

# **CHAPTER XVI**

## **ZONING ORDINANCE**

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## **CHAPTER 16**

### **16.01 AUTHORITY**

This Chapter is adopted under the authority granted by Sections 62.23 (7), 62.231, 62.2345, 87.30 and 144.26 of the Wisconsin Statutes and amendments thereto.

### **16.02 TITLE**

This Chapter shall be known and may be cited as the “Zoning Ordinance of the Village of Elkhart Lake, Wisconsin” and is hereinafter referred to as the “Zoning Ordinance” or “Zoning Chapter.”

### **16.03 PURPOSE**

The provisions of this Chapter shall be held to the minimum requirements adopted to promote the health, safety, morals, comfort, prosperity, aesthetics and general welfare of the Village.

### **16.04 INTENT**

It is the general intent of this Zoning Ordinance to regulate and restrict the use of all structures, lands, and waters with a view to conserving the value of buildings and encouraging the most appropriate use of land. Such regulations shall be designed to regulate lot coverage, size, and location; population density and distribution; parking, loading, and access and uses of land, structures, and water in order to:

- (1) Assure the wise use, conservation, protection and property development of the Village’s resources;
- (2) Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (3) Regulate and restrict the use of all structures, land and waters;
- (4) Regulate and restrict lot coverage;
- (5) Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and to promote the orderly and beneficial development thereof;
- (6) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (7) Provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (8) Prevent and eliminate overcrowding of land and undue concentration of population;
- (9) Provide adequate sunlight and air;

- (10) Facilitate the adequate provision of housing, transportation, water, sewerage, drainage, schools, parks, playgrounds, and other public services;
- (11) Lessen congestion in the streets and promote safe and efficient use of streets and highways;
- (12) Secure safety from fire, panic, flooding, pollution, contamination, diseases and other hazards;
- (13) Stabilize and protect property values;
- (14) Preserve the natural cover and promote the beauty of the Village of Elkhart Lake;
- (15) Provide for a variety of suitable commercial and industrial sites;
- (16) Prevent and control erosion, sedimentation, and pollution of the surface and subsurface waters;
- (17) Prevent flood damage to persons and property and minimize the costs of flood relief and flood control projects;
- (18) Restrict building sites on floodlands, on lands with excessive slopes and other areas poorly suited for development;
- (19) Facilitate adequate provision of public facilities and utilities;
- (20) Aid in the implementation of municipal, county, watershed, and regional comprehensive plans, or components of such plans, and official maps adopted by the Village of Elkhart Lake;
- (21) Maintain safe and healthful water conditions;
- (22) Provide for the administration and enforcement of this Chapter and provide penalties for the violation of this Chapter.

#### **16.05 ADMINISTRATION STANDARDS**

This Chapter shall be considered minimum requirements adopted for the purposes set forth above. Whenever in the course of administration and enforcement of this Chapter it is necessary or desirable to make any administrative decision, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Chapter or injurious to the surrounding neighborhood, unless other standards are expressly provided in this Ordinance.

#### **16.06 APPLICATION**

No structure shall be constructed, erected, placed, or maintained and no land or water use commenced or continued within the Village of Elkhart Lake, except as specifically or by necessary implication, authorized by this Chapter.

#### **16.07 ABROGATION AND GREATER RESTRICTIONS**

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

## **16.08 INTERPRETATION**

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

## **16.09 SEVERABILITY AND NONLIABILITY**

(1) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby;

(2) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgement shall not be applicable to any other structure, land or water not specifically included in said judgement;

(3) This section does not imply and the Village does not guarantee that areas outside of the delineated floodplain or land uses permitted within the floodplain will be totally free from flooding and associated flood damages. Nor shall this section create a liability on the part of or a cause of action against the Village or any officer or employee thereof for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

## **16.10 MUNICIPAL AND STATE AGENCIES REGULATED**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Chapter and obtain all required permits. State agencies are required to comply if Sec. 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when Sec.30.12 (4)(a) of the Wisconsin Statutes applies.

## **16.11 REPEAL**

All other ordinances or parts of ordinances of the Village of Elkhart Lake inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, are hereby repealed.

## **16.12 – 16.14 RESERVED FOR FUTURE USE**

## **16.15 DEFINITIONS**

(1) General. For the purpose of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense in this Chapter include the future. The word “person” includes a firm, association, partnership, trust, company, or corporation as well as an individual. The

word “shall” is mandatory; the word “should” is advisory’ and the word “may” is permissive. Any words not defined in this Section shall be presumed to have their customary dictionary definitions.

(2) Specific Words and Phrases.

Abutting. Have a common property line or district line.

Accessory Structure/Building. A detached structure subordinate to the principal use of a parcel serving a purpose customarily incidental to the principal use of the principal structure. Accessory structures do not include pole buildings or prefabricated metal buildings in excess of one hundred (100) square feet with an eave height not to exceed eight (8) feet

Accessory Use. A use subordinate in nature, extent or purpose to the principal use of the building or lot.

Agriculture. Land, including necessary buildings and structures, which shall be used for agriculture including, but not limited to, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry, as well as the necessary accessory uses; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities, and provided further, that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

Alley Public. A special public right-of-way affording only secondary access to abutting properties.

Alteration. A change or rearrangement in the structural parts of a structure, an enlargement of a structure, whether by extending on the side or by increasing the height or the movement of a structure from one location to another.

Area, Land. The term “land area”, when referring to a required area per dwelling unit, means “net land area”, the area exclusive of public rights-of-way and other public open space.

Arterial Street. (See Street, Arterial)

Assembly. When used in describing an industrial or manufacturing operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding, or other similar technique. Assembly shall not include the construction, stamping, or reshaping of any of the component parts.

Automotive Service Station. A building, or portion of, or premises used for dispensing or offering for sale, at retail, gasoline when stored only in underground tanks, kerosene, lubricating oil or grease for operation of motor vehicles and where tires, batteries and similar automobile accessories may be offered for sale on the premises at retail; including minor services and installations customarily

incidental thereto; and facilities, other than automobile laundry, for washing cars, only if enclosed in a building. Automobile service stations do not include open sales lots or a public garage as defined herein.

Automotive Wrecking Yard. An area of land where 3 or more motor vehicles or vehicles, machinery or equipment drawn or operated by attaching to motor vehicles or mechanical unit, not in or being restored to running or operable condition or parts thereof, are stored in the open and any land, building or structure used for wrecking or storing prior to wrecking of such motor vehicles, vehicles, machinery or equipment or parts thereof.

Awning. A roof-like mechanism, retractable in operation, which projects from the wall of a building. (Also See Canopy)

Balcony. A balustraded or raised and railed platform without a roof which projects from the wall of a building and is supported solely by the wall of the building

Basement. That portion of any structure located partly below the average adjoining lot grade.

Bed and Breakfast. An establishment licensed by the Wisconsin Department of Health and Social Services as a bed and breakfast establishment and is any place of lodging that provides 8 or fewer rooms for rent to tourists or other transients, is the owner's principal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

Block. A tract of land bounded by a street or streets and any combination of boundary lines of public or institutionally owned lands, railroad rights-of-way, rivers and lakes and other lines of demarcation. A block may be located in part within the adjoining unincorporated area.

Boarding /Rooming House. A building other than a hotel or restaurant where meals or lodging regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding ten (10) persons and not open to transient customers.

Board of Appeals. (See Wisconsin State Statute 62.23(7)(e))

Borrow Pit. A place or premises where soil, peat, sand, gravel or other material is removed by excavation or otherwise, for any purpose other than that necessary and incidental to grading or to building construction or operation on the premises.

Buildable Lot Area. The portion of a lot remaining after required yards have been provided.

Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment,

machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

Building Area. The area bounded by the exterior dimensions of the outer walls at the ground line.

Building, Detached. A building surrounded by open space on the same lot.

Building Height. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure, or along a line parallel to and not more than three (3) feet from the street yard face of the structure to the highest point of the roof.

Building Inspector. The Building Inspector of the Village and such deputies and assistants as have been or shall be appointed by the Board of Trustees (See Chapter 41.04)

Building Line. (See Setback)

Building, Principal. A building in which the principal use of the lot on which it is located is conducted.

Building, Temporary. Any portable structure which can be readily moved.

Bulk. The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another and includes the following:

- a. Size and height of buildings.
- b. Location of exterior walls at all levels in relation to lot lines, streets or to other buildings.
- c. Gross floor area of buildings in relation to lot area (floor area ration).
- d. All open spaces allocated to buildings.
- e. Amount of lot area and lot width provided per dwelling unit.

Business. Any occupation, employment or enterprise which occupies time, attention labor and materials or wherein merchandise is exhibited or sold, or where services are offered for compensation other than home occupations.

Canopy. A rigid structure attached to and extending outward from a building, designed to protect the building and/or people under the canopy from the sun, rain or snow. Such structure shall not interfere with public rights-of-way or walks.

Carport. A structure having roof, with or without supporting walls, posts or columns, used, designed or intended to be used for the protection or shelter of private motor

vehicles. For the purpose of this chapter, a carport shall be considered to be the equivalent of a garage.

Car Wash. Any facility used for the washing of vehicles requiring the installation of special equipment or machinery and plumbing.

Cellar. See Basement

Channel. Those floodlands normally occupied by a stream of water under average annual high water flow conditions while confined within generally well-established banks.

Clinic. An office or group of offices for one or more health care professionals engaged in the treatment of persons.

Club or Lodge. A building or portion thereof or premises owned by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as business.

Common Open Space. A parcel or parcels of land or an area of water or combination of land and water designated and intended for either the recreational use and enjoyment of residents of the development for which it was established and for the general public, or for the exclusive recreational use and enjoyment of residents of the development from which it was established. No yard required in connection with any principal use or structure shall be designated or intended for use as common open space.

Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including Sections 46.03(22), 69.97(15), 62.23(7)(I) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

Comprehensive Plan. A document or series of documents prepared by the Planning Commission and duly adopted by said Commission setting forth policies for the future development or redevelopment of the Village of Elkhart Lake pursuant to Chapter 62.23 of the Wisconsin Statutes.

Conditional Use. A use of land, water or building which is allowable only after the issuance of a special permit by the Village Board under conditions specified in this Chapter.

Condominium. A building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all owners on a proportional, undivided basis. It is a legal form of ownership of real estate and not a specific building type or style.

Conforming Use. Any use of a building or premises which upon the effective date of this Chapter complies with all of the applicable use regulations of the zoning district in which such building or premises is located.

Contiguous. In actual contact.

Corner Lot. A lot abutting two (2) or more streets at their intersection, provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.

Curb Level. The level of the established curb in front of a building or structure measured at the center of such front. Where no curb level has been established, it shall be deemed to be the established level of the center line of the street surface in front of a building or structure, measured at the center line of such front. The Building Inspector may designate the curb level as the average elevation of the finished ground grades immediately adjacent to the building walls in locations of unusual topographic conditions.

Day Care Center. An establishment providing care and supervision for four (4) or more persons under the age of seven (7) and licensed by the State of Wisconsin pursuant to Sec. 48.65 of the Wisconsin Statutes.

Deck. A patio which has been raised above ground level.

Density. The area required for a residence divided into an acre [forty-three thousand five hundred sixty (43,560) square feet]. The result is expressed as “dwelling units per acre.”

Density, Gross. The net area devoted to the residential use plus the proportionate area devoted to all supporting land uses, including streets, public lands or unusable lands, school sites, and commercial sites in a given property location are the “Gross area, used in computing “gross density.”

Density, Net. The actual sites devoted to the residential use and consists of the ground floor area of the building plans, the required yards, and open space is the “net area,” used for computing “net density.”

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, construction of or additions or substantial improvements to buildings, other structures or accessory uses, mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations and deposition of materials.

District. A section or part of the incorporated or unincorporated portion of the Village for which the use regulations are uniform.

District, Overlay. Overlay districts allow for superimposing certain additional requirements or uses upon a basic zoning district which are compatible with the basic district. If there are conflicting requirements, those which are stricter shall apply.

Drain. A surface ditch or underground tile line constructed for the purpose of conducting water or lowering the water table.

Drainage Basin. A geographic area, the general configuration of which causes surface waters to flow in a specified direction; the area contained by a naturally defined watershed, draining all surface waters thereof.

Drainageway. Any natural or artificial watercourse including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, streams, waterways, ravines or washes, in which waters flow in a definite direction or course either continuously or intermittently and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

Drive-in Establishment. A business activity which accommodates on the lot its patron's automobiles from which the occupants may watch, purchase or be served.

Driveway. Any vehicular access area which is neither a dedicated public alley nor a public street right-of-way.

Driveway Approach. That portion of a public street right-of-way lying between the street paving and its right-of-way line and allowing for vehicular access to abutting driveways or property.

Dwelling. A (one) building or portion thereof designed, used or intended to be used exclusively for residential purposes, including efficiency, duplex, one-family, two-family, multiple family, manufactured homes, and town house dwelling units but not including trailers or lodging rooms in hotels, motels, or lodging houses.

Dwelling Unit. One or more rooms, located in a dwelling, which are arranged, used or designed to be used as living quarters for one family only. A dwelling unit shall include an independent entrance and individual bathroom and kitchen facilities permanently installed to serve only the family occupying such unit.

Dwelling, Single-Family. A detached building designed for or occupied exclusively by one (1) family.

Dwelling, Two-Family. A dwelling containing two (2) separate living units, each unit being designed for exclusive use of one (1) family.

Dwelling, Multiple Family. A dwelling designed for occupancy by three (3) or more families, with each family occupying a separate living unit.

Essential Services. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch

basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

Exception. The use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, otherwise not allowable under the terms of this chapter, which is permissible by reason of special provisions of this chapter, or for which a special permit may be issued by the Plan Commission under conditions specified in this chapter.

Family. The body of persons, not exceeding four (4) unrelated persons, who live together in one (1) dwelling unit as a single housekeeping entity.

Farm. Land on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.

Farming. Farming shall include floriculture, forest and game management, orchards, raising of grain, grass, mint and seed crops. Farming includes the operating of such an area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.

Fence. See Section 16.91

Flood. A temporary rise in stream flow or stage in lake level that results in water overtopping the banks and inundating areas adjacent to the stream, channel or lake bed.

Floodlands. For the purpose of this Chapter, the floodlands are all lands contained in the “regional flood” or 100 year recurrence interval flood. For the purposes of this zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district, and the floodplain fringe overlay district.

Floor Area – Business, Manufacturing and Institutional Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

Floor Area/Floor Space. The sum of the gross horizontal areas of all floors measured in square feet, not including basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area of a building included elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment – open or closed – located on a roof or in a basement), penthouses, attic space having headroom of seven (7) feet, ten (10) inches or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses.

Frontage. All of the property abutting on one (1) side of a street measured along the street line.

Garden. Growing of fruit, vegetables and flowers which are not to be sold commercially.

Garage – Private, Attached. A large enclosed space that is typically used for the storage of personal property, including motor vehicles. The space must open directly onto the rest of the dwelling, while being connected by a common wall. An attached garage constitutes part of a principal building and cannot exceed the height of the principal structure or thirty-five (35) feet, whichever is less.

Garage – Private, Detached. An accessory building or space for the storage only of personal property, including motor vehicles. No business or commercial use shall be permitted.

Garage – Public or Commercial. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles, snowmobiles, or other self-propelled vehicles for hire.

Garage, Storage. A building or portion thereof designed or used exclusively for storage of personal property, and in which motor fuels and oils are not sold or stored, and motor vehicles are not equipped, repaired, hired or sold.

Gasoline Service Station. A place where kerosene, gasoline or any other automobile engine fuel or lubricating oil or grease for operating motor vehicles is sold directly to the public on the premises and including facilities for greasing, oiling, washing, and minor vehicle repair, but not including automatic car washing, body repair facilities or storage of vehicles for scrap, spare parts, or repair.

Gasoline Station. Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle propellants and oil and other lubricating substances; sale of motor vehicle accessories; and which may included facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.

Gazebo. A structure used for the outdoor enjoyment of a property that is accessory to the principal use.

Gift Stores. Retail stores where items such as art, antiques, jewelry, books and notions are sold.

Golf Course. Public, semipublic or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto.

Grade. When used as a reference point in measuring the height of a building, the "grade" shall be the average level of the finished ground surface adjacent to the exterior walls of the building or structure.

Grooming Shop. A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed, except that no animals shall be kept, boarded, etc. overnight.

Ground Floor Area. The area of the lot covered by a building, measured from the exterior faces of the exterior walls of the building but excluding open porches, terraces, patios, garages or carports.

Group Developments. A group development is any development containing: a. Two or more structures containing principal land uses on the same lot; b. Any single structure on a single lot which contains 5 or more dwelling units or 2 or more non-residential uses; and/or; c. Any single structure devoted to institutional, office or commercial land uses containing more than 5,000 gross square feet of floor area.

Common examples of group developments include 6-unit apartment buildings, apartment complexes, condominium complexes, strip centers, shopping centers, and office centers. (One tenant office or commercial buildings containing less than 5,000 square feet of gross floor area, a single 4-unit apartment building, and other land uses in which each non-residential building contains only one tenant, or where the lot contains only one structure.)

Gross Density. The ratio between total number of dwelling units on a lot and total lot area in acres, the area to include all the land within the lot boundaries including any private roads, recreation areas and drainage ways.

Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.

Guest House. A detached accessory building located on the same lot as the principal building and containing living quarters for temporary guests.

Hardware Stores. Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold and rental equipment as offered.

Highwater Mark, Ordinary. The mark left by water at its highest level.

Home Occupation. An accessory use of a dwelling unit for gainful employment meeting the applicable requirements of this Chapter involving the manufacture, provision or sale of goods and/or services that is clearly secondary to the residential use and does not change the character of the structure as a residence and meets all the applicable limitations of this Chapter.

Hotel. A multiple story establishment containing lodging room, for occupancy by transient guests, which provides customary hotel services and usually contains meeting rooms, dining facilities and small retail shops.

Hotel, Condominium. A single or multiple story establishment operating as a hotel which has condominium units which allow someone to own a full-service vacation home. When the owner is not using their unit, the hotel will rent and manage the condo unit as it would any other hotel room.

Incompatible Use. A use of service which is incapable of direct association with certain other uses because it is contradictory, incongruous or discordant.

Industrial Park. A unified development designed to accommodate a community of compatible and non-nuisance types of industry. Industrial parks may be promoted or sponsored by private developers, community organizations or government organizations.

Institution. A building occupied by a nonprofit corporation or a nonprofit establishment for public use or semi-public use.

Junk. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

Junk or Salvage Yard. An area consisting of buildings, structures, or premises where junk waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking, and structural steel material and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

Kennel. Any premises or portion thereof on which 3 or more dogs, cats other household domestic animals over 4 months of age are maintained, boarded, bred or cared for in return for remuneration or are kept for the purpose of sale.

Laboratory: See Research Laboratory.

Lagoon. A water body in a depression back of an offshore bar, a beach ridge or shore dune, with these geomorphic features, either natural or manmade, acting as barriers or dams. Also a shallow pond, channel or impoundment connected to a larger body of water.

Lagooning. The act of creating a lagoon.

Landfill. The placing and compacting of dirt and rubble in any area that requires filling so as to be usable for a permitted land activity. A special permit for a landfill operation must be obtained from the Village Board. The normal placement and grading of fill around the foundation of a structure or placement of less than one foot of topsoil for lawns and landscaping areas around a structure is not considered to be landfill as used in this Ordinance.

Landowner. Any person holding title to land.

Landscaping. Living material, such as grass, groundcover, flowers, shrubs, vines, hedges, and trees; and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls, and fences, but not including paving.

Land Use, Agricultural. The use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

Land Use, Commercial. The use of land for retail or wholesale sale of goods or services.

Land User. Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes the use of his or her land.

Loading Area/Dock. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Lodging House. – See Boarding House

Lodging Room. A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms, each room shall be counted as one lodging room.

Lot. A parcel of land whether legally described or subdivided as one or more lots or parts of lots, having frontage on a public street or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter.

Lot Area. The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.

Lot, Corner. A lot situated at the intersection of two (2) streets.

Lot Area Coverage. The area of a lot covered by permanent structures and impervious surfaces such as driveways.

Lot Depth. The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines.

Lot Line. Legally established lines dividing one (1) lot, plot of land or parcel of land from an adjoining lot or plot of land or parcel of land as defined herein.

Lot Line, Front. That boundary line of a lot which is along an existing or dedicated street or public way. The front lot line of a corner lot shall be the street lot line parallel to the face of the structure containing the main entrance.

Lot Line, Rear. That boundary line of a lot which is most distant from and is, or is approximately, parallel to the front lot line. If the rear lot line is less than 10' in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a

line 10' in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Street. A boundary line of a lot which is along an existing or dedicated street or public way.

Lot of Record. A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Sheboygan County Register of Deeds and which exists as described therein.

Lot, Substandard. A parcel of record at the time of adoption of this chapter having frontage on a public street, occupied or intended to be occupied by a principal building or structure together with accessory building and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Chapter.

Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

Lot Width. The minimum horizontal distance between the side lot lines at the buildable setback line.

Main Building Façade. That portion of a building or structure which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets the main building façade shall contain the main entrance to such building.

