any disease in communicable form, he shall notify such employee to cease working in any restaurant in the Village until he shall present a certified statement of a reputable physician or other satisfactory evidence that he is free from communicable disease.
- (4) **Water Supply and Plumbing.** In every restaurant adequate safe water under pressure shall be convenient and available in any room where food is prepared or utensils washed. Private water supplies shall be tested for purity not less than once every six months in the manner directed by the Health Officer. Plumbing shall be so designed, installed and maintained to prevent contamination of the water supply, food, drink or equipment.
- (5) **Cleansing of Utensils and Equipment.** In order to insure proper cleansing and disinfection of glasses, cups, dishes and other eating utensils in restaurants, they shall be thoroughly washed and sanitized after each use by one of the methods described in Sections H96.31 and H96.32 of the Wisconsin Administrative Code, which are incorporated in this section by reference as if fully set forth herein. Glasses or utensils may be chilled in cold running water or dry cold chests but shall not be chilled in a stationary container of cold or ice water.

- (6) Responsibility for Compliance. It shall be the duty of the restaurant owner or operator to comply with the provisions of this section. Restaurant employees and workers shall also be personally responsible for compliance with subsection (3) of this section.

#### **10.09 GROCERY STORE AND MEAT MARKET SANITATION.**

No person shall operate a grocery store or meat market within the Village of Elmwood Park in an unsanitary, filthy or unclean manner so as to endanger the health of patrons or other persons. In all grocery stores and meat markets, refrigerators or refrigerator counters shall be kept in sanitary condition and shall maintain a temperature of 40 degrees Fahrenheit or below. Spoiled or unwholesome food shall be removed from the refrigerator immediately upon detection. The walls and ceilings of the store and stockrooms shall be kept clean and painted. Basements shall be clean and orderly and all refuse or garbage kept inside the premises must be placed in metal containers properly covered and disinfected when necessary. Meat grinders, hooks and all other utensils must be cleaned at the end of each work day. All unwrapped bakery or confectionary products shall be handled in such a manner that they do not come in direct contact with the hands of the individuals selling them. The operator of the store or market shall be responsible for compliance with this section.

#### **10.10 MEAT INSPECTION.**

No person shall sell, have, keep or expose for sale for human consumption the flesh or meat food products of any cow, calf, sheep, swine, horse or goat in the Village of Elmwood Park unless the same shall have been slaughtered, inspected or prepared under the supervision of a United States Government Inspector or in accordance with the regulations governing the inspection of meat, as prescribed by the United States Department of Agriculture Bureau of Animal Industry, Title 9, Ch. 1(a)C.F.R. The Health Officer may authorize the sale of meat or meat food products which have been slaughtered, inspected or prepared under the supervision of any municipal inspector or health officer in accordance with prescribed standards which he determines to be substantially similar to the above regulations of the United States Department of Agriculture.

#### **10.11 CONTROL OF WEEDS, GRASSES AND VACANT LOTS.**

- (1) Mowing Required. No persons owning property within the Village of Elmwood Park shall permit to grow or pollinate upon his premises any weeds or grasses which cause or produce hay fever in human beings, exhale unpleasant or noxious odors or conceal filthy deposits. In order to prevent such growth and pollination, it shall be the duty of every property owner to mow or cause to be mowed upon his premises all grasses or weeds exceeding one foot in height.
- (2) Mowing by Village. It shall be the duty of the Weed Commissioner to enforce this section and if any person shall fail to comply herewith, the Commissioner shall after five days written notice to the owner, cause the premises to be mowed and report the cost thereof in writing to the Village Clerk in the manner provided in Section 66.96 of the Wisconsin Statutes. Such charge shall be spread on the tax roll as a special tax to be collected in the same manner as other taxes unless lands are exempt from taxation.

- (3) Conditioning of Lots. The owner, agent or lessee of any vacant, sunken or low lying lot in the Village shall keep such lot at all times clean and inoffensive, and free of trash, garbage, rubbish, ashes, unnecessary fill and other refuse, and when required by the Health Officer, shall take such steps as are necessary to prevent the accumulation of any water or offensive material.
- (a) Notice of Violation. Whenever the Health Officer discovers any violation of this section, he shall notify the owner, agent or lessee causing allowing or permitting such violation, by means of a written notice of inspection. In such notification, the Health Officer shall set forth the specific condition found, the correction necessary to bring about compliance and a specific and reasonable period of time for such correction and compliance. Each condition specified in the notification, continued or repeated after the time specified in such notification, shall constitute a separate violation of this section.
- (b) Service of Notice. Notices provided under this section shall be deemed to have been properly served when the original of the inspection report or other notice has been delivered personally to the owner, agent or lessee, as the case may be, of the premises or lot concerned, or such notice has been sent by mail to the last known address of such person.
- (c) Clean Up. In case the owner, agent or lessee of any premises or lot neglects or fails to clean up and remove all garbage, rubbish, ashes, trash, unnecessary fill and other offensive materials after due notice and time specified by the Health Officer, the Health Officer shall request the Village President to cause to be removed such materials and the expense therefor charged against the property. If this charge for cleanup remains unpaid, it shall be made a special tax against the property at the next tax roll.

#### **10.12 RIGHT OF HEALTH OFFICER TO ENTER PREMISES.**

The Health Officer shall have the right to enter and examine any public premises or any place where meat, fish, poultry, game, milk, bakery goods or other food stuffs are stored, prepared or dispensed for public consumption and to inspect or examine any vehicle transporting such food stuffs for the purpose of enforcing the provisions of this chapter. Any person who shall hinder, obstruct or prevent the Health Officer from entering or carrying out his examination of such premises or vehicles shall upon conviction thereof forfeit not less than \$10.00 nor more than \$100.00 together with the costs of prosecution and in default of payment of such forfeiture or costs shall be imprisoned in the County Jail until such forfeiture and costs are paid but not exceeding sixty days.

#### **10.13 ABATEMENT OF HEALTH NUISANCES.**

The Health Officer together with the Board of Health shall have the power to abate health nuisances in accordance with Section 259-595 of the Wisconsin Statutes which is hereby adopted by reference and made a part of this section as if fully set forth herein.

#### **10.14 RECYCLING ORDINANCE.**

- (1) Title. This Ordinance shall be referred to as the Village of Elmwood Park Recycling Ordinance.
- (2) Purpose. The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Ch. 287, Wis. Stats., and Chapter NR 544, Wis. Administrative Code.
- (3) Statutory Authority. This ordinance is adopted as authorized under Ch. 287, Wis. Stats.
- (4) Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.
- (5) Interpretation. In its interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.
- (6) Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- (7) Applicability. The requirements of this ordinance apply to all persons within the Village of Elmwood Park, Racine County, Wisconsin.
- (8) Administration. The provisions of this ordinance shall be administered by the Board of Trustees of the Village of Elmwood Park and its duly designated agents.
- (9) Effective Date. The provisions of this ordinance shall take effect as of the date of its passage and posting.
- (10) Definitions. For the purposes of this ordinance:
  - (a) “Bi-metal container” means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
  - (b) “Container board” means corrugated paperboard used in the manufacture of shipping containers and related products.
  - (c) “Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

