

CHAPTER IX

LAND DEVELOPMENT AND ZONING

9.01 PURPOSE AND INTENT.

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

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

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

9.02 AUTHORITY AND JURISDICTION.

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

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

9.03 DEFINITIONS.

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

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A. Definitions

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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.

Attached Accessory Building. An accessory structure that is permanently attached to a principal structure by a solid connecting roof or wall.

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.

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.

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.

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.

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 forming 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 line and a 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.
27. Major streets and highways are those which are used primarily for fast or heavy traffic.
28. 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.
29. Minor streets are those which are used primarily for access to the abutting properties.
30. 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.
31. 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.
32. 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.
33. 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.
34. 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.
35. 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.

36. Structural Alteration. Any change in the supporting members of a structure, such as bearing walls, beams, columns, or girders is a structural alteration.
37. 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.
38. 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.
39. Professional Office. The office of a doctor, practitioner, dentist, minister, architect, professional engineer, lawyer, author, musician, or other recognized profession is a professional office.
40. 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

Provisions of Chapter 236, Wisconsin Statutes;

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;

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:

Easements or covenants running with the land.

Underground structures and utilities within the plat or adjacent thereto.

Topography of the tract with one foot vertical contours.

Ground water table and percolation tests as to those areas not served by a permanent improved municipal public sewer.

Trees of six inches or greater diameter by size and species.

(b) Proposed Items:

Easements to be dedicated according to the requirements of Section 9.04(3) and 9.05(6).

Utilities to be installed according to the requirements of Section 9.07(2)(a)(1).

Topography of the tract with one foot vertical contours designed to provide storm water drainage to public ways.

Building lines.

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 (i) 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 (ii) each resulting parcel is in compliance with the size requirements of the zoning district in which it is located, and (iii) 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:

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

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

- (i) Existing Items:
 1. Easements or covenants running with the land.
 2. Underground structures and utilities within the plat and within adjacent road rights of way.

Topography of the tract with one foot vertical contours.

Ground water table and percolation tests for those areas not served by a permanent improved municipal public sewer.

All existing structures.

(ii) Proposed Items:

Easements to be dedicated according to the requirements of this Section of the Village of Elmwood Code of Ordinances.

Placement of any proposed new structures.

Ingress and egress.

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

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

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

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.

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.

- 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.

Major: 90 feet
 Collector: 60 feet
 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:

Major and Collector: 6%
 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.

Major Streets: 300 feet
 Collector Streets: 200 feet
 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.

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.

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.

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 Slip 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:

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.

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.

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(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.

Whenever a plat is filed of a subdivision in which is located the site of a proposed park, parkway, playground or other public use, the subdivider shall be required to dedicate such site on the plat. If so agreed, the subdivider may convey such site to the Village.

A subdivider who is required to dedicate a site for public use or who deeds such site shall be compensated therefor from the Public Site Reserve Fund herein created according to the market value of the property conveyed, to the extent that such site is not necessitated primarily by his subdivision, but is of general public belief or will serve and will benefit property other than that included in the subdivision.

Where a plat is offered of a subdivision which will be served and is benefitted by a proposed public improvement for which a site has been or will be acquired pursuant to this Ordinance but such site is not located within the subdivision, the subdivider shall, prior to approval of his plat, be required to pay into the Public Site Reserve Fund a public site fee equal to his proportionate share of the cost of such acquisition.

The market value of the property conveyed and the proportion of the cost of acquisition to be borne by each subdivider shall be determined by the Plan Commission at the time application for approval of a plat is made. Any such determination may be appealed to the Village Board whose decision shall be conclusive.

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

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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.

The subdivision shall be monumented as required by Section 236.15 of the Wisconsin Statutes.

Streets, Utilities and Improvements.

- (a) Before the final plat of a subdivision located within the corporate limits will be approved, the subdivider shall provide the following facilities, give satisfactory proof that he has contracted to install such facilities, or file a performance bond insuring that such facilities will be installed within the time required by the Village Board:

Water and sanitary sewer mains and laterals to the lot line, where connection to existing or proposed systems can be designated.

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.

Adequate facilities and grading as shown on the plat according to Section 9.04(2)(b)(3) to provide surface water drainage.

Planting as shown on the plat according to Section 9.04(2)(b)(5).

- (b) The adequacy of such facilities shall be subject to approval of the Village Board.