Manufactured Home. A structure certified and labeled as a manufactured home under 42 USC Sec. 5401-5426, which, when placed on the site:

- a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and ILHR 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- b. Is installed in accordance with the manufacturer's instructions; and
- c. Is properly connected to utilities; and
- d. Meets other applicable standards of this Chapter.

Manufacturing. When used in describing an industrial operation, the making or processing of a product with machinery.

Master Plan. A document or series of documents prepared by the Planning Commission and duly adopted by The Board of Trustees of the Village of Elkhart Lake setting forth policies for future development or redevelopment of the Village of Elkhart Lake pursuant to Chapter 62.23 of the Wisconsin Statutes. (See Sec. 2-4-5 re: Master plan process.)

Minor Street. (See Street, Minor.)

Minor Structures. Any small, movable accessory erection or construction such as birdhouses; tool houses; pet houses; play equipment; arbors having an area of less than 10 sq. ft.; and walls and fences under 4' in height.

Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.

Motel. An establishment consisting of attached or detached lodging rooms with separate bathrooms and separate entrances, and where more than 50 percent of the lodging rooms are occupied or designed for occupancy by transient.

Motor Home. A self propelled vehicle designed and constructed for travel and temporary lodging purposes and which is intended for use only for camping, recreational travel or vacation use.

No-Access Strip. A strip of land within and along a rear lot line of a through lot adjoining a street which is designated on a recorded subdivision plat or property deed as land over which motor vehicular travel shall not be permitted.

Nonconforming Lot. A lot of record existing on the date of passage of this Chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming Building or Structure. Any building or structure which does not comply with all regulations of this Chapter, or any amendment hereto regulating any building or structure for the Zoning district in which such building or structure is located.

Nonconforming Uses. Any use of land, buildings or structure which does not comply with all the regulations of this Chapter or any amendment hereto governing use for the Zoning District in which such use is located.

Noxious Matter or Material. A material which is capable of causing injury to living organism by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

Nursery. Any building or lot, or portion thereof, used for the cultivation of growing of plants and including all accessory buildings.

Nursing Home. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Official Letter of Map Amendment. Official notification from Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

Official Map. That document as described by Chapter 62.23(6) of the Wisconsin Statutes which shows the location of streets, highways, parkways, parks, playgrounds, railroad right-of-way, waterways and public transit facilities in the Village of Elkhart Lake

Off Street Loading. A space, accessible from a street, alley or way, in a building or on a lot, for loading or unloading merchandise or materials.

Official Zoning Map. Map adopted and approved by the Board of Trustees of the Village of Elkhart Lake – designating the boundaries of the zoning districts for the Village.

Open Sales Lot. Land used or occupied for the purpose of buying, selling or renting merchandise stored or display out-of-doors prior to sale. Such merchandise includes but is not limited to passenger cars, trucks, motor bikes, motorcycles, boats, monuments, trailers, flea markets and produce stands.

Open Space. Land areas not occupied by buildings, structures, parking areas, streets, driveways or alleys. Open space shall not include upper floor decks and/or balconies.

Ordinary High-water Mark. The point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Outdoor Special Event. A sale, promotion or other activity conducted outdoors. These events are not normally conducted as part of the everyday uses on the property, but are intended to be used as promotional tools or fund raising activities. In residential districts, these activities shall include rummage sales, craft sales, etc. and shall include all sales, whether indoors or outdoors.

Park, Amusement. An area, publicly or privately owned, containing amusement and recreation facilities or devices, whether operated for profit or not.

Park, Public. An area owned by a government unit operated for the convenience and recreation of the public and containing such facilities as the owning government unit shall see fit.

Parking Lot. A structure or premises containing 4 or more parking spaces open to the public.

Parking Space. An area, enclosed in a building or unenclosed, reserved for the off street parking of one or more motor vehicle and which is accessible to and from a street or alley.

Parties in Interest. Includes all abutting property owners, all property owners within three hundred (300) feet, and all property owners of opposite frontages.

Performance Standard. A criteria established to control smoke and particulate matter, noise, odor, toxic or noxious matter, vibration, fire and explosion hazards, glare or heat, or radiation hazards generated by or inherent in uses of land or buildings. Such performance standards are developed, administered and enforced by the Elkhart Lake Building Inspection Division.

Permanent Open Space. A compact and contiguous land area that is designated on the Official Map for educational, religious, recreational, and other institutional uses or such land which is not do designated but which is recommended for designation by the Plan Commission and approve by the City Council at or before the time of approval of the subdivision or Planned Development.

Planned Development. (See PUD Chapter 16.70)

Principal Building. A non-accessory building in which the permitted use on the lot is conducted.

Principal Residence. The place where a person resides 7 months or more in a 12 month period.

Private Residential Swimming Pool. (See Swimming Pool, Private Residential.)

Property Lines. The lines bounding a platted lot as defined herein. (See Lot Line)

Professional Home Offices. Residences of doctors of medicine, practitioners, dentists, clergymen, architects, lawyers, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one-half (½) the area of only one (1) floor of the residence and only one (1) non-resident person is employed.

Property Lines. Those lines bounding a lot or parcel.

Public Open Space. Any publicly-owned open area, including, but not limited to, the following: parks, playgrounds, forest preserves, waterways and parkways.

Public Way. Any sidewalk, street, alley, highway or other public thoroughfare.

Quarry, Sand Pit, Gravel Pit, Topsoil Stripping. A lot or land or part thereof, used for the purpose of extracting stone, sand, gravel, topsoil and similar material as an industrial or commercial operation, and exclusive of the process of excavation and grading in preparation for the construction of a duly authorized building, park or highway.

Race Track. Any area designed for racing of animals, motorized vehicles, bicycles or snow vehicles.

Railroad Right-of-way. A strip of land with tracks and auxiliary facilities for track operations but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops or car yards.

Rear Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.

Recreational Camp. An area containing one or more permanent buildings used occasionally or periodically for the accommodations of members or guest or associations or groups for recreational, educational or religious purposes.

Refuse. All waste products resulting from human habitation except sewage.

Regional Flood. The regional flood is a flood determined to be representative of large floods known to have occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The Flood frequency of the regional flood is once ever one hundred (100) year; this means that in any given year there is a one percent (1%) chance that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six percent (26%) chance of recurrence.

Research Laboratory. A building or a group of building in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Resort. A commercial complex providing services such as logging, entertainment and recreational facilities to its patron.

Restaurant. A business establishment consisting of a kitchen and an indoor or outdoor dining area, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining area.

Restaurant, Drive-in. A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to be eaten either off the premises or within automobiles parked on the premises.

Retail. The sale of goods or merchandise to a consumer.

Retirement Home. A building or institution for the accommodation of elderly persons, with or without nursing or medical care.

Right-of-way. Land covered by a public road to include terraces, parkways and sidewalks as appropriate.

Roadway. That portion of a street which is used or intended to be used for the travel of motor vehicles.

Rooming House. A building in which a lodger may rent a room from the owner and share in some common area which may or may not offer meals.

Runoff. The rainfall, snowmelt, or irrigation water flowing over the ground surface.

Screening. A method of visually shielding or obscuring an abutting or nearby structure or use from another by fencing, walls, earthen berms, or densely planted vegetation.

School, Private. An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirement of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other public funds, but not including a school for mental defectives or a college or other institution of higher learning.

Seat. Furniture upon which to sit having linear measuring of not less than twenty-four (24) inches across the surface used for sitting, intended for use in determining off-street parking requirements.

Sediment. Soils or other surface materials transported by wind or surface water as a product of erosion.

Setback. The distance between the nearest wall of a building and any lot line.

Shopping Center. A group of commercial establishments, which is planned, developed, owned and managed as a unit with customer and employee parking provided on site.

Shorelands. See Chapter 17 and Chapter 18.

Side Yard. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway. See 16.90.

Silt. Soil particles, intermediate in size between sand and clay, which are readily transported by inflowing streams or surface waters into a body of water.

Soil. Any earth, sand, gravel, rock or any similar material.

Solid Waste. Garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial or agricultural

operations and from domestic use and public service activities, but does not include solids or dissolved materials in waste water effluents or other common water pollutants.

Storage Capacity. The volume of space available above a given cross-section of a floodplain for the temporary storage of floodwater. The storage capacity will vary with stage.

Storage, Outdoor. Land outside any building or roofed area and used for the keeping of goods, supplies, raw material or finished products.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen' (14) feet or fraction thereof. A basement having one-half (½) or more of its height above grade shall be deemed a story for purposes of height regulation.

Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such story, except that any partial story used for residential purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Street. A public or private thoroughfare, usually, paved. An alley or driveway shall not be considered a street.

Street Frontage. Property fronting on one side of street between two intersecting streets or along one side of a dead-end street between an intersecting street and the end of the cul-de-sac.

Street, Minor. A street used, or intended to be used, primarily for access to abutting properties.

Street Right-of-way Line. The street right-of-way line separating the street from abutting property.

Street Front Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.

Stripping. Any activity which removes the vegetative surface cover, including the tree removal, clearing, grubbing and storage or removal of topsoil.

Structure. Anything constructed or erected or placed materials or combination of matter in or upon the ground.

Structure, Nonconforming. A building or structure lawfully existing at the time of the enactment of this Chapter or amendments thereto that does not comply with all of the

applicable area, height, and placements of this Chapter. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure.

Structure, Principal. A structure in which the use is listed in the district use regulations as either permitted or conditional use.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state of local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions: or
- b. Any alterations of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register or Historic Places.

Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows, and other structural components.

Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Substantially Damaged. Damage sustained by a structure whereby the cost of repairing or restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Swimming Pool Private Residential. An outdoor structure containing a body of water or receptacle or other container having a depth for water of eighteen (18) inches or more with a minimum surface of forty-eight (48) square feet, located above or below the surface of ground elevation and includes all structural facilities, appliances, and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private residential swimming pool.

Swimming Pool Private. A swimming pool, the principal user of which consist of patrons, tenants or guests of motels, hotels, apartment hotels and other income producing property and located on the same premises, meeting recognized safety standards. Pools used by 2 or more families are considered public pools.

Tavern. An establishment where liquors are sold to be consumed on the premises but not including restaurants where the principal business is the serving of food.

Temporary Structure. A movable structure intended for limited duration of use not designed for human occupancy.

Tent. A structure or enclosure of which the roof and ½ or more of the sides are constructed of silk, cotton, canvas fabric or similar light materials.

Through Lot. A lot having a street abutting on front and back yard.

Toxic Matter or Materials. Those which are capable of causing injury to living organism by chemical means when present in relatively small amounts.

Traffic Lane. A strip of roadway intended to accommodate a single lane of moving vehicles.

Tree Diameter. The diameter of a tree measure at a point on the tree 4' above grade level.

Tree Preservation Area. Area of lot not designated as the building activity area where all trees 6" or larger shall be preserved.

Turning Lane. An existing or proposed connecting roadway between 2 arterial streets or between arterial street and any other street.

Unit. See Dwelling Unit

Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

Use, Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

Use, Conditional. See Conditional Use

Use, Permitted. A use by right which is specifically authorized in particular zoning district.

Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.

Use, Principal, Zoning District. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such district.

Use, Special. A use which, because of its unique characteristics, cannot be properly classified as permitted use in any particular district or districts

Use, Nonconforming. See Non-conforming Uses

Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

Variance. A relaxation of the terms of this Chapter by the Board of Appeals where the literal enforcement of this Chapter would deny to the property owner a use of his property enjoyed as a right by other property owners within the same zoning district.

Vehicle, Motor. Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

Vending Machine. A machine for dispensing merchandise or services designed to be operated by the customer.

Vision Clearance Triangle. See Section 16.80(1)

Vision Setback Area. An unoccupied triangular space at the intersection of highways or streets with other highways or streets as defined in Section 16.80(1)

Warehouse. A structure or enclosure, or a subdivided unit of a structure or enclosure in which goods are stored until further use or resale. A structure or enclosure shall be considered a warehouse for purpose of this chapter if more than 50% of the total floor space of the structure or enclosure is so used, irrespective of the fact that the remainder of the space is used for another purpose. Goods displayed for sale are not considered warehoused.

Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophilic vegetation and which have soils indicative of wet conditions as determined by the DNR and defined in wetland map inventory.

Yard. An open space that lies between a building and all lot lines

Yard, Front. A space extending across the entire width of a lot between any building excluding uncovered steps and the lot line that abuts a public right-of-way. Corner lot and through lots have two front yards.

Yard, Interior. An open space surrounding buildings in developments where more than one structure occupies a lot or parcel. These shall not relieve the obligation by the development to meet perimeter yard requirements as set forth by this chapter. An interior yard may be shared by 2 adjacent structures.

Yard Line. A line parallel to a lot line at a distance there from equal to the depth of the required yard

Yard, Rear. Where there is one structure located upon the parcel in question, the rear yard shall be defined as a yard extending the full width of the lot between the rear lot line to the nearest part of the principal building. A corner lot will have one side yards and a rear yard; the designation of the side yard area shall be at the discretion of the property owner, contingent on compliance with the required rear yard setback of the zoning district in which the property is located. A through lot will have two side yards. For parcel having a shore yard, the rear yard shall be the yard opposite the shore yard. In these cases the building setback lines shall be the same for a street yard.

Yard, Shore. A yard extending across the full width or depth of a lot between the principal structure and the ordinary high water mark. See Chapter 17.

Yard, Side. A yard on each side of the principal building extending from the building to the lot line and from the front yard line to the rear yard line.

Zero Lot-Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

Zoning District. The district into which the Village of Elkhart Lake, WI has been divided for zoning regulations as set forth in the Zoning District Map.

## **16.16 – 16.19 RESERVED FOR FUTURE USE**

### **16.20 JURISDICTION AND GENERAL PROVISIONS**

(1) Jurisdiction. The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the Village of Elkhart Lake. The provisions of this Chapter shall be held to be the minimum requirements for carrying out the intent and purpose of this Chapter.

(2) Compliance.

(a) No structure, land, water, or air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without the full compliance with the provisions of this Chapter and all other applicable local, county, and state regulations.

(b) The Building Inspector shall accept all applications, issue or deny all zoning permits, investigate all complaints, give notice of violations and enforce the provisions of this chapter. All violations of this chapter shall be reported to the Village Board which shall decide whether to bring action to enforce the provisions of this chapter.

(c) The Building Inspector and his deputies shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter. If, however, they are refused entry after presentation of property identification, they may procure a special inspection warrant in accordance with 66.122, Wisconsin Statutes.

(3) Use Regulations.

(a) Permitted Uses. Permitted uses, being the principal uses, specified for a district.

(b) Permitted Accessory Uses. Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.

(c) Conditional Uses.

1. Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Planning Commission in accordance with Section 16.25 of this Chapter excepting those existent at time of adoption of the Zoning Code.

2. Conditional use(s), when replaced by permitted uses(s), shall terminate. In such case(s), the reestablishment of any previous conditional uses(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Planning Commission in accordance with Section 16.25 of this chapter.

3. Conditional uses authorized by the Planning Commission may be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.

4. Conditional uses authorized by the Planning Commission shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Planning Commission approval and the procedures required in Section 16.25 of this Chapter.

(d) Classification of Unlisted Uses. Any use not specifically listed as a permitted use or a conditional use in the districts established in Section 16.30 – 16.70 shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of question as to the classification of an unlisted use, the questions shall be submitted to the Planning Commission for determination, in accordance with the following procedure.

1. Application. Application for determination for classification of an unlisted use shall be made in writing to the Planning Commission and shall include a detailed description of the proposed use and such other information as may be required by the Planning Commission to facilitate the determination.

2. Investigation. The Planning Commission shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the Chapter and to recommend its classification.

3. Determination. The determination of the Planning Commission shall be rendered in writing within sixty (60) days from the application and shall include findings supporting the conclusion. The Commission shall determine if the classification of the unlisted use is a permitted use, conditional use or prohibited use in one (1) or more of the districts established in Sections 16.30-16.70.

4. Effective Date of Determination. At the time of this determination of the classification of the unlisted use by the Planning Commission, the classification of the unlisted use shall become effective.

(e) Temporary Uses. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a

permanent structure may be permitted with conditions and/or restrictions established by the Village Planning Commission after review and approval.

(f) Performance Standards. Performance standards listed in Section 16.83 shall be complied with by all uses in all districts.

(g) Stormwater Control. Storm water control detention/retention related uses shall be permitted in all zoning districts except in Chapter 17, Shoreland, Chapter 18, Wetland/Conservancy District and all floodplain districts subject to the review and approval of the Village Planning Commission with recommendation from the Village engineer.

## **16.21 SITE REGULATIONS**

(1) Site Suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Board of Trustees, upon the recommendation of the Planning Commission, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Planning Commission, in applying the provisions of this Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Planning Commission may affirm, modify, or withdraw its determination of unsuitability when making its recommendation to the Board of Trustees.

(2) Preservation of Topography. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Village Board, upon the recommendation of the Planning Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

(3) Platting. All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land platting.

(4) Lot Area. No lot area shall be so reduced that the dimensions and yard requirements imposed by this Chapter cannot be met. However, where existing lots do not satisfy such requirements, the Board of Appeals (as provided in a succeeding section of this Chapter) may grant a variance.

(5) Lots Abutting More Restrictive Districts. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district

boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.

(6) Public Street Frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall comply with the frontage requirements of the zoning district in which it is located.

(7) Dedicated Streets. All lots shall abut a public street or approved private road or way which is constructed to applicable standards.

(8) Dedication of Street not Secured. No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

(9) Vacated Streets. Whenever any street, alley, easement or public way is vacated by official action, the zoning districts abutting the centerline of the said vacated area shall not be affected by such proceeding, and shall continue to be said centerline.

(10) Principal Structures. All principal structures shall be located on a lot. Except in the case of planned unit developments, no lot in the R-1, R-2, or R-3 zoning districts shall have more than one (1) principal building. The Planning Commission may permit as a planned unit development more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Planning Commission may impose additional yard requirements, landscaping requirements, open space or parking requirements, or require a minimum separation distance between principal structures, or set back requirements. All principal structures shall be provided with access driveways per Section 16.80 of the Village of Elkhart Lake Zoning Code requirements for driveways.

(11) Dwelling Units. No cellar, basement or unfinished home, garage, tent, trailer or accessory building shall, at any time be used as a dwelling unit. Basements shall not be used as dwelling units, except where specifically designed for such use through proper damp-proofing, fire-protecting walls and other requirements as may be imposed by the building and housing codes.

(12) Decks, Porches & Patios. For purposes of this Chapter, porches and decks are considered part of the structure, while patios are not.

(13) No national chain logos shall be permitted as significant architectural features of either buildings or sites in either the C-2 or C-3 districts of the Village.

## **16.22 MODIFICATIONS**

(1) Height. The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modifications shall be in accord with the following:

(a) Architectural projections, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this Chapter.

(b) Special structures, such as elevator penthouses, gas tanks, grain elevators, observation tower, scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this Chapter.

(c) Essential services, utilities, water towers, electric power, and communication transmission lines are exempt from the height limitations of this Chapter.

(d) Communications structures, such as radio and television transmission and relay towers, aerials and radio and television receiving and transmitting antennas, including ground and building-mounted antennas, shall not exceed a height equal to their distance from the nearest lot line.

(e) Private communication structures, such as residential radio and television receiving and transmitting antennas, including ground and building-mounted antenna, shall not exceed a height equal to the maximum height permitted in the District.

(f) Agricultural structures, such as barns, silos, and windmills, shall not exceed in height twice their distance from the nearest lot line.

(g) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices, and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

(2) Yards. The yard requirements stipulated elsewhere in this Chapter may be modified as follows:

(a) Architectural projections, such as chimneys, flues, sills, eaves, fire escapes, and ornaments, may project into any required yard, but such projection shall not exceed three (3) feet.

(b) Accessories and vegetation used for landscaping and decorating may be placed in the required street yard, side yards, or rear yard but shall not be placed or project into any public right-of-way. Permitted accessories and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs, and flowers.

(c) Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

(d) Accessory uses and detached accessory structures are permitted in the rear yard only except where they may be permitted in PUD Planned Unit Development Overlay Districts; they shall not be closer than ten (10) feet to the principal structure, shall not exceed twenty (20) feet in height, and shall not be closer than three (3) feet to any lot line nor five (5) feet to an alley line.

(e) Average Street Yards. The required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side.

(f) Additions to Structures. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

(g) Corner lots. Structures shall provide a street yard as required by this Chapter on the street that the structure faces. A second street yard shall be provided on the side of the structure abutting a second public or private street. The remaining yards shall be a side yard and a rear yard. The permit applicant may select which yard is the side yard and which is the rear yard.

(h) Double-frontage lots. Lots abutting two (2) opposite streets shall provide the street yard setback required by the district in which the lot is located from each street upon which the lot abuts.

(3) Existing Substandard Lots.

(a) A lot located in a residential district which does not contain sufficient area to conform to the dimensional requirements of this Chapter, but which is at least fifty (50) feet wide and six thousand (6000) square feet in area, may be used as a single building site provided that the lot is a lot of record in the County Register of Deeds' office prior to the effective date of this Chapter.