1. Is designed for serving food or beverages.
  2. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
  3. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- (d) “HDPE” means high density polyethylene, labeled by the SPI Code #2.
- (e) “LDPE” means low density polyethylene, labeled by the SPI Code #4.
- (f) “Magazines” means magazines and other materials printed on similar paper.
- (g) “Major appliance” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven (unless the capacitor has been removed), oven, refrigerator, stove, residential and commercial furnaces, boilers, dehumidifiers and water heaters.
- (Amended October 13, 1994)*
- (h) “Multiple-family dwelling” means a property containing five or more residential units, including those which are occupied seasonally.
- (i) “Newspapers” means a newspaper and other materials printed on newsprint.
- (j) “Non-residential facilities and properties” means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- (k) “Office paper” means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- (l) “Other resins or multiple resins” means plastic resins labeled by the SPI Code #7.
- (m) “Person” includes any individual, corporation, partnership, association, local government unit, as defined in Sec. 66.299(1)(a), Wis. Stats., state agency or authority or federal agency.
- (n) “PETE” means polyethylene terephthalate, labeled by the SPI Code #1.
- (o) “Plastic container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

- (p) “Postconsumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Sec. 287.01(7), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in the Wisconsin Statutes.
  - (q) “PP” means polypropylene labeled by the SPI Code #5.
  - (r) “PS” means polystyrene labeled by the SPI Code #6.
  - (s) “PVC” means polyvinyl chloride, labeled by the SPI Code #3.
  - (t) “Recyclable materials” includes lead acid batteries; major appliances; waste oil, yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.
  - (u) “Solid waste” has the meaning specified in Sec. 287.01(10), Wis. Stats.
  - (v) “Solid waste facility” has the meaning specified in Sec. 287.01(12), Wis. Stats.
  - (w) “Solid waste treatment” means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. “Treatment” includes incineration.
  - (x) “Waste tire” means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
  - (y) “Yard waste” means leaves, grass clippings, yard and garden debris and brush, including stumps, roots or shrubs with intact root balls.
- (11) Separation of Recyclable Materials. Occupants of single family and two to four unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from postconsumer waste:
- (a) Lead acid batteries;
  - (b) Major appliances;
  - (c) Waste oil;
  - (d) Yard waste;
  - (e) Aluminum containers;

- (f) Bi-metal containers;
- (g) Corrugated paper or other container board;
- (h) Foam polystyrene packaging;
- (i) Glass containers;
- (j) Magazines;
- (k) Newspaper;
- (l) Office paper;
- (m) Rigid plastic containers of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins.
- (n) Steel containers;
- (o) Waste tires.

(12) Separation Requirements Exempted. The separation requirements of Sec. (11) do not apply to the following:

- (a) Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Sec. (11) form solid waste in as pure a form as is technically feasible.
- (b) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (c) A recyclable material as herein specified for which a variance has been granted by the Department of Natural Resources under Sec. NR 544.14, Wis. Administrative Code.

(13) Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with Sec. (11) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers.

(14) Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste. Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil and yard waste as follows:

- (a) Lead acid batteries shall be taken to an area retail business that sells vehicle batteries for return.
  - (b) Major appliances shall be periodically picked up by the Village's solid waste contractor for proper disposal.
  - (c) Waste oil shall be taken to a licensed vendor of resident's choice.
  - (d) Yard waste shall be placed at the curb at specified times of the year.
- (15) Preparation and Collection of Recyclable Materials. Except as otherwise directed by the Village Board, occupants of single family and two to four unit residences shall do the following for the preparation and collection of the separated materials specified in Sec. 11(e) through (o):
- (a) Aluminum containers shall be placed in suitable container at curb side after same have been cleaned.
  - (b) Bi-metal containers shall be placed in suitable container at curb side after same have been cleaned with ends cut.
  - (c) Corrugated paper or other container board shall be placed in suitable container at curb side and shall be free of debris flattened, stacked and tied.
  - (d) Foam polystyrene packaging shall be placed in suitable container at curb side after same has been cleaned.
  - (e) Glass containers shall be placed in suitable container at curb side after same have been cleaned.
  - (f) Magazines shall be placed in suitable container at curb side.
  - (g) Newspaper shall be placed in suitable container at curb side in brown paper bags.
  - (h) Office paper shall be placed in suitable container at curb side.
  - (i) Rigid plastic containers shall be placed in suitable container at curb side and prepared and collected as follows:
    1. Plastic containers made of PETE shall be rinsed free of product residue and caps shall be removed and discarded.
    2. Plastic containers made of HDPE including milk jugs and detergent bottles, shall be rinsed free of product residue and caps shall be removed and discarded.

3. Plastic containers made of PVC shall be rinsed free of product residue and caps shall be removed and discarded.
  4. Plastic containers made of LDPE shall be rinsed free of product residue and caps shall be removed and discarded.
  5. Plastic containers made of PP shall be rinsed free of product residue and caps shall be removed and discarded.
  6. Plastic containers made of PS shall be rinsed free of product residue and caps shall be removed and discarded.
  7. Plastic containers made of other resins shall be rinsed free of product residue and caps shall be removed and discarded.
- (j) Steel containers shall be placed in suitable container at curb side and rinsed free of product residue.
- (k) Waste tires shall be disposed of by residents at any approval facility.

(16) Responsibilities of Owners of Designated Agents of Multiple-Family Dwellings.

- (a) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Sec. (11)(e) through (o):
1. Provide adequate separate containers for the recyclable materials.
  2. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
  3. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
  4. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (b) The requirements specified in (1) do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Sec. 911)(e) through (o) from solid waste in as pure a form as is technically feasible.

(17) Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.

- (a) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Sec. (11)(e) through (o):
1. Provide adequate separate containers for the recyclable materials.
  2. Notify in writing at least semi-annually all users, tenants and occupants of the properties about the established recycling program.
  3. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
  4. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company including a name, address and telephone number.
- (b) The requirements specified in (1) do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Sec. (11)(e) through (o) from solid waste in as pure a form as is technically feasible.
- (18) Prohibitions on Disposal of Recyclable Materials Separated for Recycling. No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Sec. (11)(e) through (o) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.
- (19) Enforcement.
- (a) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Village solid waste contractor or the designated agent of the Village Board may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Village solid waste collector or the designated agent of the Village who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.
- (b) Any person who violates a provision of this ordinance may be issued a citation by the Village Constable to collect forfeitures. The issuance of a citation shall not preclude

proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

(c) Penalties for violating this ordinance may be assessed as follows:

1. Any person who violates Sec. (18) may be required to forfeit \$50.00 for a first violation; \$200.00 for a second violation; and not more than \$2,000.00 for a third or subsequent violation.
2. Any person who violates a provision of this ordinance except Sec. (18), may be required to forfeit not less than \$10.00 nor more than \$1,000.00 for each violation.

*(Created in 1994)*

## **10.15 PENALTIES.**

The penalty for violation of any provision of this chapter shall be a penalty as provided in Section 15.04 of this Code. A separate offense shall be deemed committed on each day on which a violation occurs or continues, provided no forfeiture shall be imposed for a violation of Section 10.03 when connection to the sewer or water main is enforced at the expense of the property owner.

*(Amended in 1994)*

## CHAPTER XI

### LICENSES AND PERMITS

#### **11.01 TRANSIENT MERCHANTS.**

(1) Definitions. In this ordinance:

- (a) “Transient Merchant” means any individual who engages in the retail sale of merchandise at any place in this state temporarily and who does not intend to become and does not become a permanent merchant of such place. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.
- (b) “Permanent Merchant” means any person who, for at least six months prior to the consideration of the application of this ordinance to said merchant: (a) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or (b) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.
- (c) “Merchandise” shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.
- (d) “Charitable Organization” shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
- (e) “Clerk” shall mean the Village Clerk.