9.08 DISTRICT ESTABLISHMENT, USE AND REGULATION.

(1) District Establishment.

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

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

(Amended December 13, 1990).

-90-Boundaries of these districts are hereby established as shown on map entitled "Zoning Map, Village of Elmwood Park, Wisconsin" which accompanies and is part of this Ordinance.

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.

Annexations to or consolidations with the Village subsequent to the effective date of this Ordinance shall be placed in R-1 Single Family Residential District until

definite boundaries and regulations are adopted by the Village Board.

(2) General Provisions

(a) Permits Required.

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

Any new structure

- (ii) Any alteration or change to an existing structure that changes the exterior dimensions of the structure.
- (iii) Any modification or change to the interior of an existing structure for any home occupation.

(b) Application Requirements.

- (i) 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.
- (ii) 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.
- (iii) 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

- (i) 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.

(ii) 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.

(i) The application shall be consistent with the purpose and intent Section 9.01 of this ordinance.

(ii) The proposed structure or use in its proposed location will not have adverse impacts on any of the following:

Light, air, views, privacy, drainage or similar aspects that would restrict, limit or deny the ability of adjacent lot owner to enjoy their property,

the character of the neighborhood,

natural resources,

infrastructure, or

any other matters affecting the public health, safety, or general welfare.

(3). Accessory Structures

(a) General Standards for Accessory Structures

(i) No person shall erect or construct an accessory structure on any lot within the Village of Elmwood Park without having first filed an application in accordance with 9.08 (2)(b) of this Ordinance, obtained approval from the Plan Commission, and secured the proper permits for construction from the Village.

(ii) Nonconforming accessory structures that were constructed prior to the adoption of this Ordinance and fail to comply with the terms and requirements of this Ordinance may continue to exist subject to the following conditions:

1. Normal maintenance practices shall be permitted when such practices will keep the accessory structure in a safe, structurally sound, and in an aesthetically appealing condition.
2. Except as otherwise provided by this ordinance, upon the destruction, removal or deterioration of a nonconforming accessory structure beyond 50% of its replacement cost, said structure shall not be constructed or reconstructed unless it complies with the provisions of this Ordinance.
3. Plan Commission Review Standards. The Plan Commission shall review applications for accessory structures in accordance with Section 9.08 (2)(d) of this Ordinance. As part of the Commission's approval, the Commission may impose restrictions on height, length, setback, materials, foundation, landscaping and color provided such restrictions are not in conflict with any provision of this Ordinance that is prohibited.

(b) Fences and Walls:

- (i) Materials. Fences shall be constructed of wood or wood products provided such products present a natural appearance. Walls shall be constructed of brick, masonry, architectural stone or similar materials. In the R-1 District, chain link style or wrought iron fences may be permitted in the side or rear yards when the fence is consistent with an existing fence on an adjacent property or for security purposes for a swimming pool. In the B-1 and P-1 Districts, chain link style or wrought iron fences may be permitted in all yards.
- (ii) Prohibited Fences. No fence shall be constructed to provide an electrical shock, barbed wire, agricultural fences, snow fences, construction fences or chain link fences with inserts or similar materials shall be permitted. No fence shall have sharp edges or pointed pickets that could be dangerous to personal safety. No fence, wall or hedge shall be constructed or installed in the vision triangle specified in Section 9.09 (1) of this Ordinance.
- (iii) Exempt Fences The following fences may be constructed in all districts and do not require a building permit or approval from the Plan Commission.
 1. Underground fences for confinement of domestic animals.
 2. Ornamental fences when less than 2.5 feet in height.
 3. Temporary construction and/or erosion control fencing when used in conjunction with a building project.