(b) A lot located in the business, manufacturing, or institutional districts which does not contain sufficient area to conform to the dimensional requirements of this Chapter may be used as a building site provided that the lot is a lot of record in the County Register of Deeds' office prior to the effective date of this Chapter.

(c) Substandard lots granted permits under this Chapter shall be required to meet the setback and other yard requirements of this Chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance by the Zoning Board of Appeals

### **16.23 ADMINISTRATION**

(1) Planning Commission. The Planning Commission shall have the duties of making reports and recommendations relating to the plan and development of the Village to proper public agencies and citizens. The Planning Commission, its members and or designees in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the Planning Commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.

(2) Board of Trustees. The Board of Trustees, the governing body of the Village, subject to recommendations by the Planning Commission and the holding of public hearings by said Board, has ultimate authority to grant planned unit development applications, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter. The Board of Trustees may delegate to the Planning Commission the responsibility to hold some or all public hearings as required under this Chapter.

(3) Zoning Board of Appeals. A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter.

(4) Zoning Administrator Designated. The Village Building Inspector or a person(s) designated by the Village Board is hereby designated as the administrative and enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

(a) Maintain records of all permits issued, inspections made, work approved, and other official actions.

(b) Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.

(c) Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this Chapter to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the Village Planning Commission and/or Board of Trustees.

(d) Assist the Village in the prosecution of Chapter violations.

(e) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Chapter. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Sec. 66.122 of the Wisconsin Statutes.

(f) Prohibit the use or erection of any structure, or use of any land or water until he has inspected and approved such use or erection.

(g) Make available to the public, to the fullest extent possible, all reports and documents concerning the Village's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available. The Planning Commission may set fees necessary to recover the cost of providing information to the public.

(5) Site Plan and Design Approval.

(a) Purpose. To assure that the site plan is consistent with the public goals, objectives, principles, standards, policies, and urban design criteria set forth in the Village's adopted community master plan or components thereof.

(b) Site Plan Approval. No building or zoning permit shall be issued for any construction within any R-3, PRC-4, FR-H, C-1, C-2, C-3, C-4, M-1, M-2, M-4, PS/I, A-1, and PUD district unless site and construction plans for such construction shall be first approved by the Planning Commission.

(c) Application. The applicant shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Planning Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.

(d) Administration. The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Planning Commission at its next regular meeting or within ten (10) days, whichever is greater. The Planning Commission shall review the application and may refer the application and plans to any expert consultant selected by the Village Board to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within sixty (60) days of its receipt of the application, the Planning Commission shall approve, conditionally approve or deny the proposal.

(e) Requirements. In action on any site plan, the Planning Commission shall consider the following:

1. The appropriateness of the site plan and buildings in relation to the history and physical character of the site and the usage of adjoining land areas including relative proportion of the buildings.

2. The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or

use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

3. The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.

4. The landscaping and appearance of the completed site. The Planning Commission may require that those portions of all front, rear, and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants, or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Chapter. Natural features of the landscape should be retained where they can enhance the development of the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.

(f) Effect on Municipal Services. Before granting any site approval, the Planning Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Planning Commission shall forward its recommendations to the Board of Trustees and shall not issue final approval until the Board of Trustees has entered into an agreement with the applicant regarding the development of such facilities.

(6) Development Agreement: Approval of a site plan by the Planning Commission shall constitute an agreement between the owner and the Village. The owner shall prepare the site, construct any buildings and make any improvements in accordance with the approved plan.

(a) Plan Changes. Any substantial change to the plan may be cause for review by the Planning Commission. Substantial change may include modification of one or more of the following factors:

1. Land use.
2. Ratio of different uses of buildings
3. Type and location of access ways and parking areas where off site traffic is affected.
4. Increase in the floor area proposed for nonresidential use by more than ten (10) percent.
5. Reduction of more than ten (10) percent of the area reserved for common open space and/or usable open space.
6. Increase in the total ground area proposed to be covered by structures and other impervious features by more than five (5) percent.
7. Reduction of specific setback requirements by more than twenty-five (25) percent.
8. Reduction of project amenities provided (by more than ten (10) percent where previously specified) such as recreational facilities, screening and/or landscaping provisions.
9. A change in elevation by more than one foot or any lesser amount which has a substantial impact on neighboring properties or utilities.

(b) Developer's Agreement. The Village may require a signed and recordable developer's agreement addressing, but not limited to the following:

1. A thorough description of the proposed development, together with relevant phases of the development.
2. The proposed zoning necessary to develop the property consistent with your project plan.
3. A complete list of the improvements and the financial responsibility for the design, construction, maintenance and replacement of improvements; specifically, streets, sanitary sewer, water distribution, storm sewer, curb and gutter, sidewalks, topsoil and seeding.
4. Erosion control and landscaping.
5. Lighting plan.
6. Signage.
7. Pipe culvert standards/materials/sizing.
8. Completion date for all improvements.
9. Protocol for approval and transfer of those improvements that will be dedicated to the Village. This includes inspection, review of as-builts, and dedication.
10. Identify which improvements will be financed by special assessments, again with reference to relevant project phasing.
11. Description of building permits and occupancy permits needed for the project.
12. Developer indemnification and hold harmless.
13. Preparation and approval of proposed restrictive covenants applicable to the project.
14. Financial assurance for the completion of those improvements that have been accepted by the Village.
15. Demolition and site clearance, if relevant.
16. Non-discrimination clause.
17. A clause confirming that the Village has no obligation or liability for any obligations to any lending institution, contractor or subcontractor, etc.
18. Deadlines accompanied by the appropriate *force majeure* clause.
19. Applicable fees.
20. Developer to reimburse Village for actual costs sustained in the review and approval of engineering plans and legal documents.
21. The usual miscellaneous legal clauses such as applicable law, severability, entire agreement, non-assignability, amendment, notices, etc.

(c) Completion of Improvements. No certificate of occupancy shall be granted for any structure until all improvements shown on an approved site plan have been completed, provided, however, upon determination that certain improvements cannot be completed due to seasonal or other factors, and provided that sufficient surety as determined by the Board of Trustees of the Village of Elkhart Lake in the amount needed to complete the improvements has been filed with the Village Clerk, the Building Inspector may authorize the issuance of a temporary certificate of occupancy. A temporary certificate of occupancy shall bear an expiration date which shall allow reasonable time for completion.

(d) Planning Commission Review. The Planning Commission may review site plans for single-family and two-family dwellings upon application for site plan review by the owner. The Planning Commission may modify requirements where the literal enforcement of those regulations would be inconsistent with good site development planning. Decisions by the Planning Commission shall be based upon the purpose and intent of the Chapter.

(7) Permit Fees.

(a) All persons, firms, or corporations performing work which, by this Chapter, requires the issuance of a permit shall pay a fee for such permit to the Village Treasurer to help defray the cost of administration, investigation, advertising, and processing of permits and variances.

(b) The fee for permits shall be as follows

1. Building Permit	As specified in the Village of Elkhart Lake's Building Code
2. Occupancy Permit	As specified in the Village of Elkhart Lake's Building Code
3. Planned Unit Development	\$250.00
4. Conditional Use Permit	\$125.00
5. Variance or Appeal	\$125.00
6. Amendment to Ordinance (Text)	\$125.00
7. Amendment to Ordinance (Map-Rezoning)	\$125.00
8. Annexation	\$125.00
9. Individual Site Plan Review	\$ 75.00

This fee schedule may be amended by Village Board resolution. A current copy of the fee schedule is available from the Village Clerk/Treasurer.

(c) Permit fees do not include and are in addition to permit fees established by the Village Building, Plumbing and Electrical Codes.

(d) A double fee may be charged by the Building Inspector if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter

(8) Violations.

(a) Violations Generally. It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Village Board, the Planning Commission, the Building Inspector or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Chapter or cause a structure to be vacated or removed. Each day shall constitute a separate violation.

(b) Notice of Violation. The Building Inspector shall serve notice by regular mail to the property owner of alleged violations of this Chapter. If the alleged

violation has not been corrected within thirty (30) days, the Building Inspector shall serve a second notice of violation on the owner by registered mail.

(c) Nuisance. Any building erected, structurally altered or placed on a lot or any use carried on in violation of this ordinance is hereby declared to be a nuisance.

(d) Remedial Action. Whenever an order of the Building Inspector has not been complied within thirty (30) days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Village Board, the Building Inspector, or the Village Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

(e) Penalties. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of this Chapter shall be subject to a forfeiture of not less than Two Hundred Dollars (\$200.00) for each offense, together with the costs of said action. In default of payment thereof, such person shall be imprisoned in a county jail for a period not to exceed six (6) months or until such forfeiture and costs have been paid. Each day that a violation continues to exist shall constitute a separate offense.

## **16.24 ZONING BOARD OF APPEALS**

(1) Establishment. There is established in Chapter 1.03 of the Village of Elkhart Lake Code of Ordinances a Zoning Board of Appeals for the Village of Elkhart Lake for the purposes of hearing appeals and applications and for granting variances and exceptions to the provisions of this Zoning Ordinance as specified in Wisconsin Statutes 62.23.

(2) Membership. The Zoning Board of Appeals shall be composed as prescribed in the Wisconsin Statutes 62.23.

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

(a) Errors. To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official. The Village Board is not an 'administrative official' under this section.

(b) Variances. To hear and grant appeals for variances which will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficult or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted. (See Conditional Use Permit 16.25.)

(c) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Planning Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application

(d) Temporary Uses. To hear on appeal applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provision of this Chapter shall be required.

(e) Permits. The Board may reverse, affirm wholly, or partly modify the requirements appealed from, and may issue or direct the issue of a permit

(f) Assistance. The Board may request assistance from other village officers, departments, commissions, and boards.

(g) Oaths. The chairman may administer oaths and compel the attendance of witnesses.

(4) Appeals and Applications. Appeals of the decision of the Building Inspector or any administrative official concerning the literal enforcement of this Chapter may be made by any person aggrieved or by any officer, department, board, or commission of the Village. Such appeals shall be filed with the secretary within thirty (30) days after the date of written notice of the decision or order of the Building Inspector or any administrative official. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and applications shall include the following:

(a) Name and address of the appellant or applicant and all abutting and opposite property owners of record.

(b) Statement that the applicant is the owner or the authorized agent of the owner of the property.

(c) Plat or survey prepared by a registered land surveyor showing all of the information required under Section 16.23(5) for a Zoning Permit.

(d) Additional information required by the Village Planning Commission, Village Engineer, Zoning Board of Appeals, or Village Building Inspector.

(5) Hearings. The Zoning Board of Appeals shall fix a reasonable time and place for the hearing within forty-five (45) days from the date of receipt of the application, publish a Class Two (2) notice thereof and shall give due notice to the parties of interest, Building Inspector, and all residents and property owners within three hundred (300) feet of subject property. At the hearing the applicant may appear in person, by agent, or by attorney.

(a) Publication. Notice of any public hearing required to be held shall be published in officially designated Village newspaper pursuant to the requirements set forth in Sec. 62.23(7)(e)(d), Wis. Stats., or any succeeding legislation.

(b) Posting. Notice of any public hearing required to be held shall be posted ten (10) days prior to the hearing and the officially designated Village posting sites.

(c) Notice to Interested Persons. The Village Clerk shall mail notice of the public hearing to the owners and residents of all lands within three hundred (300) feet of any part of the land included in such proposed change or conditional use at least ten (10) days before such public hearing by certified mail. The Village Clerk shall also give at least ten (10) days prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed action. The failure of such notice to reach any property owners, provided such failure be not intentional, shall not invalidate any amending ordinance or grant of conditional use. Such mailed notice shall not be required where the change is of such a comprehensive nature that such notice would involve unreasonable administrative effort and expense and is not necessary for reasonable notification of affected property owners except that municipalities within one thousand (1,000) feet of the land affected shall be notified as set forth herein.

(d) Content of Notice. Such notice shall state the time and place of the public hearing, the purpose for which hearing is held, and shall include, in the case of map changes, a description of the area involved and in the case of the text changes, a description of the proposed change, in sufficient detail for general public identification. Reference shall also be made to the fact that detailed descriptions area available for public inspection at the Village Clerk's office.

(6) Fees. \$125.00 See Chapter 16.23.

(7) Notice to the DNR. The Village Planning Commission shall transmit a copy of each application for a conditional floodland use to the Wisconsin Department of Natural Resources (DNR) for review and comment. Action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all floodland conditional use permits shall be transmitted to the DNR within ten (10) days of the effective date of such permit.

(8) Action of the Board of Appeals. For the Board to grant a variance, it must find that:

(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.

(b) Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the property that do not apply generally to other properties in the same district, and the granting of the variance should not be of such general or recurrent nature as to suggest that the Zoning Chapter should be changed.

(c) Economic Hardship and Self-imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. 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 or that will materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.

(f) Before an area variance may be granted, the Board must find that strict compliance with the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

(g) Before a use variance may be granted, the Board must find that strict compliance with the restrictions governing use would leave the property owner with no reasonable use of the property.

(9) Shoreland – Wetland Disputes. Whenever the Board of Appeals is asked to interpret a W Conservancy District boundary where an apparent discrepancy exists between the Villages Final Wetland Inventory Map and actual field conditions, the Village shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the

Planning Commission to initiate appropriate action to rezone the property within a reasonable amount of time. (See Chapter 17 Shoreland and Chapter 18 Shoreland-Wetland.)

(10) Decision.

(a) Time for Decision. The Zoning Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, and Planning Commission.

(b) Conditions may be placed upon any building permit ordered or authorized by this Board.

(c) Variances, substitutions, or use permits granted by the Board of Appeals shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

(11) Review by Court of Record.

Any person or persons aggrieved by and decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Zoning Board of Appeals.

## **16.25 CONDITIONAL USE PERMIT**

(1) Permit. The Village Board may, after recommendation of the Planning Commission, issue a conditional use permit for conditional uses specified in this chapter after review and a public hearing, provided such uses are in accordance with the purpose and intent of this chapter.

(2) Existing Use. All uses existing at the effective date of this Chapter which would be classified as conditional uses in the particular district concerned if they were to be established after the effective date of this Chapter are hereby declared to be conforming conditional uses. any proposed change in the existing operation shall be subject to the conditional use procedures as if such use were being established anew.

(3) Application for Conditional Use Permit. Except as provided herein, application for conditional use permit shall be made in duplicate to the Village Clerk and shall include the following where pertinent and necessary for proper review by the Planning commission:

(a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, when engaged, and all opposite and abutting property owners.

(b) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

(c) Plat of survey prepared by land surveyor registered in the State of Wisconsin or other map drawn to scale and approved by the Building Inspector, showing the location, property boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other

public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; existing and proposed street, side, and rear yards; a detailed plan of proposed surface drainage, topographic data or pertinent grade elevations where necessary for proper interpretations of the plans, and a small locational diagram showing the property in relations to the surrounding area, and U.S. Public Land Survey Section number; and areas subject to inundation by floodwaters.

(d) In areas subject to inundation by floodwaters, the plat of survey shall also include first floor elevations, utility elevations, historic and probable future floodwater elevations, depth of inundation, floodproofing measures, and plans for proposed structures, giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effects on flood flows. Where floodproofing is required, the applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequate to withstand the flood forces and velocities associated with the one hundred (100) year recurrence interval flood. Prior to the issuance of an occupancy permit, the applicant shall also submit a certification by the registered professional engineer that the finished floodproofing measures were accomplished in compliance with the provisions of this Chapter.

(e) Additional information, as may be required by the Common Council, Planning commission, Village Engineer, or the Building Inspector.

(4) Review and Approval. The Planning Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, plating screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Planning Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter. The foregoing is not an exclusive list of the types of conditions which may be imposed.

In the event that any conditions are required by the Planning Commission and approved the Village Board, the conditional use permit shall expire on the 1<sup>st</sup> of April following the date of issuance, unless prior to the expiration date, the applicant shall apply for renewal of the permit and such renewal shall have been granted in accordance with the procedures outlined in this section. Annual expiration of the conditional use permit shall continue until such time as all conditions required by the Planning Commission shall have been satisfied by the applicant.

Conditional uses shall comply with all other provisions of this Chapter unless variances are granted by the Zoning Board of Appeals.

(5) Hearings. The Village Board shall fix a reasonable time and place for the hearing, publish a Class Two (2) notice thereof, and shall give due notice to the parties of interest, Building Inspector, and all residents and property owners within three hundred (300) feet of subject property. At the hearing the applicant may appear in person, by agent, or by attorney.

(a) Publication. Notice of any public hearing required to be held shall be published in officially designated Village newspaper pursuant to the requirements set forth in Sec. 62.23(7)(e)(d), Wis. Stats., or any succeeding legislation.

(b) Posting. Notice of any public hearing required to be held shall be posted ten (10) days prior to the hearing and the officially designated Village posting sites.

(c) Notice to Interested Persons. The Village Clerk shall mail notice of the public hearing to the owners and residents of all lands within three hundred (300) feet of any part of the land included in such proposed change or conditional use at least the ten (10) days before such public hearing by certified mail. The Village Clerk shall also give at least ten (10) days prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed action. The failure of such notice to reach any property owners, provided such failure be not intentional, shall not invalidate any amending ordinance or grant of conditional use. Such mailed notice shall not be required where the change is of such a comprehensive nature that such notice would involve unreasonable administrative effort and expense and is not necessary for reasonable notification or affected property owners except that municipalities within one thousand (1,000) feet of the land affected shall be notified as set forth herein.

(d) Content of Notice. Such notice shall state the time and place of the public hearing, the purpose for which hearing is held, and shall include, in the case of map changes, a description of the area involved and in the case of the text changes, a description of the proposed change, in sufficient detail for general public identification. Reference shall also be made to the fact that detailed descriptions area available for public inspection at the Village Clerk's office.

(6) Fees. \$125.00 See Chapter 16.23.

(7) Notice to the DNR. The Village Planning Commission shall transmit a copy of each application for a conditional floodland use to the Wisconsin Department of Natural Resources (DNR) for review and comment. Action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all floodland conditional use permits shall be transmitted to the DNR within ten (10) days of the effective date of such permit.

(8) Review by Court of Record. Any person or persons aggrieved by and decision of the Planning Commission may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Planning Commission.

## **16.26 NONCONFORMING USES AND STRUCTURES**

(1) Existing Nonconforming Uses. The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter, however:

(a) Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, substituted, or

moved, except when required to do so by law or order or so as to comply with the provision of this Chapter.

(b) Total lifetime structural repairs or alterations shall not exceed fifty percent (50%) of the Village's equalized assessed value of the structure at the time of its becoming a nonconforming use structure unless it is permanently changed to conform to the use provisions of this Chapter. In the case of tax-exempt structures, fair market value shall be used instead of the Village's equalized assessed value. [ See Chapter 19 regarding exemption from nonconforming status for historic structures.]

(c) Substitution of new equipment may be permitted by the Planning Commission if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

(d) Repairs and alterations permitted under the provision of this Chapter to nonconforming use structures located on floodlands shall include floodproofing to those portions of the building or structure involved in such repairs or alterations. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred (100) year recurrence interval flood level for the particular area.

(e) Conforming conditional uses. See Chapter 16.25 for uses existing at the effective date of this Chapter, which would be classified as conditional uses under this Chapter.

(2) Existing Nonconforming Structures. The use of a structure existing at the time of the adoption of amendment of this Chapter may be continued although the structure's size or location does not conform with the established building setback line along streets or the yard, height, parking, loading, access, and lot area provision of this Chapter. Structures designated as "Preservations Structures" pursuant to Chapter 19 shall be exempt from the provisions of this Section:

(a) Additions and enlargements to existing nonconforming structures are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Chapter. The provisions of this Section with respect to additions or enlargements are applicable only if the lot or parcel conforms with the existing sanitary code requirement or is served by a public sanitary sewer.

(b) Existing nonconforming structures which are damaged or destroyed by fire, explosion, flood, or other calamity may be reconstructed and insofar as is practicable shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Section. The provisions of this Section with respect to reconstruction are applicable only if the lot or parcel conforms with the existing sanitary code requirements or is served by public sanitary sewer.

(c) Existing substandard structures may be moved and, insofar as is practicable, shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provision of this Ordinance. The provisions of this Section, with respect to moving, are applicable only if the lot or parcel conforms with the existing sanitary code requirements or is served by public sanitary sewer.

(3) Changes and Substitutions. Once a nonconforming use has been changed to a conforming use or a nonconforming structure has been altered so as to comply with this Chapter, it shall not revert back to a nonconforming use or substandard structure. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and the substituted use shall become subject to all the conditions required by the Zoning Board of Appeals.

(4) Abolishment or Replacement.

(a) Discontinued Use. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Chapter.

(b) According to 2005 Wisconsin Act 112, when a nonconforming use structure is damaged by violent wind, vandalism, fire, flood, explosion, ice, snow, mold, infestation or other calamity (deemed by the Plan Commission), it shall only be restored using the same footprint and height of the property as before the calamity.

(c) A current file of all nonconforming uses and structures shall be maintained by the Building Inspector listing the following: property location; use of the structure, land or water; and the date that the structure or use became nonconforming.