(2) Exemptions. The following shall be exempt from all provisions of this Ordinance:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any person selling agricultural products which the person has grown;

- (d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person;
- (f) Any person who has had or one who represents a company which has had a prior business transaction such as a prior sale or credit arrangement with the prospective customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the clerk proof that such charitable organization is registered under Sec. 440.41, Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41 Stats., or which is exempt from that Statute's registration requirements, shall be required to register under this Ordinance;
- (j) Any person who claims to be a permanent merchant but against whom complaint has been made to the Clerk that such person is a transient merchant; provided that there is submitted to the clerk proof that such person has leased for at least one year or purchased the premises from which he/she has conducted business in the market area for at least six months prior to the date the complaint was made;
- (k) Any individual licensed by an examining board as defined in Section 15.01(7), Wisconsin Statutes.
- (l) This ordinance does not apply to transient merchants while doing business at special events authorized by the Village Board.

(3) Regulation of Transient Merchants.

- (a) Prohibited Practices.
  - 1. Any transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any

premises after being asked to leave by the owner, occupant, or other person having authority over such premises.

2. A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
3. No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles all traffic and parking regulations shall be observed.
4. No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred foot radius of the source.
5. No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
2. If any sale of merchandise is made by a transient merchant, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedure as set forth in Sec. 423.203, Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sec. 423.203(1)(a)(b) and (c), and (2) and (3) Stats.
3. If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

4. Records. The Sheriff shall report to the Clerk all convictions for violation of this ordinance and the Clerk shall note any such violation on the record of the party convicted.

*(Recreated May 9, 1991)*

## **11.02 TRAILERS, TRAILER PARKS AND MOBILE HOMES.**

- (1) Trailer parks are prohibited in the Village of Elmwood Park.
- (2) Boats in excess of eight (8') feet in length, trailers, mobile homes and motor homes as the latter two terms are defined in Wisconsin Statute 340.01 are prohibited in the Village for any period longer than forty-eight (48) hours, unless stored within an attached accessory building as defined in Chapter 9 of these Ordinances.  
*(Amended March 12, 1992)*
- (3) The penalty for violation of this Section shall be a penalty as provided in Section 15.04 of this Code.

## **11.03 REGULATION OF DOGS AND CATS AND LICENSING OF DOGS.**

- (1) License Required. It shall be unlawful for any person in the Village of Elmwood Park to own, harbor or keep any dog more than six months of age without complying with the provisions of Section 174.05 through Section 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging and with this Section relating to required rabies vaccination of the same.
- (2) Definitions. In this section, unless the context or subject matter otherwise require:
  - (a) Owner shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten days, is presumed to be harboring or keeping the dog or cat within the meaning of this section.
  - (b) At Large means to be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner or in an automobile of any other person with the consent of the owner shall be deemed to be on the owner's property.
- (3) Restrictions on Keeping of Dogs and Cats. It shall be unlawful for any person within the Village of Elmwood Park to own, harbor or keep any dog or cat which:
  - (a) Habitually pursues any vehicle upon any public street, alley or highway in the Village.
  - (b) Assails or attacks any person.
  - (c) Habitually barks or howls to annoyance of any person or persons.

- (d) Kills, wounds or worries any domestic pet or protected animal or game.
- (e) Is known by such person to be infected with rabies or to have been bitten by an animal infected with rabies.
- (f) Is brought upon any park operated by the Village at any time or is otherwise at large within the Village as herein defined in Section 11.03(2)(b).

*(Created November 11, 1999)*

- (4) Duty of Owner in Cases of Dog or Cat Bites. Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person, shall immediately report such fact to the Health Officer and shall keep such dog or cat confined for not less than fourteen days or for such period of time as the Health Officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to the Health Officer upon demand for examination.
- (5) Impounding or Killing of Dogs and Cats. In addition to any penalty hereinafter provided for a violation of this section, any person may impound any dog or cat and the Health Officer of the Village may kill any dog or cat which habitually pursues any vehicle upon any street, alley or highway of this Village, assaults or attacks any person, is at large within the Village, habitually barks or howls, kills, wounds or worries any domestic pet or protected animal or game, is infected with rabies, or does not carry the tag as provided in this section. Any dog or cat impounded shall be held for a period of seven day pursuant to the provisions of Section 174.10 of the Wisconsin Statutes, and at the end of such period shall be disposed of in a humane manner unless the owner thereof shall reclaim such dog or cat and pay at the pound the reasonable cost of keeping such a dog or cat, provided, however, that said dog has been inoculated with anti-rabie vaccine in accordance with the terms of this section.
- (6) Trustees May Contract for Disposal of Dogs and Cats. Notwithstanding anything contained in these ordinances to the contrary, the Village Trustees may, in their discretion, enter into such agreements as they may deem advisable with the Racine County Humane Society, providing for the removal, shelter, care or disposal of any cruelly exposed, starved, injured, neglected, abandoned, strayed, unlicensed or untagged dog or cat found within the Village. Such agreements may provide, in substance, that the Racine County Humane Society will, upon being notified by any officer, designated agent or resident of the Village, pick up or receive and shelter, care for and/or dispose of any such dogs or cats in the manner provided by law and shall hold the Village harmless from any failure to comply with the laws applicable thereto. In return for such services on the part of the Humane Society, the Village Trustees are hereby authorized to agree to pay a fee for each dog or cat received by the Society, plus a pick-up fee if an employee of the Society picks up any dog or cat, plus an allowance for mileage from the shelter maintained by the Society to the Village and the return trip from the Village to said shelter.
- (7) Offense of Cruel and Inhuman Treatment of Animals and Defining Minimum Standards for Shelter.

- (a) It shall be unlawful to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat any animal including every act of omission or neglect whereby unnecessary or unjustifiable pain, suffering or death shall be caused, whether belonging to himself or another, except that reasonable force may be employed to drive off vicious or trespassing animals.
- (b) It shall be unlawful to fail or refuse or neglect to provide any animal in his charge with food, potable water, shade, or shelter or cruelly expose any animal in hot, stormy, cold or inclement weather or to carry any animal in or upon any vehicle in a cruel or inhuman manner.

In this section, "shade" shall mean protection from the direct rays of the sun, during the months of June to September, inclusive, shall be provided.

In this section, "shelter" as pertains to a dog, shall mean a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a water-proof roof and with a solid floor raised at least two inches from the ground; and the structure to contain a baffle or a partition so that the wind or rain cannot penetrate or blow directly through the entrance on the dog. Such a structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

- (8) Rabies Vaccination of Dogs Required. It shall be the duty of every dog owner to have such dog inoculated with an avianized anti-rabie vaccine or any similar vaccine by a veterinarian every two calendar years commencing April 30, 1974. Dogs under six months of age are not required to be vaccinated.
- (9) Certificate and Tag Required.
  - (a) It shall be the duty of each veterinarian after inoculating a dog to present an appropriate certificate and tag to the dog owner. The certificate shall include the name and address of the owner of the dog, date of vaccination, tag number, breed, color, age and sex of dog and such other information as may be required. The dog tags shall be numbered and contain the year of issuance. The said owner shall immediately attach the tag to the collar or harness of said dog.
  - (b) It shall be unlawful to own, harbor or keep any dog more than six months of age which does not carry the tag as provided in this Section.
  - (c) The license provided in this Section may not be issued until proof has been furnished to the issuing authority or Health Officer that said dog has been inoculated with anti-rabie vaccine in accordance with the terms of this section.
- (10) Cleaning Up After Dogs. It shall be considered unlawful for the owner of any dog to permit fecal matter which is deposited by it while off its own premises to remain on any street, alley,

sidewalks, lawn, field or any private or public property. It shall be the responsibility of the owner of the dog to immediately remove the fecal matter by shovel, scoop or like instrument.  
*(Created November 11, 1999)*

- (11) Penalty. The penalty for violation of any provision of this Section shall be a penalty as provided in Section 15.04 of this Code.  
*(Amended November 11, 1999)*

#### **11.04 RETAILER'S LICENSE FEES.**

- (1) The annual fee for a Class "A" Retailer's License permitting the sale of fermented malt beverages for consumption away from the premises shall be the sum of \$100.00. All such licenses shall expire on June 30th of each year.
- (2) The annual fee for a "Class A" Retailer's license permitting the retail sale of intoxicating liquor for consumption off the premises where sold and in original packages and containers shall be the sum of \$500.00. All such licenses shall expire on June 30th of each year.