(iv) Location

1. Unless otherwise restricted in this Ordinance, fences or walls may be located on a lot line provided the owner has knowledge of the location and extent of their property line where the fence or wall will be constructed. By approving a fence or wall application, the Village assumes no responsibility for knowing the location of the owner's lot dimensions or knowledge of the property boundaries. This responsibility is placed solely on the owner of the property.
2. Within all zoning districts, fence posts, supporting framework and walls shall be located on the interior side of the lot facing the property being enclosed. The "finished" side of a fence shall face the neighboring or adjacent property.
3. Street Yards
 - a. In the R-1 Single Family Residential District, on an interior lot, no fence or wall shall extend from the rear of the existing residence toward the street right-of-way line.
 - b. On corner lots, a fence shall not extend beyond the exterior limits of the principal structure toward the street right-of-way line unless approved by the Plan Commission as part of the application for site plan approval. On corner lots, any fence that is approved to extend into a street yard shall not be less than 75% open to light and shall incorporate landscaping on the side of the fence facing the street. Walls shall not be permitted to extend into any street yard on corner lots in the R-1 District.
 - c. In the B-1 and P-1 Districts, fences may extend into a street yard provided the fence is over 75% open to light and landscaping is incorporated on the side of the fence facing the street. Walls shall not be permitted within a street yard of a B-1 or P-1 Districts unless the wall is to serve as a buffer against a residential use or district. In this instance, an adequate landscape buffer placed adjacent to the residential property shall be incorporated in the design of the wall to soften the impact on the neighboring property. Unless approved by the Plan Commission, a fence or wall shall not be constructed parallel with the front lot line adjacent to a street.
4. Side and Rear Yards In all districts, fences or walls may extend into the side or rear yard provided all other locational requirements of this ordinance are met and the application meets the requirements of Section 9.08(2)(d) of this Ordinance.
4. Alleys For lots adjacent to an alley, fences or walls may be constructed not closer than 2 feet from the right-of-way of an alley to permit the ease of snow removal and maneuvering of vehicles.

(v). Height

In the R-1 District fences or walls shall not exceed the height of 4 feet within the side and rear yards unless adjacent to a nonresidential use or district, an alley, in association with a swimming pool or where topographic conditions limit the effectiveness of the fence. At that time, the height of the fence or wall shall not exceed the height of 6 feet.

2. In the B-1 and P-1 Districts, fences shall not exceed the height of 6 feet in any yard unless associated with a recreational use or for security purposes and 75% open to the air. In these instances, the fences shall not exceed the height of 10 feet. Walls shall not exceed the height of 6 feet in any yard.
3. When approved by the Plan Commission, on corner lots, fences located in the street yard shall not exceed the height of 4 feet and shall incorporate landscaping on the side of the fence adjacent to the street right-of-way.

(c) **Detached Accessory Structures and Buildings**

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

(i) **Limitation on Number of Accessory Buildings**

With the exception of a permanent pool, there shall be no more than one detached garage and one shed permitted on any zoning lot.

(ii) **Shed Standards**

1. Area: Sheds shall not exceed 120 square feet in area.
2. Location: Sheds shall be located in the rear yard of the principal structure, and shall be located in a manner that they are not visible from a street. On corner or double-frontage lots, the structure may be visible from one of the streets, however; landscaping shall be incorporated in the site plan to buffer the structure from the street.

Setbacks: The minimum setback requirements for sheds shall be as follows:

Front Lot Line: 35 feet; 60 feet along Taylor Avenue

Side Lot Line: 10 feet

Rear Lot Line: 10 feet

4. Material and Design Standards: All applications for sheds shall not be approved unless the applicant can demonstrate that the following material and design standards have been met.

- a. Foundation: All sheds shall be constructed on a concrete slab foundation or a concrete footing approved by the building inspector. If footings are used, the floor shall consist of landscape brick pavers on a base that has been prepared in accordance with landscape industry standards. Patio blocks or similar cement-based products shall not be permitted unless approved by the Plan Commission. No shed shall be constructed on a wood, dirt or aggregate floor.
 - b. Architectural Design and Surface Materials: Sheds shall be constructed of wood frame construction and shall closely match the color, exterior surface, roof material and roof pitch of the principal structure. If the principal structure is made of brick, the shed may be constructed of beveled cedar siding, cement board installed so that it closely approximates beveled siding, aluminum or vinyl siding . Preconstructed plastic resin, steel, aluminum and/or tin frame sheds shall not be permitted.
 - c. Wall Height and Door Width: The side wall height of a shed shall not exceed 6.5 feet. The width of the entry door shall not exceed 6 feet.
 - d. Electrical Connection: A shed may be served by electricity provided permits have been obtained and the connection approved by the electrical inspector.
5. All applications for sheds shall include landscape plans for all sides that may be visible to adjacent properties and rights-of-way. Instances where existing plant material exists on the property for which approval is sought, the existing plant material may be used to meet the landscape requirement provided that the quantity or condition of the material will not be negatively impacted by the construction of the shed.
 6. All applications for a shed shall be accompanied by the names and addresses of the adjacent and abutting property owners so they may be given proper notice prior to the Plan Commission taking action on the application.
- (iii) **Detached Garages:** Applications for detached garages that were legally established but fail to comply with the standards of this ordinance may be considered for reconstruction if destroyed over 50% of their replacement value provided the following standards are met.
1. The detached garage does not exceed the limitation on the number of accessory buildings stated in Section 9.08 (3)(c)(i) of this Ordinance.
 2. Area: the garage shall not exceed 576 square feet in area. When there exists a shed on the property for which an application is to be considered, the total area of all accessory structures shall not exceed 700 square feet.
 3. Location: detached garages may be constructed in the previous location with the approval of the Plan Commission provided the applicant can