(5) Shoreland and Floodplain Nonconforming Uses and Structures  
[See Chapter 17]

(6) Wetland Nonconforming Uses and Structures [See Chapter 18]

## **16.27 CHANGES AND AMENDMENTS TO THE ZONING CODE**

(1) Authority. Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village Board may, by ordinance, change the district boundaries established by this chapter and the Zoning Map incorporated herein or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Planning Commission.

(2) Initiation of changes or Amendments. The Village Board, the Planning Commission, the Zoning Board of Appeals and other government bodies and any owner (private petitioner) may apply for an amendment to the text of this Chapter to the district boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this chapter by reference.

(3) Procedure for Changes or Amendments.

(a) Petition. The Planning Commission and Village Board can begin the process of amending the code without filing a petition, but the remaining process for amending the code will be followed. Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Village Board and eight copies shall be filed with the Village clerk with the appropriate fee. The person requesting such action shall provide all information requested on the petition including:

1. Name and street address of the petitioner.
2. The lot number of any real estate owned by the petitioner adjacent to the area proposed to be changed.
3. Legal description of property to be altered.

4. The existing use of all buildings on such land.
5. The principal use of all properties within three hundred (300) feet of such land.
6. Purpose for which such property is to be used.
7. Reciting of facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this Chapter.
8. Names and addresses of all abutting and opposite property owners within three hundred (300) feet of the property to be altered.
9. Plot plan or survey plat, drawn to scale, showing the property to be rezoned, location of structures, and property lines within three hundred (300) feet of this parcel.
10. Any further information requested to the petition or which may be required by the Planning Commission to facilitate the making of a comprehensive report to the board.
11. Failure to supply such information shall be grounds for dismissal of the petition.

(b) Recommendations. The Board of Trustees or the Village Clerk shall cause the petition to be forwarded to the Planning Commission for its consideration and recommendation. The Planning Commission shall review all proposed amendments to the text and zoning map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Planning Commission's official minutes shall constitute the required recommendation. In arriving at its recommendation, the Planning Commission may on occasion, of its own volition, conduct its own public hearing on proposed amendments or changes with consideration of the following criteria:

1. Does the proposed zoning classification promote the health, safety, moral, or general welfare?
2. The existing uses of the subject property and uses of adjacent and near properties.
3. The current zoning of the subject property and adjacent or near properties.
4. The extent to which property values are diminished by the present zoning restrictions.
5. The extent to which the restrictions diminishing property values, promote the health, safety, morals, or general welfare of the public.
6. The relative gain to the public, compared to the extent of hardship imposed upon the individual property owner.
7. The suitability of the subject property considered under the proposed zoning classification.
8. The history of the use of the subject property considered in the context of land development in the vicinity of the property.
9. Conformity with the most current Elkhart Lake

Comprehensive Plan.

(c) Hearings.

1. The Village Board, following receipt of the recommendation of the Planning Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of Wisconsin Statutes. At least ten (10) days prior, written notice shall also be given to all property owners in any municipality within three hundred (300) feet of any land to be affected by the proposed change of amendment.

2. The Village Board may delegate to the Planning Commission the responsibility to hold public hearings as required under this section.

(d) Board's Action. Following such hearing and after consideration of the Planning Commission's recommendation, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment. A three-fourths (3/4) vote of the full Village Board membership is required to override the Planning Commission recommendation.

(4) Protest.

(a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet there from, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Village Board membership.

(b) In the event of a protest against the amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

(5) Review by Court of Record.

Any person or persons aggrieved by and decision of the Village Board may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Village Board

#### **16.28 RESERVED FOR FUTURE USE**

#### **16.29 RESERVED FOR FUTURE USE**

#### **16.30 SINGLE FAMILY RESIDENCE DISTRICT (R-1)**

(1) **Purpose.** The R-1 District is intended to provide a quiet, pleasant, and relatively spacious living area protected from traffic hazards and intrusion of incompatible land uses. Uses of land generally exclusive to single family residential nature are permitted.

(2) **Permitted Uses.**

- (a) Single Family Dwellings
- (b) Public Parks & Playgrounds

- (c) Essential Services
- (3) Accessory Uses.**
- (a) Nursery and Greenhouse for private use only (no sales)
  - (b) Private Garages and Accessory Building
  - (c) Home Occupations (16.95)
  - (d) Swimming Pools (16.92)
- (4) Conditional Uses**
- (a) Churches
  - (b) Public and Private Schools
  - (c) Libraries & Museums
  - (d) Utilities
  - (e) Recreational & Community Center Building and Grounds
  - (f) Extended Home Occupations (16.95)
  - (g) Bed & Breakfast
- (5) Lot Requirements**
- (a) Width. Minimum ninety ( 90) feet street frontage – off lake.  
Minimum one hundred (100) feet lake frontage–on lake.
  - (b) Lot Area Per Family. Ten Thousand (10,000) square feet
- (6) Building Requirements**
- (a) Maximum Principal Building Height. Thirty-five (35) feet.
  - (b) Maximum Accessory Building & Detached Garage Height.  
Fifteen (15) feet.
  - (c) Minimum Dwelling Unit Floor Space. One thousand, one hundred fifty (1,150) square feet.
- (7) Yards**
- (a) Front. Minimum thirty (30) feet from street right-of-way.
  - (b) Rear. Minimum twenty-five (25) feet from rear lot line.
  - (c) Side Yards Principal Building.  
Up to one (1) story – minimum, one side, twelve (12) feet.  
Over one (1) story – minimum, one side, sixteen (16) feet.
  - (d) Side Yards Accessory Building. Minimum one side six (6) feet.
  - (e) Corner Lot Setback. Thirty (30) feet minimum from front street.  
Twenty-five (25) feet minimum from side street.
  - (f) Yard Cover. No more than thirty per cent (30%) of the rear yard may be covered with an accessory building
- (8) Off-Street Parking Required.**
- (a) Residential. Two (2) spaces per family
  - (b) Places of Public Gatherings. One (1) space per every five (5) seats.

- (9) **Nonconforming Uses, Structures, and Lots (16.26)**
- (10) **Traffic, Loading, Parking, and Access (16.80)**
- (11) **Construction Standards (16.82)**
- (12) **Performance Standards (16.83)**
- (13) **Signs (16.90)**
- (14) **Fences, Hedges and Arbors (16.91)**
- (15) **Swimming Pools (16.92)**
- (16) **Signal Receiving Antennas (16.93)**
- (17) **Home Occupations (16.95)**
- (18) **Health and Sanitation (12.06)**
- (19) **Shoreland Regulations (Chapter 17)**
- (20) **Wellhead Protection Overlay District (Chapter 34)**

**16.31 SINGLE FAMILY/TWO FAMILY RESIDENTIAL DISTRICT (R-2)**

(1) **Purpose.** The R-2 Single Family/Two Family Residential District is intended to establish and preserve single-family and two (2) family residential use in neighborhoods free from other use except those which are compatible with such residential use and, further, to allow for the conversion of large single-family dwellings to two (2) family dwellings.

(2) **Permitted Uses.**

- (a) Single Family Dwellings
- (b) Two Family Dwellings
- (c) Public Parks & Playgrounds
- (d) Essential Services

(3) **Accessory Uses.**

- (a) Nursery and Greenhouse for private use only (no sales)
- (b) Private Garages and Accessory Buildings
- (c) Home Occupations (16.95)
- (d) Swimming Pools (16.92)

(4) **Conditional Uses**

- (a) Churches
- (b) Public & Private Schools
- (c) Libraries & Museums
- (d) Utilities
- (e) Recreational & Community Center Building and Grounds
- (f) Extended Home Occupations (16.95)
- (g) Bed and Breakfast Establishments
- (h) Boarding and Rooming House
- (i) Art, Gift, Jewelry and Notion Shops
- (j) Bakeries (retail), Candy, Confectionery, and Ice Cream Stores and Soda Fountains
- (k) Antique Shops

- (l) News Stands, Books and Stationery Stores
  - (m) Variety, Craft and Hobby Stores
  - (r) Retail Stores and Shops
- (5) Lot Requirements**
- (a) Width. One family building Minimum ninety (90) feet street frontage.  
Two family building. Minimum one hundred (100) feet street frontage.
  - (b) Lot Area Per Family.  
One family building. Minimum nine thousand (9,000) square feet  
Two family building. Minimum six thousand (6,000) square feet.
- (6) Building Requirements**
- (a) Maximum Principal Building Height. Thirty-five (35) feet.
  - (b) Maximum Accessory Building & Detached Garage Height.  
Fifteen (15) feet.
  - (c) Minimum Dwelling Unit Floor Space.  
One family building. One thousand, one hundred fifty (1,150) square feet.  
Two family building. Eight hundred (800) square feet per family.
- (7) Yards**
- (a) Front. Minimum thirty (30) feet from street right-of-way.
  - (b) Rear. Minimum twenty-five (25) feet from rear lot line.
  - (c) Side Yards Principal Building.  
Up to one (1) story – minimum, one side, twelve (12) feet  
Over one (1) story – minimum, one side, sixteen (16) feet.
  - (d) Side Yards Accessory Building. Minimum one side six (6) feet.
  - (e) Corner Lot Setback. Thirty (30) feet minimum from front street.  
Twenty-five (25) feet minimum from side street.
  - (f) Yard Cover. No more than thirty per cent (30%) of the rear yard may be covered with an accessory building
- (8) Off-Street Parking Required.**
- (a) Residential. Two (2) spaces per family
  - (b) Places of Public Gatherings. One (1) space per every five (5) seats.
- (9) Nonconforming Uses, Structures, and Lots. (16.26)**
- (10) Traffic, Loading, Parking, and Access (16.80)**
- (11) Construction Standards (16.82)**
- (12) Performance Standards (16.83)**

- (13) **Signs (16.90)**
- (14) **Fences, Hedges and Arbors (161.91)**
- (15) **Swimming Pools (16.92)**
- (16) **Signal Receiving Antennas (16.93)**
- (17) **Home Occupations (16.95)**
- (18) **Health and Sanitation (12.06)**
- (19) **Shoreland Regulations (Chapter 17)**
- (20) **Wellhead Protection Overlay District (Chapter 34)**

**16.32 MULTI FAMILY RESIDENTIAL DISTRICT (R-3)**

(1) **Purpose.** The R-3 Multi-Family Residential District is intended to establish and preserve single-family, two (2) family and multi-family residential use in neighborhoods free from other use except those which are compatible with such residential use.

- (2) **Permitted Uses.**
- (a) Single Family Dwellings
  - (b) Two Family Dwellings
  - (c) Multi-Family Dwellings Containing Three (3) to Eight (8) Units
  - (d) Public Parks & Playgrounds
  - (e) Essential Services

- (3) **Accessory Uses.**
- (a) Nursery and Greenhouse for private use only (no sales)
  - (b) Private Garages and Accessory Buildings
  - (c) Home Occupations (16.95)
  - (d) Swimming Pools (16.92)

- (4) **Conditional Uses**
- (a) Multi-family Dwelling Containing More Than Eight (8) Units
  - (b) Churches
  - (c) Public & Private Schools
  - (d) Libraries & Museums
  - (e) Utilities
  - (f) Recreational & Community Center Building and Grounds
  - (g) Extended Home Occupations (16.95)
  - (h) Bed and Breakfast Establishments
  - (i) Boarding and Rooming House
  - (j) Community Living Arrangements

- (5) **Lot Requirements**
- (a) Width. Two family building. Minimum one hundred (100) feet street frontage.  
Three family or more. Minimum one hundred twenty (120) feet street frontage.

- (b) Lot Area Per Family.
  - Two family building. Minimum six thousand (6,000) square feet.
  - Three family or more. Minimum three thousand, five hundred (3,500) square feet.
  
- (6) **Building Requirements**
  - (a) Maximum Principal Building Height. Thirty-five (35) feet.
  - (b) Maximum Accessory Building & Detached Garage Height. Fifteen (15) feet.
  - (c) Minimum Dwelling Unit Floor Space.
    - Two family building. Eight hundred (800) square feet per family.
    - Three family or more. Six hundred (600) square feet.
  
- (7) **Yards**
  - (a) Front two family. Minimum thirty (30) feet from street right-of-way.
    - Three family or more. Minimum forty (40) feet from street right-of-way.
  - (b) Rear. Minimum twenty-five (25) feet from rear lot line.
  - (c) Side Yards Principal Building.
    - Up to one (1) story – minimum, one side, twelve (12) feet.
    - Over one (1) story – minimum, one side, sixteen (16) feet.
  - (d) Side Yards Accessory Building. Minimum one side six (6) feet.
  - (e) Corner Lot Setback. Thirty (30) feet minimum from front street.
    - Twenty-five (25) feet minimum from side street.
  - (e) Yard Cover. No more than thirty per cent (30%) of the rear yard may be covered with an accessory building.
  
- (8) **Off-Street Parking Required.**
  - (a) Residential. One and one-half (1 ½) spaces per family.
  - (b) Places of Public Gatherings. One (1) space per every five (5) seats.
  
- (9) **Nonconforming Uses, Structures, and Lots (16.26)**
- (10) **Traffic, Loading, Parking, and Access (16.80)**
- (11) **Construction Standards (16.82)**
- (12) **Performance Standards (16.83)**
- (13) **Signs (16.90)**
- (14) **Fences, Hedges and Arbors (16.91)**
- (15) **Swimming Pools (16.92)**
- (16) **Signal Receiving Antennas (16.93)**
- (17) **Home Occupations (16.95)**
- (18) **Health and Sanitation (12.06)**
- (19) **Shoreland Regulations (Chapter 17)**
- (20) **Wellhead Protection Overlay District (Chapter 34)**

### **16.33 PLANNED RESIDENTIAL CONSERVANCY DISTRICT (PRC-4)**

(1) **Purpose.** The purpose of the PRC-4 Planned Residential Conservancy District Zoning is to mutually provide for lower density single-family and two (2) family residential development opportunities that preserve the Village of Elkhart Lake's rural character on its perimeter.

(2) **Intent.** The district intends to allow the development of conservation subdivisions that:

- (a) Permanently preserve identified unique and sensitive environmental areas such as steep slopes, open spaces, wetlands, forested areas, scenic views and critical species habitat.
- (b) Promote the general public welfare.
- (c) Encourage the efficient use of land and resources.
- (d) Promote public and utility services.
- (e) Encourage innovation in the planning and building of all types of development.
- (f) Develop using the Conservancy Overlay PUD See 16.72.
- (g) Preserve Earth's natural resources while at the same time permitting development

(3) **Permitted Uses.**

- (a) Single Family Dwellings
- (b) Two Family Dwellings
- (c) Public Parks & Playgrounds
- (d) Essential Services

(4) **Accessory Uses.**

- (a) Nursery and Greenhouse for private use only (no sales)
- (b) Private Garages and Accessory Buildings

(5) **Conditional Uses**

- (a) Churches
- (b) Public & Private Schools
- (c) Libraries & Museums
- (d) Utilities
- (e) Recreational & Community Center Building and Grounds
- (f) Home Occupations (16.95)
- (g) Bed and Breakfast Establishments
- (h) Boarding and Rooming House

(6) **Area/Density Requirements**

- (a) Maximum density shall not exceed that allowed in the R-2 District as calculated in 16.72(1) (Planned Conservancy Residential Criteria Density)
- (b) Conservancy Overlay District Additional Requirements see 16.72

**(7) Building Requirements**

- (a) Maximum Principal Building Height. Thirty-five (35) feet.
- (b) Maximum Accessory Building & Detached Garage Height. Fifteen (15) feet.
- (c) Minimum Dwelling Unit Floor Space.
  - One family building. One thousand, one hundred fifty (1,150) square feet.
  - Two family building. Eight hundred (800) square feet per family.
- (d) Conservancy Overlay District Additional Requirements see 16.72.

**(8) Yards**

- (a) Lot size, shape, and orientation shall be appropriate for the location of the development and for the type of development and use being considered.
- (b) No minimum or maximum lot size shall be imposed. Yards shall be subject to the requirements of 16.31(7). However, when smaller lot sizes than those required in the R-2 District are approved, front, rear, and side yard setbacks may be reduced from that specified in the R-2 District by the Planning Commission if consistent with the Existing Features Map. Unless a variance is granted for an individual lot, in no case shall setbacks be less than the following: front yard setback of fifteen (15) feet from the street right-of-way, rear yard setback of fifteen (15) feet from rear lot line, and minimum side yard space between buildings on adjacent lots of twenty (20) feet with an eight (8) foot minimum to the lot line.
- (c) Conservancy Overlay District Additional Requirements see 16.72.

**(9) Off-Street Parking Required.**

- (a) Residential. Two (2) spaces per family
- (b) Places of Public Gatherings. One (1) space per every five (5) seats.
- (c) Conservancy Overlay District Additional Requirement see 16.72

**(10) Planned Conservancy Residential Criteria**

Conservation Developments shall be submitted for review by the Elkhart Lake Planning Commission and approval by the Village Board according to the procedures and criteria established in this section.

- (a) Calculation of Site Capacity

1. For cluster development, the calculation of site capacity, or the number of dwelling units permitted on a site, shall be based on net build able acreage. The applicant shall determine the net build able acreage (NBA) using the following method, substantiated by sufficient plans and data to verify the calculations.

Gross Acreage of Site: \_\_\_\_\_acres

From the gross acreage of site, subtract the following:

All lands located within existing street rights-of-way: \_\_\_\_\_acres

All lands located within existing utility and railway rights-of-way: \_\_\_\_\_ acres

All lands located within a flood plain: \_\_\_\_\_ acres

All lands located within a wetland: \_\_\_\_\_ acres

All of the area located within a pond or lake: \_\_\_\_\_ acres

Fifty percent (50%) of the lands having a slope between twelve percent (12%) and twenty percent (20%): \_\_\_\_\_ acres

All of the land area having a slope of twenty percent (20%) or greater: \_\_\_\_\_ acres

Twenty-five percent (25%) of the area located within a woodland: \_\_\_\_\_ acres

The result is the net build able acreage (NBA): \_\_\_\_\_ acres

2. Where two or more categories overlap, the overlapping acreage shall be counted only once, using the most restrictive classification.

3. To determine the number of units permitted on a given site the net build able acreage shall be multiplied by five (5) and round to the nearest whole number.

\_\_\_\_\_ acres NBA times five (5) = \_\_\_\_\_ dwelling units permitted.

(b) Existing Features (Site Analysis and Inventory) Map. A map analyzing and inventorying each site's special features is required for all proposed developments, as they form the basis of the design process for open space, house locations, street alignments, and lot lines. The Existing Features Map shall form the basis for the conceptual preliminary plan, which shall show the tentative location of houses, streets, lot lines and open space areas. The Existing Features Map shall be presented to the Planning Commission and shall include the following details:

1. A topography map, based on a U.S.G.S. Quadrangle map, with contours at two-foot intervals for slopes less than twelve percent (12%) and at no more than five-foot intervals for slopes of twelve percent (12%) or greater. Any rock outcrops, slopes twelve percent (12%) or greater, ridgelines, and hilltops shall be highlighted.

2. Soil boundaries as shown on the Sheboygan County Soil Survey maps published by the Soil Conservation Service; and soil types and characteristics with interpretations of their suitability for woodland, wildlife habitat, recreation, building foundations, roadways, and onsite sewage-disposal facilities as identified by Sheboygan County.

3. Hydrologic characteristics including lakes, ponds, rivers, streams, creeks, wetlands, floodplains, surface drainage patterns, and shore land protections areas.
4. The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trains.
5. Vegetation of the site, including the boundaries and characteristics of woodlands, grasslands, hedgerows, lone specimen trees, meadows, prairies, and fallow farm fields. Predominant species of plants in hedgerows and woodlands shall be identified and shall include comments on the health and condition of the plants. Specimen trees and unique or endangered plant species shall be identified by species, size, and health.
6. Wildlife habitat areas including identification of the predominant species of birds, mammals, amphibians, fish, and reptiles present. The presence of rare and endangered species shall be noted.
7. Existing land uses including cultivated and uncultivated fields, paved areas, buildings, structures, and all encumbrances, such as easements or covenants. All buildings shall be located and their proposed retention and use described. The location of associated wells and onsite sewage-disposal systems shall be included.
8. Historic and cultural features including a brief description of the historic character of buildings, structures, ruins, old burial sites, and fencerows.
9. Classifications of existing streets and highways within, or adjacent to, the development parcel and desirable or undesirable entry points into the parcel.
10. Existing adjacent pertinent physical conditions surrounding the tract within 200 feet. The size and extent of existing adjacent open space areas should be noted as well as any potential open space connections. General outlines of adjacent buildings, land uses, natural features, street classifications, and property boundaries within 200 feet of the tract shall be shown.
11. Delineations of classified natural resource areas such as the identified boundaries of environmental corridors and isolated natural resource areas.
12. Adopted pertinent area wide and local comprehensive plan elements as related to the development parcel, including plans for agricultural land preservation, park and open space preservation, trail and bikeway systems, storm water management and flood control systems, including flood hazard areas, plans for utilities, and arterial street and highway systems, as well as planned general land use patterns. This information may be presented on an aerial photograph at a scale no smaller than one inch equals 400 feet.

(c) Site Inspection. After the site analysis has been prepared, the applicant shall schedule a mutually convenient date to walk the site of the intended conservation development with the Planning Commission and the Village engineer. This is intended for all parties to familiarize themselves with the special features of the site.