*(Amended 11/11/04)*

## **CHAPTER XII**

### **ORDERLY CONDUCT**

#### **12.01 OFFENSES ENDANGERING PUBLIC SAFETY.**

- (1) Discharging and Carrying Firearms and Guns Prohibited. No person, except a sheriff, constable, police officer or their deputies, shall fire or discharge any firearm, rifle, spring or air gun of any description within the Village of Elmwood Park or have any firearm, rifle, spring or air gun in his possession or under his control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container, provided that this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or the firing or discharging of BB guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or guardian. This subsection shall be deemed to prohibit hunting within the Village, provided that the Village Board may authorize the Village Clerk to issue written permits to owners or occupants of private premises to hunt or shoot on such premises if he finds such privileges reasonable for the protection of life or property and subject to such safeguards as it may impose for the safety of the lives and property of other persons within the Village.
- (2) Throwing or Shooting of Arrows, Stones and Other Missiles Prohibited. No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile by hand or by any other means at any other person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village of Elmwood Park.
- (3) Burning Restrictions.
- (a) Definition. For the purposes of this article, the phrase "open burning" shall mean any fire from which the products of combustion are emitted directly into the open air without passing through a chimney or stack.
- (b) Fires Regulated. No person shall kindle, start or maintain an open fire for the burning of:
1. yard waste
  2. garbage or other organic refuse
  3. building demolition or excess building material from construction activities
  4. automobiles or parts thereof
  5. highly flammable, toxic or explosive materials
  6. electrical wiring
  7. rubber products
  8. plastic products or other such material.

- (c) Fires Permitted. Fires are permitted in commercially purchased temporary outdoor grills and permanent outdoor fire appliances used for cooking or outdoor fireplaces. Containers shall be constructed of metal, concrete or brick or similar noncombustible material containing vents, screens or openings and adequate covers to prevent the escape of sparks or burning embers.
- (d) All containers used for either cooking or outdoor fireplaces must meet all Federal, State or local design and safety standards and may be subject to inspection by the local fire department or Village Building Inspector to ensure compliance with all regulations if in the opinion of the Village Board the container is deemed unsafe.
- (e) Hours of Burning. It shall be unlawful to burn an outdoor fireplace or outdoor fire appliance at any time between the hours of 11:30 p.m. and sunrise.
- (f) Water Availability. No burning shall be done unless an adequate water supply is available at the burning site to control the fire.
- (g) Burning Location. All burning shall be conducted on a noncombustible surface – such as, grass, dirt or concrete etc. and shall not be located closer than ten (10) feet of any structure or property line. No burning shall take place on public property including roads and road rights-of-way.
- (h) Wind Conditions. No burning shall be done at any time or place when wind conditions may create a nuisance to anyone or the property of anyone in the vicinity.
- (i) Burning Size Restrictions. No burning shall be done where its maximum size is not controllable by one person of maturity and discretion, and where the circumference of the fire area exceeds 4 feet. All burning shall be done in a manner that does not impose a risk of personal injury or property damage. For events of community interest involving burning or cooking, written permission shall be obtained from the Village Board of Trustees and the Building Inspector that serves the Village.
- (j) Material Disposal. Ashes and other such products of burning shall be disposed of in noncombustible containers approved by the local fire department or buried after the fire is completely extinguished.
- (k) Supervision. To ensure safety and to prevent fires from endangering surrounding property, all open fires shall be under constant supervision until they are completely extinguished and the remaining embers are cold or have been thoroughly wet down.
- (l) Violation. No person shall kindle, start or maintain an open fire, bonfire or rubbish fire in violation of this Section.

- (m) **Penalty.** Any person convicted of a violation of this Section shall forfeit an amount as provided in Section 15.04.

*(Repealed 12.01(a) and (b) and created 12.01 (a), (b), (c) and (d) May 8, 1997)*

*(Amended January 12, 2006)*

- (4) **Sale and Discharge of Fireworks Restricted.** No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Village. The term "fireworks" as used in this Section shall be defined as provided in Section 167.10(1) of the Wisconsin Statutes, and shall be deemed to include all rockets or similar missiles containing explosive fuel.
- (5) **Obstructing Streets and Sidewalks Prohibited.** No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon, or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall, meeting place, or residence.
- (6) **Obstructing Firemen or Policemen.** It shall be unlawful for any person to willfully hinder, obstruct or otherwise interfere with the Fire and Police Department, or any member thereof, while engaged in fighting a fire or in traveling thereto or therefrom or while otherwise engaged in the performance of his duty or any official function, or to willfully damage or destroy any property belonging to the Fire or Police Department, or any member thereof, while so engaged, or to commit an assault, battery or throw any object upon a member of the Fire or Police Department while so engaged.
- (7) **Possession or Use of Fire Bombs and Other Similar Devices.**
- (a) It shall be unlawful for any person to make, carry, possess, sell, give or use any type of "Molotov Cocktail" which is defined to mean a flammable-liquid filled bottle or container with a fuse, wick or any other type of ignition or detonating device.
- (b) It shall be unlawful for any person to make, carry, possess, sell, give or use any type of flammable-liquid fire bomb or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.
- (c) The prohibition against the possession or use of fire bombs shall not apply to authorized personnel such as policemen, firemen, plant guards and the like, who may possess such bombs solely for demonstration or training purposes.

- (8) Penalties. Any person violating any of the provisions of Section 12.01(6) or 12.01(7) of this Code shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$500.00, and in default of payment of such forfeiture, shall be committed to the Racine County Jail until such forfeiture has been paid, but not to exceed six months.

## **12.02 OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER.**

- (1) Disorderly Conduct Prohibited. No person shall within the Village of Elmwood Park:
- (a) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.
  - (b) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
- (2) Drunkenness. No person shall within the Village be habitually drunk or intoxicated so as to disturb the good order and quiet of the Village or be found in any place within the Village in such a state of intoxication that he is unable to care for his own safety or for the safety of others.
- (3) Loud and Unnecessary Noise Prohibited. No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence.
- (4) Obedience to Officers. No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the Village while such officer is doing any act in his official capacity and with lawful authority.
- (5) Assisting Escape of Prisoner. No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the Village.
- (6) Personating Police Officers. No person shall personate a policeman or peace officer within the Village of Elmwood Park.