demonstrate that the previous location is the optimal location on the property and relocation of the garage to meet the standards of this section would create unusual conditions, an unnecessary hardship, or would impact their use of their property if the applicant was required to comply with the setback requirements of this ordinance. When in the opinion of the Plan Commission, these conditions are not created; the following minimum setback requirements shall be met.

Setbacks:

Front Lot Line: 35 feet; 60 feet along Taylor Avenue

Side Lot Line: 10 feet

Rear Lot Line: 25 feet

4. Material and Design Standards: All applications for detached garages shall not be approved unless the applicant can demonstrate that the following material and design standards have been met.
 - a. Foundation: All detached garages shall be constructed on a concrete slab foundation approved by the building inspector.
 - b. Architectural Design and Surface Materials: Detached garages shall be constructed of wood frame construction and shall closely match the exterior surface, roof material and roof pitch of the principal structure. If the principal structure is made of brick, the garage shall be constructed of beveled cedar siding, cement board installed so that it closely approximates beveled siding, or aluminum or vinyl siding .
 - c. Electrical Connection: A detached garage may be served by electricity provided permits have been obtained and the connection approved by the electrical inspector.

(iv) **Private Swimming Pools**

(1) Definition. A swimming pool within the meaning of this Ordinance shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground in which water of more than 18 inches in depth is contained and which is used primarily for the purpose of bathing or swimming.

Location. No swimming pool including accessory equipment, such as, decks, pumps and filters shall be erected to the front of the residence of the owner or occupant of premises connected therewith; in the case of lots bordered on two sides by public streets, no swimming pool including accessory equipment, such as, decks, pumps and filters may be erected in the area between the setback lines of the principal building and the street right-of-way line; and in no case less than five feet from any lot line or building wall.

Age of Children. A child of tender years, within the meaning of this Ordinance, shall be any child who has not attained the age of eight years.

Protective Devices. Every property owner, every member of a partnership and every corporation that owns, directly or indirectly, or operates or uses or has custody or control of or has the right to use any swimming pool located in the Village of Elmwood Park shall erect and maintain a fence or suitable barrier around such swimming pool of not less than five feet, nor more than six feet in height and of such construction as to safeguard a child of tender years to prevent such child from falling into such swimming pool, or shall install and maintain a cover or other protective device over such swimming pool of such design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or other protective device shall be securely fastened at all times when the swimming pool is not in actual use for bathing or swimming purposes.

Drainage. No private swimming pool shall be constructed so as to allow water to drain into any sanitary sewer nor to overflow upon or cause damage to any adjoining property. Provision may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval of the Building and Health Inspector.

Filtration System. All private swimming pools within the meaning of this Ordinance must have in connection therewith some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

Inspection. All installations of swimming pools, drains or other equipment made under the provision of this Ordinance shall be subject to periodic inspection by the Building and Health Inspector of the Village of Elmwood Park.

Finish. All swimming pools of a permanent type shall have the sides and bottom of a smooth finish and no sand or dirt bottom shall be permitted.

Fencing. All swimming pools existing at the time of passage of this Ordinance not satisfactorily fenced shall comply with the terms of this Ordinance within forty-five (45) days after its passage and posting.

Penalty. Any person or persons violating the provisions of this Ordinance shall upon conviction thereof, be assessed a forfeiture of not less than \$1.00 nor more than \$200.00 together with the cost of prosecution.

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

(a) Use. No building or premises shall be used and no building shall be erected, moved or structurally altered within this district except for one or more of the following uses:

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Permanent one-family dwellings with attached accessory buildings. Unattached accessory

buildings shall not be permitted.