(d) Conceptual Design. The applicant shall then layout a conceptual conservation development for the site following the regulations, standards, and guidelines within this zoning district and 16.72(8) and 16.72(9).

(e) Pre-submission Conference. Prior to the submission of the Preliminary Plan, the applicant shall have a pre-submission conference with the Planning Commission to discuss the applicant's conceptual design of the site.

(f) Preliminary Plan. After the pre-submission conference, a preliminary plan should be submitted. A preliminary plan shall include scaled drawings that illustrate layouts of, but is not limited to, the following:

1. open space.
2. house sites.
3. street alignments.
4. pedestrian circulation systems.
5. preliminary plat data requirements as listed in Village Ordinance 32.15.

(g) Preliminary Plat. Upon revision, if required, the plan will be ready to prepare and submit as a Preliminary Plat.

(h) Design for Cluster Groups. The following standards shall apply to all cluster groups:

1. The grouping of dwelling units into one or more cluster groups shall be encouraged and such cluster groups shall be designed and located based upon the Existing Features Map submitted under Section 16.72(2), and the general intent and design standards of this Chapter.

2. Common Open Spaces shall be located in proximity to cluster groups, with larger cluster groups having equivalently larger common open spaces in the vicinity, and common open spaces shall be accessible to residents within the cluster group.

(i) Design Standards for Open Common Space. This open space shall meet the following standards:

1. For the purposes of this section, gross land area includes all lands within the tract, except existing street, railway, and utility rights-of-way.

2. Common open space shall comply with the following design standards:

i. The location and design of common open space shall be consistent with the objectives of the Village of Elkhart Lake's Comprehensive Plan and shall be based upon the Existing Features Map submitted under Section 16.72(2), and the general intent and design standards of this Chapter.

ii. To the extent consistent with the Existing Features Map submitted under Section 16.72(2), open space areas shall be part of a larger continuous and integrated open space system.

iii. Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Chapter. Primary and secondary environmental corridors and isolated natural areas as identified by the Regional Planning Commission are of particular significance for protection.

iv. Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance or restore their overall condition and natural processes, as recommended by professionals. Permitted modifications may include:

- A. Woodland management.
- B. Reforestation.
- C. Meadow management
- D. Wetlands management
- E. Stream bank protection.
- F. Buffer area landscaping

v. To the extent consistent with the Existing Features Map submitted under Section 16.72(2), and the general intent and design standards of this Chapter, and proper design of conservation developments, the following features shall either be contained in common open space or shall be preserved and protected through restrictive covenants, conservation easements, plat restriction, or other similar documents: wetlands, floodplains, unique wildlife habitat areas, steep slopes over 20 percent, lowland environmental corridors, upland primary environmental corridors, scenic view points, ridge tops and hilltops, and woodlands.

vi. Maximize common boundaries with existing or future open space on adjacent tracts, as shown in the Village of Elkhart Lake's Comprehensive Plan.

vii. To the extent reasonable and consistent with the Existing Features Map, common open space shall include lands located along existing public roadways in order to preserve existing rural landscape character as seen from these roadways and shall, in no case, contain less than the required buffer, setback area, or separation distance.

3. Except for common open space areas isolated or protected consistent with the Existing Features Map submitted under Section 16.72(2), safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas.

4. The following areas shall not be included in the calculation of common open space areas:

i. Private lot areas, except for lot areas of 20,000 square feet or greater that are contiguous to other open space areas and are preserved and protected through restrictive covenants, conservation easements, plat restriction or other similar restrictions consistent with open space restrictions.

ii. Street and highway rights-of-way, public or private.

iii. Railway and utility rights-of-way.

iv. Parking areas.

v. Except for landscape islands, common open space less than 10,000 square feet in area.

(j) Landscaping. Landscaping shall be consistent with the present and historical land use, and installed, managed and maintained according to a long term management plan prepared by professional ecologists, and enforced through restrictive covenants, conservation easements, plat restriction, or other similar documents approved the Elkhart Lake Planning Commission. To the extent existing natural landscaping is

consistent with historical land use and is indigenous and non-noxious vegetation, it shall be retained to the extent reasonable and consistent with the Existing Features Map submitted under Section 16.72(2), and the general intent and design standards of this Chapter, including preservation of existing woodlands.

(k) Ownership and Maintenance of Common Facilities and Open Space.

To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, storm water management facilities, common parking areas and driveways, private streets, and other common or community facilities (hereafter referred to as common facilities), the following regulations apply:

1. Ownership.

The following methods may be used, either singly or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in common facilities. Ownership methods shall conform to the following to be approved on an individual basis by the Elkhart Lake Planning Commission:

i. Homeowners Association.

Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The homeowners association shall be governed according to the following:

A. The applicant shall provide to the Village of Elkhart Lake a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities.

B. The organization shall be established by the owner applicant and shall be operating (with financial subsidy by the applicant, if necessary) prior to the sale of any dwelling units in the development.

C. Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.

D. The organization shall be responsible for maintenance and insurance of common facilities.

E. The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.

F. The organization shall have or hire adequate staff to administer, maintain, and operate common facilities.

G. The applicant for any tract proposed to contain common facilities shall arrange with the Village of Elkhart Lake's Assessor a method of assessment of the common facilities, which will allocate to each tax parcel in the development a share of the total assessment for such common facilities.

H. Written notice of any proposed transfer of common facilities by the homeowners association or assumption of maintenance of common facilities must be given to all members of the organization and to the Village of Elkhart Lake at least thirty (30) days prior to such event.

ii. Condominium.

Common facilities shall be controlled through the use of condominium agreements. the requirements of such agreements shall be approved y the Village attorney and shall be in

conformance with the “Condominium Ownership Act of 1977” (chapter 703, Wis. Stats. as amended). All common open space and other common facilities shall be held as a “common element” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.

iii. Dedication of conservation easements to the Village of Elkhart Lake or other public agency. The Village of Elkhart Lake or other public agency acceptable to the Village may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private.

A. There is no cost of easement acquisition to the Village of Elkhart Lake (other than costs incidental to the transfer of ownership, such as title insurance.)

B. A satisfactory maintenance agreement shall be reached between the owner and the Village of Elkhart Lake.

C. Lands under a Village of Elkhart Lake easement may or may not be accessible to the residents of the Village of Elkhart Lake.

iv. Transfer of ownership to a private conservation organization. With approval of the Village of Elkhart Lake, an owner may dedicate any portion of the common facilities to a private, nonprofit conservation organization, provided that:

A. The organization is acceptable to the Village of Elkhart Lake and is a bon fide conservation organization.

B. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.

C. A maintenance plan and program acceptable to the Village of Elkhart Lake is established in accordance with Section 16.72(11b).

v. Transfer of easements to a private conservation organization. With approval of the Village of Elkhart Lake, an owner may transfer conservation easements on common facilities to a private, nonprofit conservation organization, provided that:

A. The organization is acceptable to the Village of Elkhart Lake and is a bon fide conservation organization.

B. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.

C. A maintenance agreement acceptable to the Village of Elkhart Lake is established between the owner and the organization, in accordance with Section 16.72(11b).

vi. Ownership retained by the original landowner. Ownership of common open space and facilities may be retained by the original landowner provided that:

A. The Village of Elkhart Lake and residents of the development shall hold conservation easements on the land, protecting it from any further development.

B. Resident access to the land is limited only by

agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.

C. A maintenance plan and program acceptable to the Village of Elkhart Lake is established in accordance with Section 16.72(11b).

vii. Other methods acceptable to the Village of Elkhart Lake Planning Commission

2. Maintenance and operation of common facilities.

i. A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to, and approved by, the Village of Elkhart Lake Planning Commission prior to preliminary plan approval. Such plan shall:

A. Define ownership.

B. Establish necessary regular and periodic operation and maintenance responsibilities.

C. Estimate staffing needs, insurance requirements and other associated costs and define the means for funding the same on an on-going basis.

D. Include a Land Stewardship Plan specifically focusing on the long-term management of common open space lands. A draft Land Stewardship Plan shall be submitted at the time of preliminary plan review to the Village of Elkhart Lake Planning Commission for review and recommendations, and a final Land Stewardship Plan at the time of final plan approval. The Land Stewardship Plan shall include a narrative, based on the Site analysis required in Section 16.72(6), describing:

I. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape.

II. Objectives for each common open space area, including:

a. The proposed end state for the area; and the measures proposed for achieving the end state.

b. Proposed restoration measures, including measures for correcting increasingly destructive conditions, such as erosion, and measures for restoring historic features.

III. A maintenance and operations plan identifying operations needed for maintaining the stability of the resources, including:

a. Mowing schedules.

b. Weed control.

c. Planting schedules.

d. Clearing and cleanup.

e. At the Village of Elkhart Lake's discretion, the applicant may be required to place in escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one year.

ii. In the event that the organization established to own and maintain common facilities, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the Village of Elkhart Lake may serve written notice upon such organization and upon the

residents and owners of the uses relating thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this chapter, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Village of Elkhart Lake may enter the premises and take corrective action.

iii. The costs of corrective action by the Village of Elkhart Lake shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Village of Elkhart Lake, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the Sheboygan County Register of Deeds upon the properties affected by such lien. The Village also retains the right to recover the costs of the corrective action as a special charge pursuant to Wisconsin Stat. 66.0627, as amended.

3. Leasing of common open space lands. Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:

i. The residents of the development shall at all times have access to such leased lands, except in the case of a lease for agricultural purposes, in which case the residents, within their agreement, may be restricted from accessing the lands.

ii. The common open space lands to be leased shall be maintained for the purposes set forth in this Chapter.

iii. The operation of such leased open space lands may be for the benefit of the residents of the development only or may be open to the public, if so determined by the residents.

iv. The lease, and any transfer or assignment thereof, shall be subject to the approval of the Village of Elkhart Lake Planning Commission and Board.

v. Lease agreements so entered upon shall be recorded in the office of the Sheboygan County Register of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Village of Elkhart Lake.

#### 4. Conservation.

Common open space shall be restricted in perpetuity from further subdivision or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village of Elkhart Lake Planning Commission and duly recorded in the office of the Sheboygan County Register of Deeds.

##### (1) Sanitary and Water-Supply Facilities.

To fully realize the advantages and opportunities of a conservation subdivision, the Village Board will require that the developer provide for public water and sewer for all lots and clusters of lots in accordance with Village Ordinance 12.06 except for non-clustered lots designed consistent with the Existing Features Map submitted under Section 16.72(2), where the provision of sewer and water supply facilities for a small number of isolated lots in a development is found not to be economical. Public water and

sewer lines will be dedicated to the Village at their completion and acceptance by the Village.

Concerning the provision of public water and sewer to all lots, after consideration of the recommendation by the Planning Commission, the Village Board shall have the authority to modify or adjust technical standards applicable to the specific development provided that the Planning Commission and Village Board are satisfied that the overall site plan, taking into account all relevant factors, will meet both the general intent and design guidelines of this ordinance.

- (11) Construction Standards (16.82)**
- (12) Traffic, Loading, Parking, and Access (16.80)**
- (13) Performance Standards (16.83)**
- (14) Signs (16.90)**
- (15) Fences, Hedges and Arbors (16.91)**
- (16) Swimming Pools (16.92)**
- (17) Signal Receiving Antennas (16.93)**
- (18) Home Occupations (16.95)**
- (19) Health and Sanitation (12.06)**
- (20) Shoreland Regulations (Chapter 17)**
- (21) Wellhead Protection Overlay District (Chapter 34)**

#### **16.40 GENERAL COMMERCIAL DISTRICT (C-1)**

**(1) Purpose.** The C-1 General Commercial District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and service establishments serving the daily needs of the surrounding local community area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the traffic circulation system and other related facilities, and of potential contribution to the economic welfare of the community.

#### **(2) Permitted Uses**

- (a) Art, Gift, Jewelry, and Notion Shops
- (b) Barber Shops, Beauty Parlors, and Other Personal Businesses
- (c) Non-automotive Repair Services
- (d) Clothing and Dry Goods Stores
- (e) Liquor Stores
- (f) Bakeries (retail), Candy, Confectionery, Ice Cream Stores and Soda Fountains
- (g) Banks and Other Financial Institutions
- (h) Offices including Clinics (medical), Real Estate, Insurance, Utilities, Telephone, Telegraph, and Other Professional Offices
- (i) Drug Stores and Pharmacies
- (j) Florist Shops
- (k) Retail Fruit, Vegetable, Meat, and Fish Markets, Grocery Stores and Delicatessens

- (l) Furniture and Hardware Stores
  - (m) Antique Shops
  - (n) News Stands, Books and Stationary Stores
  - (o) Professional Studios
  - (p) Sport Shops
  - (q) Variety, Craft & Hobby Stores
  - (r) Carpet, Flooring and Tile Sales
  - (s) Appliance Dealers
  - (t) Restaurants
  - (u) Music, Radio, and Television Stores, Video Rental and Sales Stores
  - (v) Service Stations, Auto Sales, and Public Garages, Marine Sales and Services, and Car Washes
  - (w) Convenience Stores, Mini-Marts
  - (x) Laundromats & Dry Cleaning Establishments
  - (y) Paint, Glass and Wallpaper Stores
  - (z) Mini Golf Courses, Driving Ranges, and Golf Course
  - (aa) Bait Shops
  - (bb) Information Booths
  - (cc) Live Entertainment Establishments
  - (dd) Funeral Homes
  - (ee) Nursery and Green Houses
  - (ff) Public Transportation Facilities
  - (gg) Retail Stores and Shops
  - (hh) Essential Services
  - (ii) Governmental and Cultural uses such as fire and police stations, community centers, libraries, post office, Village hall, museums and historical sites or structures.
  - (jj) Single and Two Family Dwellings
- (3) Accessory Uses**
- (a) Garages for storage of vehicles used in conjunction with permitted use.
- (4) Conditional Uses**
- (a) Animal Hospitals, Clinics, Shelters, and Kennels
  - (b) Churches
  - (c) Day care centers, when required to be licensed by an agency of the State, where a person provides, for compensation, care and maintenance of four (4) or more children at a location other than the child's own home or the home of relatives or guardians.
  - (d) Utilities
  - (e) Taverns
  - (f) Clubs, Fraternal Organizations, and Lodges operating for a profit
  - (g) Rooming Houses
  - (h) Bed and Breakfast Establishments

- (i) Fitness Centers
- (j) Hotels and Motels

**(5) Lot Requirements**

- (a) Lots shall provide sufficient area and width for the principal building and its accessory buildings, off-street parking and loading areas, and required yards.
- (b) Minimum lot width Ninety (90) feet street frontage.

**(6) Building Requirements**

- (a) Maximum Principal Building Height. Thirty-five (35) feet.
- (b) Maximum Accessory Building & Detached Garage Height. Twenty (20) feet.
- (c) The sum total of the floor area of the principal building and all accessory buildings shall not exceed fifty percent (50%) of the lot area.

**(7) Yards**

- (a) Front. Minimum thirty (30) feet from street right-of-way.
- (b) Rear. Minimum twenty-five (25) feet from rear lot line.
- (c) Side Yards Principal Building – Minimum, one side, ten (10) feet
- (d) Side Yards Accessory Building. Minimum one side six (6) feet.

**(8) Nonconforming Uses, Structures, and Lots (16.26)**

**(9) Traffic, Loading, Parking, and Access (16.80)**

**(10) Performance Standards (16.83)**

**(11) Signs (16.90)**

**(12) Site Plan Review (16.23 (5))**

**(13) Construction Standards (16.82)**

**(14) Fences, Hedges and Arbors (16.91)**

**(15) Swimming Pools (16.92)**

**(16) Signal Receiving Antennas (16.93)**

**(17) Home Occupations (16.95)**

**(18) Health and Sanitation (12.06)**

**(19) Shoreland Regulations (Chapter 17)**

**(20) Wellhead Protection Overlay District (Chapter 34)**

**16.41 RESORT COMMERCIAL DISTRICT (C-2)**

**(1) Purpose.** The C-2 Resort Commercial District is intended to provide for an area of retail, customer service, and entertainment establishments serving primarily the resort community and character, appearance, and operation of which are compatible with the surrounding area.

**(2) Permitted Uses**

- (a) Art, Gift, Jewelry, and Notion Shops

- (b) Barber Shops, Beauty Parlors, and other Personal Businesses
  - (c) Non-automotive Repair Services
  - (d) Clothing and Dry Goods Stores
  - (e) Bed & Breakfast Establishments
  - (f) Bakeries (retail), Candy, Confectionery, and Ice Cream Stores
  - (g) Restaurants
  - (h) Bath Houses
  - (i) Hotels and Motels
  - (j) Bait Shops
  - (k) Information Booths
  - (l) Live Entertainment Establishments
  - (m) Public Transportation Facilities
  - (n) Retail Stores and Shops
  - (o) Essential Services
  - (p) Single and Two Family Dwellings
- (3) Accessory Use**
- (a) Garages for storage of vehicles used in conjunction with permitted use.
- (4) Conditional Uses**
- (a) Boat Liveries and Launches
  - (b) Utilities
  - (c) Multi Family Dwellings
  - (d) Taverns
  - (e) Mini-golf course
- (5) Lot Requirements**
- (a) Lots shall provide sufficient area and width for the principal building and its accessory buildings, off-street parking and loading areas, and required yards.
  - (b) Minimum lot width -- Ninety (90) feet street frontage.
- (6) Building Requirements**
- (a) Maximum Principal Building Height. Forty-five (45) feet or Four (4) stories, whichever is less.
  - (b) Maximum Accessory Building & Detached Garage Height. Twenty (20) feet.
  - (c) The sum total of the floor area of the principal building and all accessory buildings shall not exceed fifty percent (50%) of the lot area.
- (7) Yards**
- (a) Front. Twenty-five (25) feet [Fifty (50) feet if parking is permitted in front] plus five (5) feet for each additional story above two.

- (b) Rear. Minimum Fifteen (15) feet from rear lot line.
- (c) Side Yards Principal Building – minimum, one side, ten (10) feet.  
If Hotel ----- minimum, one side, twenty (20) feet.
- (d) Side Yards Accessory Building -- minimum, one side ten (10) feet.
- (e) Setback from Elkhart Lake --- Fifty (50) feet for each ten (10) feet  
of building height. (ie - A 45 foot high building would need to  
be 225 feet away from the lake.)

- (8) Nonconforming Uses, Structures, and Lots (16.26)**
- (9) Traffic, Loading, Parking, and Access (16.80)**
- (10) Performance Standards (16.83)**
- (11) Signs (16.90)**
- (12) Site Plan Review (16.23 (5))**
- (13) Construction Standards (16.82)**
- (14) Fences, Hedges and Arbors (16.91)**
- (15) Swimming Pools (16.92)**
- (16) Signal Receiving Antennas (16.93)**
- (17) Home Occupations (16.95)**
- (18) Shoreland Regulations (Chapter 17)**
- (19) Health and Sanitation (12.06)**
- (20) Wellhead Protection Overlay District (Chapter 34)**

**16.42 DOWNTOWN COMMERCIAL DISTRICT (C-3)**

(1) **Purpose.** The C-3 Downtown Commercial District is intended to provide attractive, orderly, appropriate regulations to ensure the compatibility of the diverse uses typical of the central area without inhibiting the potential for maximum development of commercial, cultural, entertainment, and other urban activities which contribute to its role as the "heart" of the Village.

**(2) Permitted Uses**

- (a) Art, Gift, Jewelry, and Notion Shops
- (b) Barber Shops and Beauty Parlors
- (c) Non-automotive Repair Services
- (d) Clothing and Dry Goods Stores
- (e) Bed & Breakfast Establishments
- (f) Bakeries (retail), Candy, Confectionery, and Ice Cream Stores and Soda Fountains
- (g) Banks and Other Financial Institutions
- (h) Offices including Clinics (medical), Real Estate, Insurance, Utilities, Telephone, Telegraph, and Other Professional Offices
- (i) Drug Stores and Pharmacies
- (j) Florist Shops
- (k) Retail Fruit, Vegetable, Meat, and Fish Markets, Grocery Stores and Delicatessens
- (l) Furniture and Hardware Stores

- (m) Antique Shops
  - (n) News Stands, Books and Stationery Stores
  - (o) Professional Studios
  - (p) Sport Shops
  - (q) Variety, Craft and Hobby Stores
  - (r) Retail Stores and Shops
  - (s) Restaurants – (without taverns)
  - (t) Information Booths
  - (u) Essential Services
  - (v) Public Transportation Facilities
  - (w) Government and Cultural uses such as fire and police stations, community centers, libraries, post office, Village hall, museums and historical sites or structures.
  - (x) Single and Two Family Dwellings
- (3) Accessory Uses**
- (a) Garages for storage of vehicles used in conjunction with permitted use.
- (4) Conditional Uses.**
- (a) Hotels and motels
  - (b) Churches
  - (c) Day care centers, when required to be licensed by an agency of the State, where a person provides, for compensation, care and maintenance of four (4) or more children at a location other than the child's home or the home of relatives or guardians.
  - (d) Utilities
  - (e) Multi-family dwellings
  - (f) Live Entertainment Establishments
  - (g) Taverns and Liquor Stores
  - (h) Clubs, Fraternal Organizations, and Lodges operating for a profit
  - (i) Personal Services/Businesses
- (5) Lot Requirements**
- (a) Minimum total area = 4,800 square feet
  - (b) Minimum lot width = forty (40) feet street frontage.
- (6) Building Requirements**
- (a) Maximum Principal Building Height. Thirty-five (35) feet or two (2) stories, whichever is less.
  - (b) Maximum Accessory Building & Detached Garage Height. Twenty (20) feet.
  - (c) The sum total of the floor area of the principal building and all accessory buildings shall not exceed one hundred fifty percent (150%) of the lot area.