## **12.03 OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY.**

- (1) Gambling, Lotteries, Fraudulent Devices and Practices Prohibited. All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the limits of the Village. Any peace officer or policeman of the Village is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the Village and to dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

- (2) Vagrancy and Loitering Prohibited. No person shall within the Village loiter or loaf about any public building, place or premises or wander about the streets, alleys, parks or other public places either by day or night, whose actions give rise to a suspicion of wrong doing and who is unable to give a satisfactory account of himself, or who, having the physical ability to work, is without any visible means of support and does not seek employment, or who derives part of his support from begging, prostitution, pandering, fortune telling or as a similar imposter.
- (3) Indecent Conduct and Language Prohibited. No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the Village.
- (4) Curfew. Persons under the age of eighteen years of age are prohibited from being on the streets, alleys, and public places of the Village of Elmwood Park during stated hours and under certain conditions as follows:
- (a) No minor person under the age of eighteen (18) years shall loiter, idle, wander, play or otherwise be upon the streets, alleys, highways, roads, sidewalks, parks, playgrounds, public grounds or vacant lots either on foot or in or on a vehicle of any nature in the Village of Elmwood Park between the hours of ten-thirty o'clock p.m. (10:30 p.m.) and five o'clock a.m. (5:00 a.m.), Sunday through Thursday, and between the hours of twelve midnight (12:00 a.m.) and five o'clock a.m. (5:00 a.m.) on Friday and Saturday, unless such minor is accompanied by either of his or her parents or his or her guardian, or other person having the legal custody of such minor.
1. This prohibition does not apply to minors who are returning home from functions authorized by schools or churches or other civic organizations, provided they take the shortest and most direct route, and as fast as reasonably possible under the circumstances.
2. This Ordinance does not apply to minors whose employment makes it necessary to be upon such public streets, alleys, highways, roads, sidewalks, parks, playgrounds or other public places in the time restricted, but in such event such minors must carry a pass issued by the Chief of Police and they must use the shortest and most direct route going to the place of employment from the minor's home and returning home from said place of employment.
- (b) No parent, guardian or other person having legal custody of any minor person under the age of eighteen (18) years shall knowingly permit such minor to loiter, idle, wander, play or otherwise be either on foot or in or on a vehicle of any nature upon the streets, alleys, highways, roads, sidewalks, parks, playgrounds, public grounds or vacant lots between the hours and dates specified in Section 12.03(4)(a) of this Ordinance, unless accompanied by a parent, guardian or other adult person

having the legal custody of such minor, unless such minor is returning home from functions authorized by schools, churches or otherwise recognized civic organizations, or going to or returning home from work as specified in Section 12.03(4)(a)2 of this Ordinance.

1. Any parent, guardian or other person having legal custody of any such minor child who shall violate the provisions of this section of this Ordinance shall, upon conviction thereof, forfeit not less than \$1.00 nor more than \$50.00 together with the costs of prosecution, and in default of payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding thirty (30) days.
- (c) Any minor under the age of eighteen (18) years who shall violate any of the provisions of this Ordinance shall be dealt with in accordance with Chapter 48 of the Revised Statutes of the State of Wisconsin.
- (d) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decisions of any court of competent jurisdiction, such decisions shall not affect the validity of any other section, subsection, phrase or portion thereof.

#### **12.04 OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY.**

- (1) Destruction of Property Prohibited. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the Village or its departments or to any private person without the consent of the owner or proper authority.
- (2) Littering Prohibited. No person shall throw any glass, rubbish, waste, or filth upon the streets, alleys, highways, public parks or other property of the Village or upon any private property not owned by him or upon the surface of any body of water within the Village of Elmwood Park.

#### **12.05 PENALTIES.**

Any person who shall violate any provision of this Ordinance shall upon conviction thereof be punished as follows:

- (1) For violation of any of the provisions of this Chapter, he shall be subject to a penalty as provided in Section 15.04 of this Code.
- (2) In addition to any penalty imposed for violation of Section 12.04(1) of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents

of any un-emancipated minor child who violates Section 12.04(1) of this Chapter may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 331.035 of the Wisconsin Statutes.

## **CHAPTER XIII**

### **PUBLIC NUISANCES**

#### **13.01 PUBLIC NUISANCES PROHIBITED.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Elmwood Park.

## **13.02 DEFINITIONS.**

- (1) **Public Nuisance.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
  - (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
  - (b) in any way render the public insecure in life or in the use of property;
  - (c) greatly offend the public morals or decency;
  - (d) unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.
- (2) **Public Nuisances Affecting Health.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of subsection (1) of this Section:
  - (a) **Unburied Animal Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within twenty-four hours after death.
  - (b) **Insect and Vermin Breeding Places.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats and other vermin may breed.
  - (c) **Stagnant Water.** All stagnant water in which mosquitoes, flies or other insects can multiply.
  - (d) **Privy Vaults and Garbage Cans.** Privy vaults and garbage cans which are not fly-tight.
  - (e) **Noxious Weeds.** All Canada Thistle, Leafy Spurge, Field Bindweed (creeping Jenny), and unsightly and troublesome plants, including grass greater than five inches in height, which are detrimental to cultivated crops, public health, public welfare and the general appearance of the surrounding area or such uncultivated rank plants or grass which created unpleasant or noxious odors or grow to such a height so as to permit the concealment of filthy deposits.

- (f) Air Pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Village.
- (g) Noxious Odors. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- (h) Water Pollution. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (i) Wells. All abandoned wells not securely covered or secured from public use.
- (j) Street Pollution. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- (k) Animals Running At Large. All animals running at large in the Village.
- (l) Outside Lighting. Any outside electrical light or similar apparatus capable of illuminating in excess of 250 watts including, but not limited to, outside mercury vapor, sodium vapor, or quartz light.
- (m) Animal Feces.
  - 1. Public and Private Property. It shall be unlawful for any person in immediate control of any animal to permit fecal matter which is deposited by such animal while off of its own premises to remain on any street, alley, sidewalk, lawn, field or any public property, and it shall be solely the responsibility of the person in control of such animal to immediately, after such deposit, remove and dispose of all such fecal matter. Any person owning or having control of an animal on any property, public or private, which is owned or occupied by such person, shall promptly remove excrement left by such animal and place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by such person. This shall not apply to a person who is visually or physically handicapped. Any person causing or permitting an animal to be on any property, public or private, not owned or occupied by such person shall have in his immediate possession a device or object suitable for removal of excrement and a

- depository for the transmission of excrement to the property owned or occupied by such person.
2. Complaints of Neighbors. If a neighbor complains of fecal odor from a resident's property who owns animals, the health department or Sheriff's Department may issue an order to correct such nuisance. If such nuisance is not corrected, a citation may be issued.
  3. Filing Complaints with the Sheriff's Department. Any adult person, alone or together with other adults, may seek relief from animal fecal matter deposits as described in subsection (m) (1) and (2) by making a complaint to the Sheriff's Department.
- (3) Public Nuisances Offending Morals and Decency. The following acts, omissions , places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection (1) of this section:
- (a) Disorderly Houses. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
  - (b) Gambling Devices. All gambling devices and slot machines.
  - (c) Unlicensed Sale of Intoxicating Liquor and Beer. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the Ordinances of the Village of Elmwood Park.
  - (d) Illegal Drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or Ordinances of the Village.
  - (e) Continuous Violation of Ordinances or Laws. Any place or premises within the Village where Village Ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (4) Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (2) of this Section.