Temporary sheds for construction and similar purposes.

Truck gardening and greenhouses operated as a hobby.

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.

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.

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.

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.

One Floor residences erected in the Village shall have a minimum living space area of 1500 square feet.

Two Story residences shall have a minimum living space of 1850 square feet with not less than 1000 square feet on the ground floor.

Split Level residences shall have a minimum living space of 2000 square feet.

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

(Amended June 8, 1989).

3. Building Lines and Yards.

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

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

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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.

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.

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.

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.

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.

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:

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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.

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) 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:

Retail establishments selling and storing new merchandise; bakeries, barber shop, beauty shop, business and professional offices, clothing stores, drug stores, florists, gift stores, pick-up laundry and dry cleaning establishments and supermarkets.

All uses included in the provisions of R-1 single-family residential districts.

- (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. Building Height. No building shall be more than two stories, with a maximum height of thirty-five feet.

- (c) Permitted Accessory Uses. The following subject to approval by the Plan Commission and the Village Board of building, site and operational plans:

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Off street parking.

Commercial offices and studios.

Signs.

Any other structure or use normally incident or accessory to a permitted use.

(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:
Front 50 feet
Rear 40 feet
Side (from any lands presently zoned
B-1 Neighborhood Business District) 30 feet 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:

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.

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.

(in) 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:

An accurate map of the project area including its relationship to surrounding properties.

The pattern of public and private roads, driveways and parking facilities and intended design standards.

(ill) The size, arrangement and located of lots of proposed building groups.

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The location of open space areas.

The type, size and location of structures.

General landscape treatment.

Architectural drawings and sketches illustrating the design and character of proposed structures.

The location of sanitary sewer and water facilities.

Existing topography and storm drainage pattern and proposed storm drainage system, if any, showing basic topographic changes.

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.

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.

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.

The Plan Commission in making its recommendations and the Village Board in making its determination, shall give consideration and satisfy themselves:

- (1) That such development will create an attractive residential environment of sustained desirability and economic stability,

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including structures in relation to terrain, consideration of safe pedestrian flow, and coordination with the overall plans for the neighborhood.

That the population composition of the development will not result in adverse effect upon the capacity to provide necessary municipal service facilities.

The Village Board after due consideration may deny the petition as submitted, approve the petition, or approve the petition subject to additional conditions.

After approval, any subsequent change or addition to the plans or use shall first be submitted for approval to the Plan Commission, and if in the opinion of the Plan Commission, such change or alteration constitutes a substantial alteration of the original plan, a public hearing before the Village Board shall be required and notice thereof be given pursuant to law.

(Created December 13, 1990).

(8) Conditional Uses.

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.

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.

Public, parochial and private elementary and secondary schools and churches.

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.

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0-9.09 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 liens, 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:

Single-family dwellings shall have garage, driveway or parking space to accommodate two automobiles.

B-1 Neighborhood Business District use shall have one stall for each 15 square feet of floor area.

Churches, community centers and other places of public assembly shall have one stall for each five seats.

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:

Width shall be at least ten feet wide for one-family dwellings and a minimum of twenty-four feet for all other uses.

Islands between driveway openings shall be at least twelve feet between driveways and six feet at all lot lines.

Openings for vehicular ingress and egress shall not exceed thirty feet at the roadway or curb line.

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(5) Access. No direct private access shall be permitted to existing or proposed rights-of-way of the following:

Major streets intersecting another major street within eighty feet of the intersection of the right-of-way lines.

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.

Hardship Variance. The Village Board shall have power to authorize upon appeal after a public hearing in specific cases, such variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, or because the subdivision is located outside the corporate limits of the Village, and so that the spirit of this Ordinance shall be observed as substantial justice done, the Plan Commission or Village Board may attach reasonable conditions to the grant of

variances, and provided further that the Plan Commission or the Village Board shall have no power to grant variances which will result in making less restrictive the requirements of Chapter 236 of the Wisconsin Statutes of 1965.

Method of Appeal. Any person aggrieved or any officer, department, board or commission of the Village affected by any decision of the Building Inspector or Plan Commission under this Chapter may appeal to the Village Board by filing a notice of appeal with the Plan Commission, and with the Board, specifying the grounds of appeal within thirty (30) days after the decision or action complained of.

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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.

