

## **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 documentation 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 sub divider 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.
- c. Building lines.
- d. Ingress and egress.
- e. Tree plantings.

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 sub divider 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.

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 sub divider shall be required to dedicate such site on the plat. If so agreed, the sub divider may convey such site to the Village.

(2) A sub divider 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 sub divider 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 sub divider 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 documented 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 sub divider 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

(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 after 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 request to change the zoning of the plot or a partial area thereof

(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) 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.

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 hereon, 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.

(4) 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 video recordings.

(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 scrap yards.

(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) Car wash.

(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, 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).

2) In the event of any issue about whether a particular use is properly an accessory use, the Village Planning Commission by confirmation of the Village Board of Trustees shall have authority to decide. The Village Planning Commission shall make written findings such as Meeting Minutes 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 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.

(k) 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 national 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).

(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.

(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.

(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, Village Board of Trustees, 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, Village Board of Trustees, 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, Village Board of Trustees, 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 or 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.