- (a) Dangerous Sign, Billboards, etc. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) Illegal Building. All buildings erected, repaired or altered within the fire limits of the Village in violation of the provisions of the Ordinances of the Village, relating to materials and manner of construction of buildings and structures within said district.
- (c) Unauthorized Traffic and Railroad Devices, Signs or Signals. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway which purport to be or may be mistaken as an official traffic control device or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- (d) Obstruction of View at Intersections or Pedestrian Crosswalks. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) Low Hanging Tree Limbs. All limbs of trees which project over and less than fourteen feet above the surface of a public sidewalk or street or less than ten feet about any other public place.
- (f) Fireworks. All use or display of fireworks except as provided by laws of the State of Wisconsin and Ordinances of the Village.
- (g) Dilapidated Buildings. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (h) Blighted Buildings and Premises. Premises existing within the Village which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the Village.
  - 1. Blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health and safety, crime prevention, fire protection and other public services; and such conditions cause a drain upon public revenue and impair

the efficient and economical exercise of governmental functions in such areas.

- (i) Low Hanging Wires or Cables. All wires over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (j) Loud Noises. All loud, discordant and unnecessary noises or vibrations of any kind, including but not limited to, use of any motorized equipment and/or use of amplified music or stereo equipment either inside or outside of a public or private building in an excessively loud manner or for periods of time that would unduly vexate, harass, or annoy neighbors or bystanders. This section does not apply to yard, driveway and/or home maintenance or building equipment between the hours of 8:00 a.m. and 9:00 p.m., excluding the use of snow removal equipment.
- (k) Noisy Animals or Fowl. The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- (l) Obstruction of Street; Excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the Ordinances of the Village or which, although made in accordance with such Ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- (m) Open Holes. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (n) Accumulations and Storage of Solid Waste. No person shall accumulate or store on any premises, improved or vacant, or on any open lot, street or alley in the Village any materials considered to be in the category of solid waste. Yard areas and driveways shall not be used to store appliances, furnaces, hot water heaters, water softeners, building materials or other bulky waste not be used within five days. This section in no way affects solid waste being stored on occupied premises for solid waste collection purposes.
- (o) Storage of Firewood. No person shall store firewood unless it is stored in a straight, orderly pile which is raised a minimum of six inches off the ground and is not more than four feet high. The storage of firewood is limited to two cords which are four feet by four feet by eight feet. Firewood shall not be stored in the front yard and shall not extend beyond the front of the residence in the side yard.
- (p) Dumping Restrictions: Conditions of Lots. No person shall dump or dispose of any solid wastes, earth or any other materials on public property except in areas

authorized by the Building Inspector. Clean, non-contaminated earth may be used as fill on private property.

- (q) Abandoned Refrigerators. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
  - (r) Unlawful Assemblies. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather obstructing traffic and free use of the streets and sidewalks.
  - (s) Snow and Ice. All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in Section 6.06 of this Code.
  - (t) Flammable Liquids. Repeated or continuous violations of the Ordinances of the Village of laws of the State of Wisconsin relating to the storage of flammable liquids.
- (5) Accumulation of Used Motor Vehicles. No person except a licensee of a motor vehicle dealer's license issued under the Wisconsin Statutes shall accumulate or store or allow to remain outside of any building on real estate located within the Village for a period of more than ten (10) days or dump, deposit or otherwise abandon upon any property or upon any highway, street, road, alley or way within the Village any used motor vehicles as motor vehicle is defined by the Wisconsin Statutes or any detached part or parts thereof for which no current registration fee has been paid under State Statutes or which, if paid, does not have property attached thereto under State Statutes a current license plate or plates if so required and which is in condition which would mechanically prevent its immediate operation upon any public highway or its operation thereon would be in violation of the law. Each day that any used motor vehicle as herein defined or any detached part or parts thereof shall be accumulated or stored or allowed to remain contrary to these provisions shall constitute a separate and distinct offense.

*(Created October 8, 1987)*

### **13.03 ABATEMENT OF PUBLIC NUISANCES.**

- (1) Inspection of Premises. Whenever complaint is made to the Village President, Health Officer, Village Clerk or Village Board Police Liaison (inspecting officer) that a public nuisance exists within the Village, a notification of possible violation shall be submitted to the Village Clerk. The Village Clerk, Health Officer, Village President or Village Board Police Liaison shall then inspect the property to a reasonable extent and prepare a written report of his findings to the Village President. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk.
- (2) Summary Abatement.

- (a) Notice to Owner/Fine. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President may direct the Village Board Police Liaison that in addition to serving a citation including a fine pursuant to 13.05 herein the Village Police Liaison shall serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty-four (24) hours. The Village may, for good cause, and assuming there is no immediate and severe danger to the public allow a longer time to abate the nuisance. In no event shall the period to abate the nuisance exceed 14 days. The notice shall state the time period in which the nuisance shall be abated and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
  - (b) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Inspecting Officer, in case of health nuisances, and the Village Police Liaison, in other cases, shall cause the abatement or removal of such public nuisance on behalf of the Village.
- (3) Abatement by Court Action. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Village President who shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Racine County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes.
- (4) Other Methods Not Excluded. Nothing in this Ordinance shall be construed as prohibiting the abatement of public nuisances by the Village of Elmwood Park or its officials in accordance with the laws of the State of Wisconsin.

#### **13.04 COST OF ABATEMENT.**

In addition to any other penalty imposed by this Ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

#### **13.05 PENALTY.**

- (1) Any person who shall violate any provision of this Ordinance subject to a penalty shall in addition to abatement obligation in 13.03 and 13.04 of this Ordinance shall upon conviction thereof, forfeit not less than \$150.00 or more than \$400.00 for each such forfeiture. Each day of a continuing violation until properly abated shall be a separate violation and fines assessed accordingly. In the event any fine remains unpaid for a period in excess of thirty (30) days the fine, including any and all daily violations until abated shall be placed upon the tax roll of the affected parcel.
- (2) Second Offense – Penalty. Any person found guilty of violating any part of this Ordinance shall, upon conviction of a second violation thereof, forfeit not less than \$850.00 nor more than \$1,150.00 for each such offense. Each continuing or successive violation until properly abated shall be considered as a separate violation and fines assessed accordingly (as a second offense). In the event any fine remains unpaid for a period in excess of thirty (30) days the fine, including any and all daily violations until abated shall be placed upon the tax roll of the affected parcel.

*(Amended March 13, 2008)*

## **CHAPTER XIV**

### **FINANCE**

#### **14.01 PREPARATION OF TAX ROLL AND TAX RECEIPTS.**

- (1) Aggregate Tax Stated on Roll. Pursuant to Section 70.65(2) of the Wisconsin Statutes, the Village Clerk shall, in computing the tax roll, insert only the aggregate amount of State, County, school and local taxes in a single column in the roll opposite the parcel or tract of land against which the tax is levied or, in the case of personal property, in a single column opposite the name of the person, firm or corporation against whom the tax is levied.
- (2) Rates, Stamped on Receipts. In lieu of entering on each tax receipt the several amounts paid respectively for State, County, school, local and other taxes, the aggregate amount of such taxes shall be combined in a single column on the tax receipt issued by the Village Treasurer. The Treasurer shall cause to be printed or stamped on the tax receipt the separate proportion or rate of taxes levied for State, County, school, local or other purposes.

#### **14.02 DUPLICATE TREASURER'S BOND ELIMINATED.**

- (1) Bond Eliminated. The Village of Elmwood Park elects not to give the bond on the Village Treasurer provided for by Section 70.67(1) Wisconsin Statutes.
- (2) Village Liable for Default of Treasurer. Pursuant to Section 70.67(2), Wisconsin Statutes, the Village of Elmwood Park shall be obligated to pay, in case the Village Treasurer shall fail to do so, all State and County taxes required by law to be paid by such Treasurer to the County Treasurer.