- (7) **Yards**
  - (a) Front. Minimum twenty-five (25) feet from street right-of-way.
  - (b) Rear. Minimum twenty-five (25) feet from rear lot line.
  - (c) Side Yards - No minimum side yard is required between a structure and the lot line or between adjacent structures; however, where a side yard exists, it shall be not less than ten (10) feet in width.
- (8) **Nonconforming Uses, Structures, and Lots (16.26)**
- (9) **Traffic, Loading, Parking, and Access (16.80)**
- (10) **Performance Standards (16.83)**
- (11) **Signs (16.90)**
- (12) **Site Plan Review (16.23 (5))**
- (13) **Construction Standards (16.82)**
- (14) **Fences, Hedges and Arbors (16.91)**
- (15) **Swimming Pools (16.92)**
- (16) **Signal Receiving Antennas (16.93)**
- (17) **Home Occupations (16.95)**
- (18) **Shoreland Regulations (Chapter 17)**
- (19) **Health and Sanitation (12.06)**
- (20) **Wellhead Protection Overlay District (Chapter 34)**

#### **16.43 HIGHWAY COMMERCIAL DISTRICT (C-4)**

(1) **Purpose.** The C-4 Highway Commercial District is intended to provide orderly, appropriate regulations to ensure the compatibility of the diverse uses typical of the highway area and to provide high visibility and easy access to those establishments.

- (2) **Permitted Uses**
  - (a) Art, Gift, Jewelry, and Notion Shops
  - (b) Barber Shops, Beauty Parlors, and Other Personal Businesses
  - (c) Non-automotive Repair Services
  - (d) Clothing and Dry Goods Stores
  - (e) Liquor Stores
  - (f) Bakeries (retail), Candy, Confectionery, Ice Cream Stores and Soda Fountains
  - (g) Banks and Other Financial Institutions
  - (h) Offices including Clinics (medical), Real Estate, Insurance, Utilities, Telephone, Telegraph and Other Professional Offices
  - (i) Drug Stores and Pharmacies
  - (j) Florist Shops
  - (k) Retail Fruit, Vegetables, Meat, and Fish Markets, Grocery Stores and Delicatessens
  - (l) Furniture and Hardware Stores
  - (m) Antique Shops
  - (n) News Stand, Books and Stationary Stores

- (o) Professional Studios
- (p) Sport Shops
- (q) Variety, Craft & Hobby Stores
- (r) Fitness Centers
- (s) Fast Food Restaurants and Drive-ins
- (t) Restaurants
- (u) Music, Radio and Television Stores, Video Rental and Sales Stores
- (v) Service Stations, Auto Sales, and Public Garages, Marine Sales and Service, and Car Washes
- (w) Convenience Stores, Mini-Marts
- (x) Laundromats and Dry Cleaning Establishments
- (y) Paint, Glass and Wallpaper Stores
- (z) Department Stores
- (aa) Supermarkets
- (bb) Mini-golf Courses, Driving Ranges and Golf Courses
- (cc) Hotels and Motels
- (dd) Go-Kart Tracks, Amusement Parks, and Commercial Recreational Facilities
- (ee) Bait Shops
- (ff) Information Booths
- (gg) Theatres and Movie Theatres
- (hh) Live Entertainment Establishment
- (ii) Appliance Dealership
- (jj) Farm Machinery Sales and Services
- (kk) Funeral Homes
- (ll) Nursery and Greenhouses
- (mm) Public Transportation Facilities
- (nn) Retail Stores and Shops
- (oo) Building Supplies Sales
- (pp) Carpet, Flooring and Tile Sales
- (qq) Government and Cultural uses such as fire and police stations, community centers, libraries, post office, Village hall, museums and historical sites or structures.
- (rr) Essential Services
- (ss) Single and Two Family Dwellings

**(3) Accessory Uses**

- (a) Garages for storage of vehicles used in conjunction with permitted use.

**(4) Conditional Uses**

- (a) Animal Hospitals, Clinics, Shelters, and Kennels
- (b) Clubs, Fraternal Organizations, and Lodges operating for a profit
- (c) Churches

- (d) Day care centers, when required to be licensed by an agency of the State, where a person provides, for compensation, care and maintenance of four (4) or more children at a location other than the child's own home or the home of relatives or guardians.
- (e) Utilities
- (f) Taverns

**(5) Lot Requirements**

- (a) Minimum lot area = 8000 square feet
- (b) Minimum lot width = Eighty (80) feet of street frontage.
- (c) Off Street Parking  
Place of Public Gathering = One (1) space per five (5) seats  
Business = One (1) space per two hundred (200) square feet of floor space

**(6) Building Requirements**

- (a) Maximum Principal Building Height. Thirty-five (35) feet or two (2) stories, whichever is less.
- (b) Maximum Accessory Building & Detached Garage Height. Twenty-five (25) feet.

**(7) Yards**

- (a) Front. Twenty-five (25) feet [Fifty (50) feet if parking is permitted in front.]
- (b) Rear. Minimum forty (40) feet from rear lot line.
- (c) Side Yards Principal Building – minimum, one side, twenty (20) feet.
- (d) Side Yards Accessory Building -- minimum, one side ten (10) feet

**(8) Nonconforming Uses, Structures, and Lots (16.26)**

**(9) Traffic, Loading, Parking, and Access (16.80)**

**(10) Performance Standards (16.83)**

**(11) Signs (16.90)**

**(12) Site Plan Review (16.23 (5))**

**(13) Construction Standards (16.82)**

**(14) Fences, Hedges and Arbors (16.91)**

**(15) Swimming Pools (16.92)**

**(16) Signal Receiving Antennas (16.93)**

**(17) Home Occupations (16.95)**

**(18) Health and Sanitation (12.06)**

**(19) Shoreland Regulations (Chapter 17)**

**(20) Wellhead Protection Overlay District (Chapter 34)**

## **16.50 M-1 LIMITED MANUFACTURING DISTRICT**

(1) **Purpose.** The M-1 Limited Manufacturing District is intended to provide for manufacturing, industrial, and related uses of a limited nature and size in situations where such uses are not located in basic industrial grouping and where the relative proximity to other uses requires more restrictive regulation.

- (2) **Permitted uses.** Processing, manufacturing, and/or storage of the following:
- (a) Apparel findings and related products.
  - (b) Baked goods and bakery products.
  - (c) Blank books, loose-leaf binders and devices, books (publishing, printing and binding), and manifold business forms.
  - (d) Boot and shoe cut stock and findings.
  - (e) Bottling and canning soft drinks and carbonated waters.
  - (f) Candy and other confectionery products.
  - (g) Canvas products.
  - (i) Coffee roasting and coffee products.
  - (j) Costume jewelry, costume novelties, buttons, and miscellaneous notions.
  - (k) Curtains, draperies, venetian blinds, and shades.
  - (l) Electrotyping and stereotyping.
  - (m) Envelopes, stationery, and greeting cards.
  - (n) Fabrics (broad and narrow woven) and rugs.
  - (o) Garments (men's, women's, children's), work and dress, raincoats and other waterproof outer garments, robes and dressing gowns and allied garments.
  - (p) Hats, caps, millinery, umbrellas, parasols, and canes.
  - (q) Health foods, flavor extracts and syrups, cereal preparations, flour and other grain mill products.
  - (r) Household furniture and furnishings.
  - (s) Jewelers' findings and materials.
  - (t) Jewelry and precious metals.
  - (u) Lamps and lamp shades.
  - (v) Luggage, belts, dress and work gloves.
  - (w) Musical instruments and parts.
  - (x) Optical instruments and lenses.
  - (y) Photoengraving.
  - (z) Pleating, decorative, and novelty stitching and tucking for the trade.
  - (aa) Pottery.
  - (bb) Signs and advertising displays.
  - (cc) Toys, amusement, sporting and athletic goods.
  - (dd) Watches, clocks, clockwork-operated devices, and parts.

- (ee) Wine, brandy and brandy spirits.
- (ff) Essential Services
- (gg) Research and Development Facilities
- (hh) Office Space

**(3) Permitted Accessory Uses.**

- (a) Garages for storage of vehicles used in conjunction with the operation of an industry.
- (b) Off-street parking and loading areas.
- (c) Office, storage, power supply, and other uses normally auxiliary to the industrial operations.
- (d) Ground-mounted and building-mounted earth station dish antennas.

**(4) Conditional Uses.**

- (a) Athletic Clubs
- (b) Experimental, testing and research laboratories.
- (c) Gasoline service stations, automobile and truck servicing and repair, automobile and truck rental services, and automobile and truck washing.
- (d) Gymnasiums.
- (e) Health resorts.
- (f) Heliports and bus depots, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
- (g) Locker plants provided that no meat packing and processing shall be conducted.
- (h) Manufacturing and processing of dimension hardwood flooring, veneer, and plywood.
- (i) Millwork, lumber yards, saw mills, and planing mills.
- (j) Office uses unrelated to principal industrial operations.
- (k) Processing and manufacturing of feeds prepared for animals and fowl, wholesale and/or retail warehousing of animal feeds, fertilizer, seeds, gardens and lawn supplies, animal health products, and lawn equipment provided that all operations are conducted within an enclosed building.
- (l) Retail stores and services related to principal industrial operations.
- (m) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
- (n) Utilities.
- (o) Building Height – Additional building height could be permitted depending on the height of the manufacturing equipment needed.

**(5) Lot Requirements**

- (a) Minimum lot area = Twenty Thousand (20,000) square feet.
- (b) Minimum lot width = One Hundred (100) feet of street frontage.

- (6) **Building Requirements**
  - (a) Maximum Principal Building Height. Thirty-five (35) feet or three (3) stories, whichever is less.
  - (b) Maximum Accessory Building & Detached Garage Height. Twenty (20) feet.
- (7) **Yards**
  - (a) Front. Twenty-five (25) feet [Fifty (50) feet if parking is permitted in front.]
  - (b) Rear. Minimum Twenty-five (25) feet from rear lot line.
  - (c) Side Yards Principal Building – minimum, one side, twenty-five (25) feet.
  - (d) Side Yards Accessory Building -- minimum, one side ten (10) feet.
- (8) **Nonconforming Uses, Structures and Lots (16.26)**
- (9) **Traffic, Loading, Parking, and Access (16.80)**
- (10) **Performance Standards (16.83)**
- (11) **Signs (16.90)**
- (12) **Site Plan Review (16.23(5))**
- (13) **Construction Standards (16.82)**
- (14) **Fences, Hedges and Arbors (16.91)**
- (15) **Signal Receiving Antennas (16.93)**
- (16) **Health and Sanitation (12.06)**
- (17) **Shoreland Regulations (Chapter 17)**
- (18) **Wellhead Protection Overlay District (Chapter 34)**

## **16.51 M-2 GENERAL MANUFACTURING DISTRICT**

(1) **Purpose.** The M-2 General Manufacturing District is intended to provide for manufacturing and industrial development of a more general and less restrictive nature than in the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use would create fewer problems of compatibility and would not necessitate as stringent regulatory controls. Such districts should not normally abut directly upon residential districts.

(2) **Permitted Uses.** Those industrial uses permitted in the M-1 Limited Manufacturing District as permitted uses all other uses should be “Conditional” uses.

- (3) **Permitted Accessory Uses.**
  - (a) Garages for storage of vehicles used in conjunction with the operation of an industry.
  - (b) Off-street parking and loading areas.
  - (c) Offices, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
  - (d) Ground-mounted and building-mounted earth station dish antennas.

**(4) Conditional Uses**

- (a) Athletic Clubs
- (b) Experimental, testing and research laboratories.
- (c) Gasoline service stations, automobile and truck servicing and repair, automobile and truck rental services, and automobile and truck washing.
- (d) Gymnasiums.
- (e) Health resorts.
- (f) Heliports and bus depots, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
- (g) Locker plants provided that no meat packing and processing shall be conducted.
- (h) Manufacturing and processing of dimension hardwood flooring, veneer, and plywood.
- (i) Millwork, lumber yards, saw mills, and planing mills.
- (j) Office uses unrelated to principal industrial operations.
- (k) Processing and manufacturing of feeds prepared for animals and fowl, wholesale and/or retail warehousing of animal feeds, fertilizer, seeds, gardens and lawn supplies, animal health products, and lawn equipment provided that all operations are conducted within an enclosed building.
- (l) Retail stores and services related to principal industrial operations.
- (m) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
- (n) Utilities.
- (o) Building Height – Additional building height could be permitted depending on the height of the manufacturing equipment needed.
- (p) Any other use not listed above.

**(5) Lot Requirements**

- (a) Minimum lot area = Forty Thousand (40,000) square feet.
- (b) Minimum lot width = One hundred fifty(150) feet of street frontage.

**(6) Building Requirements**

- (a) Maximum Principal Building Height. Forty-five (45) feet or two (2) stories, whichever is less.
- (b) Maximum Accessory Building & Detached Garage Height. Twenty-five (25) feet.

**(7) Yards**

- (a) Front. Twenty-five (25) feet [Fifty (50) feet if parking is permitted in front.]
- (b) Rear. Minimum forty (40) feet from rear lot line.

- (c) Side Yards Principal Building – minimum, one side, twenty-five (25) feet.
  - (d) Side Yards Accessory Building -- minimum, one side ten (10) feet.
- (8) Site Plan Review (16.23(5))**
  - (9) Nonconforming Uses, Structures, and Lots (16.26)**
  - (10) Traffic, Loading, Parking, and Access. (16.80)**
  - (11) Construction Standards (16.82)**
  - (12) Performance Standards (16.83)**
  - (13) Signs (16.90)**
  - (14) Fences, Hedges and Arbors (16.91)**
  - (15) Signal Receiving Antennas (16.93)**
  - (16) Health and Sanitation (12.06)**
  - (17) Shoreland Regulations (Chapter 17)**
  - (18) Wellhead Protection Overlay District (Chapter 34)**

**16.52 M-3 INDUSTRIAL PARK DISTRICT.**

(1) **Purpose.** The M-3 Industrial Park District is intended to provide for the development of the attractive grouping of manufacturing, industrial, and office development uses. Such uses would be of a limited intensity and would provide aesthetically pleasing open space. The district is also intended to provide for ample off-street parking and loading areas, and landscape planting screens in areas adjacent to non-business development or other incompatible uses. This district is also intended to be applied to the areas of the Village indicated as industrial parks by the adopted Village master plan or component thereof.

(2) **Permitted Uses.** Office, processing, manufacturing and/or storage facilities provided that the Plan Commission, in approving or disapproving proposed locations for uses under this paragraph, shall give due consideration to the character and suitability for development of the area in which any such use is proposed to be located, and shall also base its decision on such evidence as may be presented to the Planning Commission regarding those attributes of the proposed use, such as an increased traffic on the public systems, soil limitations, and the emissions of noise, smoke, dust or dirt, odorous or noxious gases, and the like that would be detrimental to such character and such suitability for development.

**(3) Permitted Accessory Uses.**

- (a) Garages for storage of vehicles used in conjunction with the operation of an industry.
- (b) Ground-mounted and building-mounted earth station dish antennas.
- (c) Off-street parking areas.
- (d) Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.

**(4) Lot Requirements**

- (a) Minimum lot area = One (1) acre.
- (b) Minimum lot width = Two hundred (200) feet of street frontage.

**(5) Lot Coverage and Open Space**

To achieve a park-like appearance, lot coverage by buildings, accessory structures, and surface parking and driveways shall occupy a maximum of seventy per cent (70%) of the lot area. Landscaped open space not covered by buildings, accessory structures, and surface parking and driveways shall occupy a minimum of thirty percent (30%) of the lot area. The open space may include stormwater retention/detention areas.

**(6) Building Requirements**

- (a) Maximum Principal Building Height. Forty-five (45) feet or three (3) stories, whichever is less.
- (b) Maximum Accessory Building & Detached Garage Height. Twenty-five (25) feet.

**(7) Yards**

- (a) Front. Minimum - Sixty-five (65) feet.
- (b) Rear. Minimum - Forty (40) feet from rear lot line.
- (c) Side Yards Principal Building – minimum, one side, thirty (30) feet.
- (e) Side Yards Accessory Building -- minimum, one side ten (10) feet.

**(8) Material Storage**

- (a) Dumpsters shall be screened from all residential areas, rights-of-way or adjacent properties in the same architectural style of the building on the property.
- (b) The incidental storage of all outside materials shall be screened from all residential properties, rights-of-way, or adjacent property. The type of screening shall be in the same architectural style of the building on the property, or with a combination of walls, berms, and/or landscaping.

**(9) Site Plan Review (16.23(5))**

**(10) Nonconforming Uses, Structures, and Lots (16.26)**

**(11) Traffic, Loading, Parking and Access (16.80)**

**(12) Construction Standards (16.82)**

**(13) Performance Standards (16.83)**

**(14) Signs (16.90)**

**(15) Fences, Hedges and Arbors (16.91)**

**(16) Signal Receiving Antennas (16.93)**

**(17) Health and Sanitation (12.06)**

**(18) Shoreland Regulations (Chapter 17)**

**(19) Wellhead Protection Overlay District (Chapter 34)**

## **16.53 –16.59 RESERVED FOR FUTURE USE**

### **16.60 PUBLIC SERVICE AND INSTITUTIONAL DISTRICT (PS/I)**

(1) **Purpose.** The PS/I Public Service and Institutional District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.

(2) **Permitted Use.**

- (a) Public or private schools, colleges, and universities.
- (b) Child day care facilities licensed under Sec. 48.48 Wis. Statutes
- (c) Churches
- (d) Hospitals, sanatoriums, nursing homes, assisted care facilities and clinics.
- (e) Libraries, museums, and art galleries.
- (f) Lodges
- (g) Public administrative offices, and public service buildings, including fire and police stations.
- (h) Public Utility Offices
- (i) Water storage tanks and towers
- (j) Waste water treatment facilities (publicly owned).

(3) **Permitted Accessory Uses.**

- (a) Garages for storage of vehicles used in conjunction with the operation of a permitted use.
- (b) Ground-mounted and building-mounted earth station dish antennas.
- (c) Off-street parking and loading areas.
- (d) Residential quarters for caretakers or clergy. Permitted accessory dwellings shall comply with the building area requirements of the R-1 Single-Family Residential District.

(4) **Conditional Uses.**

- (a) Gift stores.
- (b) Florists (not including greenhouses)
- (c) Utilities, provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
- (d) Cemeteries and crematory service.
- (e) Funeral homes, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.
- (f) Transmitting towers, receiving towers, relay, and microwave towers without broadcast facilities or studios.
- (g) Municipal earth and sanitary landfill operations.

- (5) **Lot Requirements**
  - (a) Minimum lot area = Forty Thousand (40,000) square feet
  - (b) Minimum lot width = One hundred fifty(150) feet of street frontage.
  
- (6) **Building Requirements**
  - (a) Maximum Principal Building Height. Forty-five (45) feet or two (2) stories, whichever is less.
  - (b) Maximum Accessory Building & Detached Garage Height. Twenty-five (25) feet.
  
- (7) **Yards**
  - (a) Front. Twenty-five (25) feet [Fifty (50) feet if parking is permitted in front.]
  - (b) Rear. Minimum forty (40) feet from rear lot line.
  - (c) Side Yards Principal Building – minimum, one side, twenty-five (25) feet.
  - (d) Side Yards Accessory Building -- minimum, one side ten (10) feet.
  
- (8) **Site Plan Review (16.23(5))**
- (9) **Nonconforming Uses, Structures, and Lots (16.26)**
- (10) **Traffic, Loading, Parking, and Access (16.80)**
- (11) **Construction Standards (16.82)**
- (12) **Performance Standards (16.83)**
- (13) **Signs (16.90)**
- (14) **Fences, Hedges and Arbors (16.91)**
- (15) **Swimming Pools (16.92)**
- (16) **Signal Receiving Antennas (16.93)**
- (17) **Health and Sanitation (12.06)**
- (18) **Shoreland Regulations (Chapter 17)**
- (19) **Wellhead Protection Overlay District (Chapter 34)**

**16.61 PARK AND RECREATION DISTRICT (PR-1)**

(1) **Purpose.** The PR-1 Park and Recreation District is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses. When applied to privately owned recreational lands, this district is intended to avoid the conversion of such lands to other urban uses without adequate public review and approval. The district should be used for areas designated as parks in the adopted City master plan or component thereof.

- (2) **Permitted Uses**
  - (a) Art exhibitions.
  - (b) Botanical gardens and arboretums.

