

ORDINANCE NO. A2016-01

AN ORDINANCE TO AMEND CHAPTER IX, SECTION 9.08 (6) OF THE MUNICIPAL CODE OF THE VILLAGE OF ELMWOOD PARK REGULATING B-1 NEIGHBORHOOD BUSINESS DISTRICT REQUIREMENTS

The Village Board of the Village of Elmwood Park, Racine County, Wisconsin, does ordain as follows:

1. That Chapter IX, Section 9.08(6) of the Municipal Code of the Village of Elmwood Park, shall be amended to read as follows:

“(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.

- (3) New proposed accessory uses to nonconforming uses (and any prior accessory uses to a nonconforming use that have been discontinued as actively conducted uses for 12 or more consecutive months) are prohibited.
- (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 non-arterial 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 non-arterial 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 by 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 a 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).

- (d) The LP storage cages:
 - (1) Shall be in compliance with the most current edition of the National Fire Protection Association (NFPA) Standard 58 (Liquefied Petroleum Gas Code).
 - (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.
 - (5) No on-site residential uses are allowed.
 - (6) Each use, site, building and structure shall comply with all applicable performance standards set forth in State and Village Code.
 - (7) 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.
 - (8) 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.”

2. This ordinance shall take effect upon adoption and publication as provided by law.

Adopted by the Village of Elmwood Park, Racine County, Wisconsin this ____ day of November, 2016.

VILLAGE OF ELMWOOD PARK

By: _____
Ellis Steiner, President

Attest: _____
Barb Pauls, Village Clerk

10-28-16