#### **14.03 CLAIMS AGAINST VILLAGE.**

- (1) Claims to be Certified. Prior to submission of any account, demand or claim to the Village Board for approval of payment, the Village Clerk shall certify or cause to be endorsed thereon or on attached papers that the following conditions have been complied with:
  - (a) That funds are available therefor pursuant to the budget.
  - (b) That the item or service was duly authorized by the proper official or agency and has been received or rendered in accordance with the purchasing agreement.
  - (c) That the claim is accurate in amount and a proper charge against the treasury.
- (2) Village Board to Audit Accounts. No account or demand against the Village, except as provided in subsection (3) of this section, shall be paid until it has been audited by the Village Board and an order drawn on the Village Treasurer therefor. Every such account shall be itemized and certified as provided in subsection (1).

After auditing, the Village Board shall cause to be endorsed by the Clerk on each account, the words "allowed" or "disallowed", as the fact is, adding the amount allowed or specifying the items or parts of items disallowed. The minutes of the proceedings of the Board or a

statement attached thereto shall show to whom and for what purpose every such account was allowed and the amount.

- (3) Payment of Regular Wages and Salaries. Regular wages or salaries of Village officers and employees shall be paid by payroll, verified by the proper Village official, department head, board or commission and filed with the Village Clerk in time for payment on the regular pay day.

#### **14.04 PREPARATION AND ADOPTION OF ANNUAL BUDGET.**

- (1) Village President to Prepare Budget. On or before the 20th day of October of each year, the Village President, with the assistance of the Village Treasurer, shall prepare and submit to the Village Board a proposed budget presenting a financial plan for conducting the affairs of the Village for the ensuing year. Before preparing the proposed budget, the President shall consult with the heads of the Village departments and with Village officials and shall then determine the total amount to be recommended in the budget for each Village department of activity.
- (2) Form of Proposed Budget. The proposed budget shall include the following information:
- (a) The actual expenditures of each department and activity for the expired portion of the current year and last preceding fiscal year and the estimated expense of conducting each department and activity of the Village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
  - (b) An itemization of all anticipated income of the Village from sources other than general property taxes and bond issues, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal years.
  - (c) All existing indebtedness of the Village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
  - (d) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
  - (e) Such other information as may be required by the Village Board and by State law.

- (3) Appropriation Ordinance: Hearing. The Village President, with the assistance of the Village Treasurer and Clerk, shall submit to the Village Board with the annual budget a draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year.

Before adoption of a final appropriation ordinance, the Village Board shall hold a public hearing on the budget and the proposed appropriation ordinance as required by law.

- (4) Changes in Final Budget. The Village Board may at any time by a two-thirds vote of the entire membership, transfer any portion of an unencumbered balance of an appropriation to any other purpose or object.
- (5) Expenditures Limited by Annual Appropriation. No money shall be drawn from the treasury of the Village nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance and changes therein authorized in accordance with subsection (4) of this section. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to re-appropriation; but appropriations may be made by the Village Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

#### **14.05 PUBLIC RECORD.**

- (1) Financial Records. Village officers are empowered to destroy the following non-utility records under their jurisdiction after the completion of an audit by the Department of State Audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, but not less than seven (7) years after payment or receipt of the sum involved in the application transaction:
  - (a) Bank statements, deposit books, slips and stubs.
  - (b) Bonds and coupons after maturity.
  - (c) Canceled checks, duplicates and check stubs.
  - (d) License and permit applications, stubs and duplicates.
  - (e) Payroll and other time and employment records of personnel included under the Wisconsin Retirement Fund.
  - (f) Receipt forms.
  - (g) Special assessment records.
  - (h) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (2) Utility Records. Village officers are empowered to destroy the following records of municipal utilities subject to regulation by the State Public Service Commission and after an

audit as provided above, but not less than two (2) years after payment or receipt of the sum involved in the applicable transaction:

- (a) Water (sewer)(electrical) stubs and receipts of current billings.
- (b) Customers' ledgers.
- (c) Vouchers and supporting documents pertaining to charges not included in plant accounts.
- (d) Other utility records after seven (7) years with the written approval of the State Public Service Commission.

(3) Other Records. Village officers are empowered to destroy the following records, but not less than seven (7) years after the record was effective:

- (a) Assessment rolls and related records, including Board of Review Minutes.
- (b) Contracts and papers relating thereto.
- (c) Correspondence and communications.
- (d) Financial reports other than annual financial reports.
- (e) Insurance policies.
- (f) Justice dockets.
- (g) Oaths.
- (h) Reports of boards, commissions, committees and officials duplicated in the official Village Board Minutes.
- (i) Resolutions and petitions.
- (j) Voter record cards.

(4) Limitation. This section shall not be construed to authorize the destruction of any public record after a period less than prescribed by Statute or State administrative regulations.

## **CHAPTER XV**

### **GENERAL PROVISIONS**

## **15.01 RULES OF CONSTRUCTION.**

In the construction of this Code of General Ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Ordinance:

- (1) Wisconsin Statutes. The term Wisconsin Statutes whenever used in this Code shall mean those Statutes in force for the current year.
- (2) Gender; Singular and Plural. Every word in this Code and in any Ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.
- (3) Person. The word “person” extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.
- (4) Acts by Agents. When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requisition shall be construed to include all such acts when done by an authorized agent.

## **15.02 CONFLICT AND SEPARABILITY.**

- (1) Conflict of Provisions. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.
- (2) Separability of Code Provisions. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional by reasons of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Village President and Village Board of the Village of Elmwood Park hereby declare that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

## **15.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE.**

Whenever in this Code any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of this Code, are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth herein and the Village Clerk is hereby directed and required to file, deposit and keep in his office a copy of the Code, standard, rule, regulation or

other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

#### **15.04 PENALTY PROVISIONS.**

- (1) **General Penalty.** Whenever so provided in this Code, any person who shall violate any of the provisions of this Code shall upon conviction of such violation, be subject to a penalty which shall be as follows:
  - (a) **First Offense - Penalty.** Any person who shall violate any provisions of this Code subject to a penalty shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$200.00 together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid but not exceeding ninety (90) days.
  - (b) **Second Offense - Penalty.** Any person found guilty of violating any Ordinance or part of an Ordinance who shall previously have been convicted of a violation of the same Ordinance shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$400.00 for each such offense together with the costs of prosecution and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid but not to exceed six (6) months.
  - (c) **Third Offense – Penalty.** Any person found guilty of violating any Ordinance or part of an Ordinance who shall previously have been convicted of a violation of the same Ordinance shall, upon conviction thereof, forfeit not less than \$200.00 nor more than \$800.00 for each day such offense together with the costs of prosecution and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid but not to exceed nine (9) months.

*(Amended November 11, 1999)*

- (2) **Execution Against Defendant's Property.** Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.
- (3) **Fine Schedule.** See Section 15.10 for Ordinance Violation Fine Schedule for specific bail forfeitures. Defendant has been released from custody; issue an execution against the property of the defendant for said forfeiture and costs.