- (c) Flood control retention/detention areas
  - (d) Forest reserves (wilderness areas).
  - (e) Forest reserves (wildlife areas).
  - (f) Historic and monument sites.
  - (g) Ice-skating.
  - (h) Parks – general recreation.
  - (i) Parks – leisure and ornamental.
  - (j) Picnicking area.
  - (k) Playfields or athletic fields.
  - (l) Playgrounds.
  - (m) Play lots or tot lots.
  - (o) Swimming beaches.
  - (p) Swimming pools.
  - (r) Trails for bicycling, hiking, and cross-country skiing.
- (3) Conditional Accessory Uses.** (Same Process as Conditional Uses)
- (a) Building and structures accessory to the principal use.
  - (b) Ground-mounted and building mounted earth station dish antennas.
  - (c) Off-street parking and loading areas.
- (4) Conditional Uses.**
- (a) Amphitheaters.
  - (b) Amusement parks.
  - (c) Aquariums.
  - (d) Archery ranges.
  - (e) Arenas and Fieldhouses.
  - (f) Auditoriums.
  - (g) Boat rentals and boat access sites.
  - (h) Exhibition halls.
  - (i) Fairgrounds.
  - (j) General resorts.
  - (k) Golf Courses (with or without country club/restaurant facilities)
  - (l) Golf driving ranges.
  - (m) Group or organized camps.
  - (n) Gymnasiums and athletic clubs.
  - (o) Miniature golf.
  - (p) Museums.
  - (q) Planetaria.
  - (r) Recreational centers.
  - (s) Stadiums.
  - (t) Utilities.
  - (u) Zoos.

**(5) Lot Area and Width.** Lots in the PR-1, Park and Recreation District shall provide sufficient area for the principal structure and its accessory structures, off-street parking and loading areas and all required yards.

**(6) Setback and Yards.**

- (a) A minimum street yard setback of forty (40) feet from an existing or planned public street right-of-way shall be required.
- (b) There shall be a minimum side yard of not less than forty (40) feet on a side.
- (c) There shall be a rear yard of not less than forty (40) feet.

**(7) Building Height.** No building or part of building shall exceed thirty-five (35) feet in height.

**(8) Site Plan Review (16.23(5))**

**(9) Nonconforming Uses, Structures, and Lots (16.26)**

**(10) Traffic, Loading, Parking, and Access (16.80)**

**(11) Construction Standards (16.82)**

**(12) Performance Standards (16.83)**

**(13) Signs (16.90)**

**(14) Fences, Hedges and Arbors (16.91)**

**(15) Swimming Pools (16.92)**

**(16) Signal Receiving Antennas (16.93)**

**(17) Health and Sanitation (12.06)**

**(18) Shoreland Regulations (Chapter 17)**

**(19) Wellhead Protection Overlay District (Chapter 34)**

**16.62 CONSERVANCY DISTRICT (W)**

**(1) Purpose.** The W Conservancy District is intended to preserve the natural state of scenic areas, to preserve natural areas and buffer strips in the Village center, and to discourage intensive development of marginal lands so as to prevent potential hazards to public and private property.

**(2) Permitted Uses.**

- (a) Management of forestry, wildlife, and fish.
- (b) Harvesting of wild crops such as marsh hay, ferns, moss, berries, fruit trees, and tree seeds.
- (c) Hunting, fishing, and trapping (beyond the Village limits only).
- (d) Natural hiking trails.
- (e) Bicycle trails.
- (f) Preservation of scenic, historic and scientific areas.
- (g) Uses customarily incident to any of the above uses. There are no setbacks, lot sizes or other dimensional requirements applicable to the W Conservancy District as legally described.

**(3) Conditional Uses.**

- (a) Dams, power stations, and transmission lines.

- (b) Parks.
- (c) Sewage disposal plants.
- (d) Water pumping or storage facilities.
- (e) Golf courses.
- (f) Public camping grounds.

- (4) **Health and Sanitation (12.06)**
- (5) **Shoreland Regulations (Chapter 17)**
- (6) **Wellhead Protection Overlay District (Chapter 34)**

### **16.63 AGRICULTURAL DISTRICT (A-1)**

(1) **Purpose.** The A District provides for agricultural uses. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development which results in excessive costs to the community for premature provision of public utilities, improvements and services.

(2) **Permitted Uses.**

- (a) Floriculture, forestry, greenhouses, horticulture, nurseries, orchards, truck farming and viticulture.
- (b) One (1) and two (2) family farm residences, but only when occupied by owners, relatives of owners and/or persons engaged in farming activities on the farm on which it is located.
- (c) Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housings and other necessary appurtenant equipment and structures; radio and television stations and transmission towers and microwave radio relay towers.
- (d) Public and private schools, churches, public parks and recreation areas and historic sites.
- (e) Customary accessory buildings, including not more than one (1) roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to setback, sign and other provisions of this Chapter, but may be ordered removed by the Village Board if said board determines that it constitutes a traffic hazard or nuisance. Not more than two (2) nonilluminated signs not larger than twenty (20) square feet in area and advertising produce may be erected back of required front yards within one hundred (100) feet of the stand.
- (f) Municipal buildings and institutional uses.

(3) **Conditional Uses.**

- (a) Animal hospital or clinic provided the lot area is not less than three (3) acres and all principal structures and uses are not less than one hundred (100) feet from any residential district.
- (b) Airports.
- (c) Commercial raising, propagation and boarding of animals. The

- Commercial production of eggs and the hatching and raising of fowl.
- (d) Creameries and condenseries.
- (e) Recreational uses: Camps, conservatories, driving ranges, firearm ranges, golf courses, pools, riding academies, skating rinks, sport fields, zoological and botanical gardens.
- (f) Unless otherwise specified, all conditional uses shall meet lot, height and yard requirements of the District.

**(4) Lot Requirements**

- (a) Minimum Lot Width – Two Hundred (200) Feet.

**5) Building Requirements**

- (a) Principal Building Height – Maximum - Thirty-five (35) Feet or two stories whichever is less.
- (b) Agricultural Building Height – No Maximum.

**(6) Yards**

- (a) Front. Minimum forty (40) feet from street right-of-way.
- (b) Rear. Minimum forty (40) feet from rear lot line.
- (c) Side Yards.
  - Principal Building – Minimum of twenty-five (25) feet each side.
  - Accessory building – Minimum of twenty-five (25) feet each side.

**(7) Nonconforming Uses, Structures, and Lots (16.26)**

**(8) Traffic, Loading, Parking, and Access (16.80)**

**(9) Construction Standards (16.82)**

**(10) Performance Standards (16.83)**

**(11) Signs (16.90)**

**(12) Fences, Hedges and Arbors (16.91)**

**(13) Swimming Pools (16.92)**

**(14) Signal Receiving Antennas (16.93)**

**(15) Home Occupations (16.95)**

**(16) Health and Sanitation (12.06)**

**(17) Shoreland Regulations (Chapter 17)**

**(18) Wellhead Protection Overlay District (Chapter 34)**

**16.64 SHORELAND ZONING (See Chapter 17)**

**16.65 WETLAND ZONING (See Chapter 18)**

**16.66-16.69 RESERVED FOR FUTURE USE**

**16.70 PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT (PUD)**

**(1) Purpose.** Planned Unit Developments are intended to provide for greater flexibility in design and to provide for a combination of uses in a manner compatible to each and to the surrounding environment. A Planned Unit Development (PUD) is any

development to be constructed and maintained by a single owner or group of owners acting through a corporation located on a single tract, planned as an entity and, therefore, acceptable for development and regulations as one (1) land unit. Planned Unit Developments are established to encourage and promote improved environmental design in the Village of Elkhart lake by allowing for greater freedom, imagination and flexibility in the development of land while at the same time maintaining insofar as possible the land use density and other standards or use requirements as set forth in the underlying basic zoning district. The (PUD) concept allows diversification and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and economic development in regard to public services and encourage and facilitate preservation of open land.

(2) **Permitted Use** Any use permitted in the underlying basic zoning district (R-1, R-2, R-3, C-1, C-2, C-3, C-4, M-1, M-2, M-3, PS/I, PR-1 and A-1) or other applicable overlay zoning district.

(3) **Permitted Accessory Uses.** Any use permitted in the underlying basic zoning district (R-1, R-2, R-3, C-1, C-2, C-3, C-4, M-1, M-2, M-3, PS/I, PR-1 and A-1) or other applicable overlay zoning district.

(4) **Conditional Uses.** Any use permitted in the underlying basic zoning district (R-1, R-2, R-3, C-1, C-2, C-3, C-4, M-1, M-2, M-3, PS/I, PR-1 and A-1) or other applicable overlay zoning district.

(5) **Minimum Area Requirements.** Areas designated as (PUD) Planned Unit Development Overlay Districts shall be under single or corporate ownership or control and shall contain a minimum development area of:

<u>Principal Uses</u>	<u>Minimum Area of PUD</u>
Residential PUD	Six (6) acres
Commercial PUD	Six (6) acres
Manufacturing PUD	Six (6) acres
Mixed Compatible Use	Six (6) acres

(6) **Density Requirements.** The district area, width and yard requirements of the underlying basic use district may be modified; however, in no case shall the average density in the district exceed the number of dwelling units that would have been permitted if the (PUD) Planned Unit Development Overlay District regulations had not been utilized.

(7) **Lot Area and Width.**

- (a) Individual lots sizes required by the underlying basic use district may be modified in order to make use of special topographic features of the site or to provide common open space area. No individual lot shall provide an area less than two-thirds (2/3) the area required in the underlying basic use district.
- (b) Individual lot widths required by the underlying basic use district may be modified; however, no lot shall be less than two-thirds (2/3) the width required in the underlying basic use district.

**(8) Building Height**

(a) Buildings in a (PUD) Planned Unit Development Overlay District shall not exceed the height permitted in the underlying basic use district.

**(9) Setback and Yards.**

(a) Setbacks in (PUD) Planned Unit Development Overlay Districts shall be a minimum of twenty-five (25) feet from any street right-of-way.

(b) No principal structures in planned unit developments shall be located closer than thirty (30) feet to another structure. There shall be a side yard not less than thirty (30) feet in width every one-hundred twenty (120) feet for a row house.

(c) Structures in planned residential development structures shall have a rear yard of not less than twenty-five (25) feet.

**(10) Procedure**

(a) Pre-application conference.

1. Before submitting an application for a PUD, an applicant shall meet with the Planning Commission and the Village to discuss the scope and proposed nature of the contemplated development.

2. The purpose of the pre-application conference shall be to familiarize both the applicant and the Planning Commission with each other's intentions with respect to the PUD before the applicant enters into binding commitments or incurs substantial expense.

3. At the pre-application conference, the Planning Commission shall familiarize the applicant with the PUD process and explain to the applicant issues that should be considered in planning the project. The applicant shall inform the Planning Commission of his development concept through general outlines and sketch plans. Any statement made by either the Planning Commission or the applicant concerning potential disposition of a PUD application or the final form of the development shall not be legally binding.

4. Implementation Schedule. The proponents of a Planned Unit Development shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Planning Commission, including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in adverse effects upon the community as a result of termination at that point.

(b) Zoning Procedure. The procedure for zoning a PUD shall be the same as required for a zoning change/amendment, except that in addition the zoning may only be considered in conjunction with a specific development plan. The applicant shall file with the Planning Commission a specific development plan which shall include the following information.

1. Statement of development concept, including the planning objectives and the character of the development to be achieved through the PUD.

2. An accurate map of the project area, including its relationship to surrounding properties and existing topography and key features.

3. The pattern of proposed land use including shape, size and arrangement of proposed use areas, density and environmental character (single-family, multiple-family, commercial, public, etc.).
4. The pattern of public and private streets.
5. The location, size and character of recreational and open space areas reserved or dedicated for public uses such as recreational areas and common open space areas.
6. Preliminary engineering plans, including site grading, street improvements, drainage, public utility extensions and landscaping plans.
7. Preliminary building plans, including floor plans and exterior designs or elevations.
8. Development schedule indicating the appropriate date when construction of the PUD can be expected to begin and be completed, including initiation and completion dates of separate stages of a phased development.
9. General outline of intended organizational structure related to property owners' association, deed restrictions and private provision of common services.
10. Statement of financing plan, including projected sources and amounts of funds.
11. Statement of intentions regarding the future selling or leasing of all or portions of the PUD, such as land areas, dwelling units and public facilities.
12. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
13. Any proposed departures from the standards of development as set forth in the Village zoning regulations, land division ordinance, sign ordinance, other Village regulations or administrative rules, or other universal guidelines.
14. Said plan shall included all data required for land division pre-application by Chapter 32 titled "Subdivision Code," of the Village of Elkhart Lake Code of Ordinances.
15. Any additional information as required by the Planning Commission necessary to evaluate the character and impact of the proposed PUD.
16. The application shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative processing.
17. Enter into a Developer's Agreement in accordance with 16.23(6).

**(11) Referral and Public Hearing**

(a) After completion of the filing of the petition for approval of a specific development plan, the Planning Commission shall forward the petition to the Village Board with a recommendation that the plan be approved as submitted, approved with modifications or disapproved.

(b) After receipt of the Planning Commission's recommendations, the Village Board shall determine whether or not to initiate a proposed zoning change to permit the proposed PUD and to schedule the required public hearing.

(c) Approval of the rezoning and related specific development plan shall establish the basic right of use for the area in conformity with the plan as approved, which shall be recorded as an integral component of the district regulations, but such plan shall be conditioned upon approval of a final implementation schedule and shall not make

permissible any of the uses as proposed until a final implementation schedule is submitted and approved for all or a portion of the specific development plan.

**(12) Criteria for Approval.** Approval of the specific development plan shall be granted only upon determination by the Planning Commission and Village Board that the specific development plan:

(a) Conforms with the development controls set forth in this chapter.

(b) Provides benefits to the Village which outweigh its adverse effects; in making this determination, the Planning Commission and Village Board shall consider the following:

1. Quality of site design, including integration of a variety of land uses, building types and densities, preservation of natural features; compatibility with adjacent land uses; provision and type of open space; provision of other amenities designed to benefit the general public.

2. Traffic flow and safety.

3. Adequacy of utilities and other public works.

4. Impact on existing public facilities within the Village.

5. Potential fiscal impact.

**(13) Abandonment of Project.** In the event that Planning Commission approval is granted but prior to final approval the applicant or developer elects to abandon said development plan and notifies the Commission in writing, the approval shall be deemed to be revoked. In the event that Village Board approval of a specific development plan is granted, but prior to approval of a final implementation schedule, the applicant or developer elects to abandon said development plan, the approval shall be deemed to be revoked. All areas within the development plan shall be controlled by the zoning and subdivision regulations applicable before the development plan and rezoning was approved, and the revocation of approval shall be noted on the Zoning District Map and in the records of the Planning Commission and Village Board.

**(14) Final Implementation Schedule.**

(a) In the event the specific development plan and the rezoning are granted approval, with or without conditions, the applicant shall submit a final implementation schedule or a final implementation schedule of that segment to be developed to the Village Board within one (1) year from the date of approval. In the case of a phased development, the time period between submitting for final approval of each phase shall be determined by the Village Board at this time.

(b) At the time that the final implementation schedule is submitted, the developer shall submit a final specific development plan consisting of final versions of all statements and graphics presented in the specific development plan as required in Subsection (12) and containing any revisions which were required by the Village Board at the time of tentative approval of the specific development plan. The final specific development plan and any related materials shall be a proposed planned unit development and shall be suitable for recording with the Sheboygan County Register of Deeds.

(c) Following a review of the final implementation schedule and final specific development plan, the Village Board shall approve as submitted, approve with modifications or disapprove.

**(15) Recording of Final Specific Development Plan and Amendment of Zoning District Map.**

(a) A final specific development plan, or any part thereof which has received final approval shall be so certified by the Village Board and filed by the applicant or developer with the Sheboygan County Register of Deeds. Evidence of such recording shall be provided to the Village Board in the form of one (1) true and correct reproducible copy of the plan as recorded. No development shall proceed until such time as the final specific development plan has been placed on record. Upon the recording of the final specific development plan, the Zoning District Map shall be amended to designate the area covered by the recorded final specific development plan as a “Planned Unit Development District.”

(b) Following such action by the Village Board, the zoning and subdivision regulations otherwise applicable to the land included in such final specific development plan shall cease to apply thereto and the recorded final specific development plan shall govern.

**(16) Zoning Administration – Permits.**

(a) The Building Inspector may issue permits for site or building construction for that part of the final specific development plan that has been approved in the area covered by the approved final implementation schedule for work in conformity with the final specific development plan and with all other applicable ordinances and regulations.

(b) However, the Building Inspector shall not issue an occupancy permit for any building or structure shown on the final specific development plan of any stage of the planned unit development unless the open space and public facilities allocated to that stage of the final implementation schedule have been conveyed to the proper authorities. He shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final implementation schedule if the completed building or structure conforms to the requirements of the approved final specific development plan and all other applicable regulations and ordinances.

**(17) Enforcement.**

(a) The developer shall begin construction of the (PUD) within twelve (12) months of the date of the recording of the final specific development plan. The Village Board may grant in writing an extension of this time period of up to twelve (12) months upon demonstration of good cause by the developer. If the developer fails to commence construction of the (PUD) within the specified time, the Village Board shall proceed with actions as specified in Subsection (c) below.

(b) If the (PUD) is to be developed in stages, then the developer must begin the construction of each stage within the time limits specified in the final implementation schedule. Construction in each phase shall include all the elements of that phase specified in the final specific development plan.

(c) The Village Board, or its designee, shall periodically monitor the construction of the PUD with respect to start of construction and development phasing. If the Village Board or its designee, finds that either the developer has failed to begin development within the specified time period or that the developer is not proceeding in accordance with the approved development phasing with respect to either timing or construction of an approved mix of project elements, then the Village Board shall give

written notice to the developer to appear before the Village Board within thirty (30) days to report on the status of the PUD. Upon review of the PUD, the Village Board may extend the time for start of construction or the length of time needed to complete a phase, recommend that the developer amend the final implementation schedule subject to the procedures specified in Subsection (18) below or terminate the project and repeal the zone change. When the Village Board deems it necessary to terminate the project and repeal the zone change, it shall repeal the zoning change subject to the procedures in 16.27. At the time of such zoning change, existing completed or partially completed structures and uses thereon that do not conform to the regulations for the district in which located shall be deemed nonconforming as defined by this Chapter.

**(18) Amendments to Final Specific Development Plan**

(a) After approval of the final specific development plan by the Village Board, the developer may seek amendments to the plan as recorded, only if related to difficulties encountered in constructing the PUD which could not have been reasonably foreseen.

(b) Minor changes in the location, siting and height of buildings and structures may be authorized by the Village Board without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this Subsection may cause any of the following:

1. A change in the use of character of the development.
2. An increase in overall coverage of structures.
3. An increase in the intensity and density of use.
4. An increase in the problems of traffic circulation and public utilities.
5. A reduction in approved open space.
6. A reduction of off-street parking and loading space.
7. A reduction in required pavement widths.

(c) All requested amendments to the final plan shall include notification to neighbors. If a public hearing is required per Section 16.70 (11), notification shall be in accordance with the public hearing procedure. If a hearing is not required, neighbors shall be notified by mail two weeks prior to the meeting at which the Planning Commission will make their recommendation. The post mark of the letter will determine the two-week time frame.

(d) All changes in use, or rearrangement of lots, blocks and building tracts, or any changes in the provision of common open spaces and changes other than listed above must be made by the Village Board after review and recommendation by the Planning Commission subject to the procedures specified in Subsection (16.70(11)). Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the final specific development plan was approved or by changes in community policy. Any changes which are approved in the final plan must be recorded as amendments in accordance with the procedure established for the recording of the initial final plan documents.

**16.71 PLANNED UNIT DEVELOPMENT HISTORIC OVERLAY DISTRICT (FR-H)**

**(1) General Purpose and Intent.** The FR-H Overlay District is intended to encourage the protection, enhancement, perpetuation and use of improvements of special historical interest or value. More specifically, the purposes of this District are, as follows:

- (a) To accomplish the protection, enhancement and perpetuation of such improvements and of areas that represent or reflect elements of the Village's cultural, social, economic, political and architectural history.
- (b) To safeguard the Village's historic and cultural heritage, as embodied and reflected in such historic structures, sites and areas.
- (c) To stabilize and improve property values within the FR-H Overlay District.
- (d) To foster civic pride in the beauty and accomplishments of the past.
- (e) To protect and enhance the Village's attractions to residents, tourists and visitors, and to serve as a support and stimulus to business and development.
- (f) To strengthen the economy of the Village.
- (g) To promote the use of historic structures, sites and areas for the education, pleasure and welfare of the people of the Village. A historical structure means any improvement that has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the Village. A historical site or area means any parcel of land whose historic significance is due to a substantial value in tracing the history of the Village. It is not necessary that a structure, site, or area be listed in the National Register of Historic Places or the State of Wisconsin equivalent designation to qualify for FR-H Overlay zoning.