#### **15.05 REPEAL OF GENERAL ORDINANCES.**

All Ordinances heretofore adopted by the Village Board of the Village of Elmwood Park are hereby repealed, except all Ordinances or parts of Ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

- (1) The issuance of corporate bonds and notes of the Village of Elmwood Park of whatever name or description.
- (2) The establishment of grades, curb lines and widths of sidewalks in the public streets or alleys.
- (3) The fixing of salaries of public officials and employees, if any.
- (4) Rights, licenses or franchises or the creation of any contract with the Village of Elmwood Park.
- (5) The lighting of streets and alleys.
- (6) The annexation of territory to the Village of Elmwood Park.
- (7) The naming and changing of names of streets, alleys, public grounds and parks.
- (8) The letting of contracts without bids.
- (9) Tax and special assessment levies.
- (10) Release of persons, firms or corporations from liability.
- (11) Construction of any public works.
- (12) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (13) Budget, ordinances, resolutions and actions.

#### **15.06 EFFECT OF REPEALS.**

The repeal or amendment of any section or provision of this Code or of any other Ordinance or resolution of the Village Board shall not:

- (1) By implication be deemed to revive any Ordinance not in force or existing at the time at which such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Village.

- (3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been mitigated by the provisions of any Ordinance, such provisions shall apply to and control any judgment to be pronounced after such Ordinance takes effect for any offense committed before that time.
- (4) Affect any prosecution for any offense, or the levy of any penalty of forfeiture pending at the time when any Ordinance aforesaid shall be repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such Ordinances, and such prosecution shall proceed, in all respects, as if such Ordinance or Ordinances had not been repealed, except that all such proceedings had after the time this Code shall take effect, shall be conducted according to the provisions of this Code and shall be, in all respects, subject to the provisions of this Code.

#### **15.07 TITLE: EFFECTIVE DATE: CITATION.**

These Ordinances shall be known as the “Municipal Code of the Village of Elmwood Park” and shall take effect from and after passage and posting. All references thereto shall be cited by section number (example: Section 13.06, Municipal Code of the Village of Elmwood Park).

#### **15.08 STYLE OF ORDINANCE: ADDITIONS, AMENDMENTS AND REPEALS.**

All general Ordinances hereafter enacted by the Village Board of the Village of Elmwood Park shall be numbered in chronological order, prefixed by the letter “A” and shall indicate by appropriate decimal number the section, subsection or paragraph of this Code created, amended, repealed or revised.

#### **15.09 CLERK TO FILE ORDINANCES: SUPPLEMENTAL SHEETS.**

The Village Clerk shall certify one copy of this Code as the original Municipal Code of the Village of Elmwood Park and shall file same as part of the Village Ordinance Book. Such copy shall be retained in its original form. In addition, the Clerk shall retain in his office at least one copy of the Municipal Code of the Village of Elmwood Park in current form in which shall be inserted all supplemental sheets as hereinafter provided.

Whenever any Ordinance amending, repealing, revising or creating any section of this Code is adopted by the Village Board, the Clerk, after recording such Ordinance in the Ordinance Book, shall cause copies of such Ordinance to be reproduced on supplemental sheets in proper form for insertion in the Municipal Code and shall insert such Ordinances in all copies of this Code in his possession except the aforementioned original copy. The Clerk shall make such supplemental sheets available at a fee specified by the Village Board to all persons requesting the same.

#### **15.10 ORDINANCE VIOLATION FINE SCHEDULE.**

**Village of Elmwood Park**  
**Ordinance Violation and Fine Schedule**

<b><u>Ordinance</u></b>		<b><u>Bail Forfeitures</u></b>		
		<b><u>1st</u></b>	<b><u>2nd</u></b>	<b><u>3<sup>rd</sup></u></b>
3.03	Civilians to Assist	\$20.00	\$25.00	\$30.00
3.08(6)	Obstructing Defense Organization: Penalty	\$20.00	\$25.00	\$30.00
4.07(2)	Forfeited Penalty (Adopted by Reference)	(See Court Fine Schedule)		
5.08	Penalties (Fire Protection)	\$20.00	\$25.00	\$30.00
6.01(3)	Penalty (Street and Sidewalk)	\$35.00	\$60.00	\$85.00
6.02(2)	Penalty (Sidewalk Construction)	\$35.00	\$60.00	\$85.00
6.03(3)	Penalty (Driveways)	\$35.00	\$60.00	\$85.00
6.04(8)	Penalty (Street and Sidewalk Excavations)	\$35.00	\$60.00	\$85.00
6.05(5)	Penalty (Obstructions & Encroachments)	\$35.00	\$60.00	\$85.00
6.06(2)	Penalty (Snow and Ice Removal)	\$20.00	\$25.00	\$30.00
6.07(5)	Penalty (Tree Trimming & Sanitation)	\$35.00	\$60.00	\$85.00
6.08(2)	Penalty (Destruction of Weeds)	\$35.00	\$60.00	\$85.00
8.11	Penalties (Building Code)	\$35.00	\$60.00	\$85.00
9.12	Violation and Penalty (Land Development & Zoning)	\$35.00	\$60.00	\$85.00
10.14	Penalties (Health & Sanitation)	\$35.00	\$60.00	\$85.00
11.01(e)	Penalty (Peddlers and Canvassers)	\$35.00	\$60.00	\$85.00
11.02(3)	Penalty (Trailers, Trailer Parks)	\$35.00	\$60.00	\$85.00
12.05	Penalties (Orderly Conduct)	\$35.00	\$60.00	\$85.00
13.05	Penalty (Public Nuisance)	\$35.00	\$60.00	\$85.00

*(Amended May 11, 2006)*

### **15.11 JOINT MUNICIPAL COURT.**

There was previously created and established in and for the Village of Mt. Pleasant, a Municipal Court known as "Municipal Court for the Village of Mt. Pleasant". Since the creation of that Court, the Village of Elmwood Park and the Village of Mt. Pleasant entered into an Agreement whereby the Village of Elmwood Park Constable will enforce certain state and local laws and ordinances at certain times within the Village of Elmwood Park.

Pursuant to State Statutes and the Agreement between the Village of Elmwood Park and Village of Mt. Pleasant, there is created and established in and for the Village of Elmwood Park and Village of Mt. Pleasant a Joint Municipal Court pursuant to 755.01(4) Wis. Stats.

Pursuant to Agreement and State Statutes, the Village of Elmwood Park Constable may patrol and enforce state and local laws and ordinances within the boundaries of the Village of Elmwood Park.

The current elected Judge for the Village of Mt. Pleasant shall have jurisdiction and authority pursuant to State Statutes to enforce the state and local laws and ordinances and any infractions thereof occurring within the boundaries of the Village of Elmwood Park and all fines, forfeitures and costs shall be retained by the Village of Mt. Pleasant.

Notwithstanding the prior provisions of this Ordinance or any other Ordinance elsewhere contained in these Ordinances, the Racine County Sheriff's Department under contract with the Village of Elmwood Park, is hereby authorized to provide patrol services within the Village boundaries and is authorized to enforce any applicable Village Ordinances and issue warnings and/or citations for such violations and to file same with either the Village of Elmwood Park and Village of Mt. Pleasant and/or Joint Municipal Court or the Racine County Circuit Court as it shall deem appropriate in its sole discretions.

### **15.12 RE-ADOPTION OF MUNICIPAL CODE OF VILLAGE OF ELMWOOD PARK.**

- (1) The Village Board of the Village of Elmwood Park, Racine County, Wisconsin, does hereby adopt and readopt the Municipal Code of such Village, as of the date hereof.
- (2) All interested parties may inspect such Municipal Code of the Village of Elmwood Park in the office of the Village Clerk.
- (3) Notice of such adoption and re-adoption of the Municipal Code of the Village of Elmwood Park shall be given by the posting of this Ordinance in accordance with the law in such case made and provided.

*(Readopted and Renumbered Upon Completion of Revised Book April 13, 2000)*