**(2) Specific Purpose and Intent.** The FR-H Overlay District is established to provide a regulatory framework designed to encourage and promote improved design by allowing for greater freedom, imagination and flexibility in the development of land while assuring substantial compliance with the basic intent of the Village's Zoning Ordinance and the general plan for community development. The Village Board declares it to be in the public interest to allow diversification and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive unified historic projects. Uses permitted in a FR-H Overlay District may consist of one or a mixture of residential and commercial land uses; provided, however, that no use shall be permitted except in conformity with a specific and precise development plan pursuant to the procedural and regulatory provisions set forth below. Any use permitted by right or as a conditional use in any of the other districts of this Zoning Ordinance may be permitted in the FR-H Overlay District, subject to the criteria set forth below. In the FR-H Overlay District there shall be no predetermined specific lot area, lot width, height, floor area ratio, yard and usable open space requirements, but such requirements as are made a part of an approved recorded precise development plan.

**(3) Criteria for Approval.** As a basis for determining the acceptability of an application for a planned unit development within this FR-H Overlay District, the following criteria shall be applied to the precise development plan for such project with specific consideration as to whether it is consistent with the spirit and intent of this Ordinance, has been prepared with competent professional advice and guidance, and produces significant benefits in terms of environmental and historic design.

(a) **Character and Intensity of Land Use.** In a FR-H Overlay District, the uses proposed and their intensity and arrangement on the site shall be of a visual and operational character which:

1. are compatible with the physical nature of the site with particular concern for preservation of natural features;
2. would produce an attractive environment of sustained aesthetic and economic stability and functional practicality compatible with the general development plans for the area as established by the community;
3. would not adversely affect the provision for school or other municipal services; and
4. would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.

(b) **Economic Feasibility and Impact.** The application for a project within the FR-H Overlay District shall provide evidence satisfactory to the Village Board of its economic feasibility, of available adequate financing, and evidence that the project would not adversely affect the economic prosperity of the Village or the values of surrounding properties, including the cost of providing necessary municipal services.

(c) **Engineering Design Standards.** The application shall provide reasonably detailed but not final drawings of the proposed project, including the location and height of all improvements within the project, the width of public and private rights-of-way, outdoor lighting, vegetation, signage, proposed utilities, storm water drainage, the extent of impervious surfaces, and similar environmental information appropriate to the standards necessary to implement the project.

(d) **Implementation Schedule.** The proponents of a project within the FR-H Overlay District shall submit a reasonably detailed schedule for the implementation of the development, including suitable provisions for assurance that each phase can be brought to completion in a manner that would not result in an adverse impact upon the community as a result of termination of the relevant phase.

**(4) Procedure.** The procedure for rezoning to an FR-H Overlay District shall be as required for any other zoning district change, except that, in addition thereto, the zoning may only be considered in conjunction with the development plan, and shall be subject to the following additional requirements:

(a) **General Development Plan.** The applicant shall file with the Village Clerk/Treasurer a general development plan that shall include the following information:

1. a statement describing the general character of the intended development;
2. a certified survey map of the project area including its relationship to surrounding properties and existing topography and key features;

3. a plan of the proposed project showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval as set forth above;

- (i) the pattern of proposed land use including shape, size and arrangement of proposed use areas, density and environmental character;
- (ii) the pattern of public and private streets and sidewalks;
- (iii) the location, size and character of recreational or open space reserved or dedicated for public use; and
- (iv) a utility feasibility study.

4. appropriate statistical data on the size of the development, ratio of various land uses, percentages of multi-family units by number of bedrooms, economic analysis of the development, expected staging, and any other plans or data pertinent to the evaluation of the criteria set forth above;

5. a general outline of intended organizational structure related to property owners' association, condominium association, deed restrictions and private provisions of common services.

(b) Referral and Hearing.

1. The Village Plan Commission shall forward a recommendation to the Village Board that the plan be approved as submitted, approved with modifications, referred for further consideration or disapproved. Upon receipt of the recommendation of the Village Plan Commission, the Village Board shall determine whether to adopt a proposed zoning change to establish the proposed FR-H Overlay District.

2. Approval of the zoning and of the general development plan by the Village Board shall establish the basic right of use for the area in conformity with the Plan as approved, but such approval is conditioned upon further approval of a specific implementation, and shall not make permissible any of the uses as proposed until a specific implementation plan is submitted and approved for all or a portion of the general development plan that has been approved by the Village Board. The Village Board reserves all rights to approve or reject the specific implementation plan.

(c) Specific Implementation Plan. A specific and detailed plan for implementation of all or a portion of the project within the newly-zoned FR-H Overlay District must be submitted within a reasonable period of time, as determined by the Village Board. If a specific implementation plan has not been submitted within said time, a petition to rezone the property back to the previous zoning from the FR-H Overlay District shall be filed by the Village Clerk/Treasurer for processing. The specific implementation plan shall be submitted to the Village Plan Commission and shall include the following detailed construction and engineering plans and related detailed documents and schedules:

- 1. an accurate map of the area covered by the plan including the relationship to the total general development plan;
- 2. the pattern of public and private roads, driveways, walkways and parking facilities;
- 3. detailed lot layout and subdivision plan, if relevant;
- 4. the arrangement of building groups, other than single-

family residences, and their architectural character;

5. sanitary sewer and water mains;

6. grading plan and storm drainage system (including the extent of impervious surfaces);

7. the location and treatment of open space areas and recreational or other special amenities;

8. the location and description of any areas to be dedicated to the public;

9. general landscape treatment;

10. proof of financing capability;

11. analysis of economic impact upon the Village;

12. a development schedule indicating:

(i) the approximate date when construction of the project can be expected to begin;

(ii) the stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;

(iii) the anticipated rate of development;

(iv) the approximate date when the development of each of the stages will be completed; and

(v) the area and location of common open space that will be provided at each stage.

13. agreements, bylaws, provisions or covenants that govern the organizational structure, use, maintenance and continued protection of the planned unit development and any of its common services, common open areas or related facilities.

14. any other plans, documents or schedules consistent with the purpose and intent of the FR-H Overlay District that may be reasonably required by the Village or its engineering and legal agents.

(d) Approval of the Specific Implementation Plan.

1. Following a review of the specific implementation plan, the Village Plan Commission shall recommend to the Village Board that the specific implementation plan be approved as submitted, approved with modifications, referred for further consideration, or disapproved.

2. Upon receipt of the Village Plan Commission recommendation, the Village Board may approve the plan and authorize the development to proceed accordingly, or disapprove the plan and refer it to the Village Plan Commission for further negotiation with the developer.

3. If the specific implementation plan has not been substantially implemented as described within twelve (12) months after the date of the approval by the Village Board, the approval shall be null and void and a new petition and approval process shall be required in order to obtain specific implementation plan approval.

4. No material alteration of the specific implementation plan is permitted unless approved by the Village Board. However, the Village Building

Inspector may issue permits for minor alterations that are compatible with the concept approved by the Village Board and the provisions of this Ordinance. If a change or addition constitutes a substantial alteration of the specific implementation plan, the approval process described above shall be required.

(e) Reimbursement of Village Fees. No permits may be issued for a project or development within the FR-H Overlay District until the applicant has fully reimbursed the Village for all engineering, legal and related consultant fees incurred by the Village in the review of the rezoning petition, the general development plan and the specific implementation plan.

**16.73-16.79 – RESERVED FOR FUTURE USE**

**16.80 TRAFFIC, LOADING, PARKING & ACCESS**

(1) Traffic Visibility Triangle

(a) Where two (2) public streets intersect at grade level, the intersection shall be day-lighted by excluding all buildings, structures and other obstructions to view, except where permitted in the C-2 or C-3 districts, including shrubbery exceeding three (3) feet and trees (except highway and street signs) from the triangles adjacent to the intersection described as follows:

Bounded on two (2) sides by the near boundaries of the intersecting streets and on the third side by a line drawn so as to intersect the street boundaries at points twenty (20) feet distant from the point of intersection of the back of the curbs of the street extended at the corner.

(b) In situations where trees of a large diameter, large number of trees, or some combination of these are present, this provision shall be construed to mean that a sufficient number of trees shall be removed so as to render an object such as a motor vehicle clearly visible across the vision clearance triangle from one street or road to another, the intent being to provide for the public safety; but it shall not necessarily be construed to mean that every tree in the vision clearance triangle must be removed.

(2) Loading.

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

<u>Gross Floor Area of Building in Square Feet</u>	<u>Required Number of spaces</u>
5,000 – 24,999	1
25,000 – 49,999	2
50,000 – 99,999	3
100,000 – 174,999	4
175,000 – 249,999	5

For each additional seventy-four thousand (74,000) square feet (or fraction

thereof) of gross floor area, one (1) additional loading and unloading space shall be provided.

(b) Multiple or Mixed Uses. Where a building is devoted to more than one (1) use or different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

(c) Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space.

(d) Surfacing. All open off-street loading berths shall be improved and paved.

(e) Utilization. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

### (3) Parking Requirements.

The off-street parking provisions of this Chapter shall apply to all buildings and structures erected after the effective date of this Chapter, accessory parking shall be according to the provision of this section; where intensity of the use of any building structures or premises shall be increased, additional parking to match the increased intensity of use shall be provided; or whenever an existing building or structure is converted to a new use, parking shall be provided according to the requirements of the new use. All new nonresidential parking lots and all alterations of existing lots shall be subject to the approval of the Planning Commission. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:

#### (a) Procedures:

1 Prior to commencing construction on a parking lot, a building permit shall be obtained from the Building Inspector for a fee in accordance with the standard building permit fees. Prior to obtaining a building permit for a parking lot, a site plan must be approved by the Planning Commission.

2. The parking lot site plan shall be prepared in accordance with adopted site plan guidelines and shall include proposed landscaping features, indicating the location, size and species of proposed landscaping, and shall also show existing trees and landscaping to be retained. The parking lot site plan requirements under this Chapter may be incorporated into a master site plan for initial approval of a project.

(b) Access. Each off-street parking space shall open directly upon an aisle or driveway designed to provide safe and efficient means of vehicle access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.

(c) Design Standards. Each parking space shall not be less than one hundred sixty (160) square feet in area, sixteen (16) feet in length and ten (10) feet in width, exclusive of aisles and access drives. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area

of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.

(d) Location.

1. All parking spaces required herein shall be located on the same lot with the building or use served, or may be located not to exceed four hundred (400) feet from the principal use.

2. Off-street parking is permitted in all yards of all districts except in the non-driveway front yards of single-family residence districts but shall not be closer than five (5) feet to a side lot line or rear lot line or closer than fifteen (15) feet to a right-of-way. No parking space or driveway, except in residential districts, shall be closer than twenty-five (25) feet to a residential district lot line.

3. Off-street parking in the single-family and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to Village requirements.

(e) Parking Lot Surfacing and Landscaping Improvement Standards

1. Purpose. The requirements in this subsection are intended to recognize both the function and visual importance of parking areas and the public benefits resulting from well-designed and landscaped parking areas, which include an enhanced visual appearance, minimizing stormwater runoff, moderating the microclimate and reducing nuisances such as noise and glare.

2. Affected Parking Areas. These improvement standards shall be applicable to the following:

(i) New parking lots for four (4) or more vehicles in all zoning districts except single-family and two-family districts.

(ii) Existing parking lots, including those located in the C-3 Downtown Commercial District, which are proposed to be increased in area by four (4) or more vehicle spaces shall be subject to these requirements for the expansion area, and for the prior existing area.

(iii) Existing parking lots for four (4) or more vehicles serving an existing building proposed for improvements exceeding fifty percent (50%) of its value, or buildings undergoing additions that will increase their floor area by more than fifty percent (50%).

(iv) Unpaved existing parking lots for four (4) or more vehicles which are proposed for paving, in all zoning districts except single-family and two family districts.

(v) New parking lots serving residential uses in the C-3 Downtown Commercial District.

(vi) Exclusions. These requirements shall not apply to the resurfacing of existing paved parking lots or to parking areas for existing buildings in the C-3 zoning district proposed in connection with additions to the buildings of less than fifty percent (50%) of the buildings' floor area, provided parking area expansion is less than four (4) parking spaces.

3. Surfacing, Curbing and Storm Sewer

(i) Surfacing. All off-street parking areas shall be

surfaced with a dustless all-weather material capable of carrying a wheel load of four thousand (4,000) pounds (normally, a two [2] inch blacktop on a four [4] inch base or five [5] inches of Portland cement will meet this requirement). Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used only with the approval of the Planning Commission.

(ii) Curbs. Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

(iii) Storm Sewer. Parking areas shall be graded and storm sewers may be installed, as required by the Village Public Works Committee, to manage storm water runoff.

4. Landscaping. All off-street parking areas described in this subsection which are built or redesigned and rebuilt after the effective date of this ordinance, shall be provided with accessory landscape areas as provided in these specific requirements:

(i) Perimeter and interior lot line greenbelts. A perimeter greenbelt of at least five (5) feet in width shall be installed along the street frontage and along all interior lot lines. Perimeter edges should be landscaped with a combination of plant material and earth berming whenever possible. Perimeter greenbelt landscaping may be omitted along side lot lines which have shared driveways and with adjacent lots. The omitted area is limited to that portion from the streets to the required minimum building setback line or as necessary to accommodate access cuts.

(ii) Additional interior greenspace. The interior of parking lots shall be provided with landscape areas consisting of a least four percent (4%) of the total surface parking area, plus one (1) tree for each ten (10) spaces shall be installed. Existing trees may be used to comply with this requirement.

(iii) Location. Interior landscape plantings may be located in protected areas such as along walkways, in center islands, in end islands, or between parking stalls. Rows of parking spaces shall be broken by landscape islands at the rate of one (1) island for each linear row of twelve (12) parking spaces for single row configurations, or for each twenty-four (24) parking spaces in double row configurations. Perimeter edge screening and berming should be limited in height to allow a line of sight to the building and not obstruct sight distance at entry drives.

(iv) Landscape Materials. Landscape materials may include shrubs, hardy flowering trees and/or decorative evergreen and deciduous trees. New trees shall have a minimum caliper of two inches (2") to two and one half inches (2-1/2") for canopy trees. The area around trees and planting beds shall be planted with shrubs or ground cover and covered with mulch, bark or appropriate landscape stones.

5. Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residential Districts.

6. Lighting. any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such away as not to create a nuisance. However, in no case shall such lighting exceed three (3) footcandles measured at the lot line.

7. Street Setback Area. No parking shall be permitted between

the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

(e) Parking Stall Requirements

<u>1. Use</u>	<u>Minimum Parking Required</u>
Single-family dwellings	2 stalls for each dwelling unit
Multi-family dwellings	2 stalls for each dwelling unit
Senior Citizen Multi-family dwellings	1 stall for each 2 dwelling units
Hotels, Motels	1 stall for each 2 beds plus
Hospitals, Clubs, Lodges, Boarding Houses, Sanitariums, Institutions, Rest & Nursing Homes.	1 stall for each 3 employees
Medical & Dental Clinics	3 stalls for each door
Churches, Theaters, Auditoriums, Community Centers, Vocational & Night Schools, and other places of public assembly	1 stall for each five seats
Colleges, Secondary and Elementary School	1 stall for each 2 employees plus 1 stall for each 15 students of 16 years of age or more
Restaurants, Bars, Places of Entertainment, Repair Shops, Retail and Service Stores	1 stall for each 300 square feet of floor area
Manufacturing & Processing Plants, Laboratories, & Warehouses	1 stall for each 3 employees
Financial Institutions, Business, Government & Professional Offices	1 stall for each 300 square feet of floor area
Funeral Homes	1 stall for each 100 square feet of floor area.
Bowling Alleys	5 stalls for each alley
Bed & Breakfast	1 stall for each guest room

2. Uses Not Listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply, as determined by the Planning Commission.

3. Computing Requirements. In computing the number of spaces required, the following rules shall govern:

(i) Floor space shall mean the gross floor area of the specific use.

(ii) For structures containing more than one (1) use, the required number of spaces shall be computed by adding the space required for each use.

(iii) Parking spaces are calculated according to the use of the parcel.

4. Combined Uses. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Two (2) or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use.

(i) The proposed joint parking space is within five hundred (500) feet of the use it will serve.

(ii) The applicant shall show that there is no substantial conflict in the principal operation hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.

(iii) A properly drawn legal instrument approved by the Village Board and executed by the parties concerned, for joint use of off-street parking facilities, shall be filed with the Village Clerk-Treasurer. Said instrument may be a three (3) party agreement, including the Village and all private parties involved. Such instrument shall first be approved by the Village Attorney.

5. Handicapped Parking Requirements. In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56 Wis. Stats. as amended, and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

6. Changes in Buildings or Use. Except in the C-3 District, whenever a building is changed, structurally altered or enlarged to create a need for an increase of twenty-five percent (25%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of fifty percent (50%) or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.

#### 7. Off-Lot Parking.

(i) Required off-street parking spaces shall be located on the same lot with the principal use, or such parking spaces may be located off-lot provided the parking spaces are located in the same district and not over two hundred (200) feet from the principal use. In cases where off-street parking facilities are permitted on land other than the same lot as the principal use, such facilities shall be in the same possession as the lot occupied by the user to which the parking facilities are necessary or in the possession of the controller of the principal use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of the land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the Office of the Sheboygan County Register of Deeds requiring such owner, his heirs or assigns to maintain the required facilities for the duration of the use served.

(ii) Off-lot parking spaces for residential uses shall be

within two hundred (200) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within two hundred (200) feet of the entrance of the establishment

(iii) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.

(iv) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

8. Signs. signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to other permitted in this Chapter.

9. Reduction of Parking Areas. Off-street parking spaces shall not be reduced in number unless said number exceeds the requirement set forth herein.

(g) Adjustments. In all commercial and industrial districts, the minimum number of required parking spaces may be adjusted by the Planning Commission on a case-by-case basis. The petitioner for such an adjustment shall show to the satisfaction of the Planning Commission that adequate parking will be provided for customers, clients, visitors, and employees. The following provision and factors shall be used as a basis to adjust parking requirements.

1. Evidence that actual parking demands will be less than ordinance requirements.

2. Availability of shared parking.

3. Use of on-street parking for visitors.

4. use of alternative transportation

(4) Driveways.

Except for the paving of driveways existing at the time of the effective date of this Chapter, all driveways installed, altered, changed, replaced, or extended after the effective date of this ordinance shall meet the following requirements:

(a) Islands between drive approach openings shall be provided with a minimum of four (4) feet between all driveway approaches. Islands shall not be required between lots abutting a cul-de-sac or between vacant substandard lots meeting the minimum requirements set forth in Section 16.30 through 16.72 of this Chapter.

Driveways in standard lots shall have a minimum offset of five (5) feet from the lot line.

(b) The maximum width of driveway openings in single-family and two-family residential districts are determined based on the size of the garage on subject lot. Driveway widths for one and two-car garages shall not exceed eighteen (18) feet in width at the curb line in single and two-family districts. Driveway widths for three-car and larger garages shall not exceed twenty-eight (28) feet in width at the curb line unless a wider driveway would be approved by the Board of Trustees of the Village of Elkhart Lake.

(c) Surfacing. All one (1) and two (2) family homes either completed or occupied for the first time after the implementation date of this ordinance shall be required to have an approved hard-surface driveway installed within one (1) year after occupancy.

(5) Arterial Streets and Highway Access.

(a) No direct private access shall be permitted to the existing or the proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction.

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

1. Arterial streets intersecting another arterial street within one hundred fifteen (115) feet of the intersection of the right-of-way lines.

2. Local streets intersecting arterial streets within fifty (50) feet of the intersection of the right-of-way lines.

3. Local streets intersecting local streets within thirty (30) feet of the intersection of the right-of-way.

4. Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.

5. Temporary access to the above rights-of-way may be granted by the Public Works Committee after review and recommendation by the highway agencies having jurisdiction. such access shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

## **16.82 CONSTRUCTION STANDARDS**

(1) Standards. Buildings constructed on site or manufactured buildings shall meet the following minimum construction standards in addition to complying with all applicable codes.

(a) Have a standing seam or ribbed pre-finished metal, asphalt or fiberglass shingle roof with a minimum slope of 4:12.

(b) Have a minimum of 1 foot to a maximum of 2 feet eave attached to the entire perimeter of the roof.

(c) Have exterior wall coverings consisting of any of the following materials or combinations thereof.

1. Aluminum, steel or vinyl siding;

2. Wood or simulated wood; or

3. Brick, stone or stucco.

(d) Have a permanent foundation meeting the requirements of the state uniform dwelling code and approved by the Building Inspector, which surrounds the entire perimeter of the structure and completely encloses the space between siding and the finished grade.

(e) Must be permanently affixed to the foundation meeting the requirements of the state uniform dwelling code. Manufactured buildings must have the running gear and towing hitch removed and have an anchoring system that is totally concealed under the structure.

(f) Are constructed and installed pursuant to a building permit and subject to all required inspections to insure that the foundation and all on-site work is constructed to minimum standards and that a manufactured home is assembled or placed on-site to

assure that it is in compliance with standards regulating the anchoring of the structure to its foundation and other building requirements.

(2) Exceptions. The Zoning Board of Appeals may grant a Conditional Use Permit excepting any of the above standards based on the applicants ability to prove that in granting an exception the proposed building will not adversely affect the aesthetics of the neighborhood or reduce the value of surrounding properties.

### **16.83 PERFORMANCE STANDARDS**

(1) Article of Intent. It is the intent of this Section to use performance standards to insure that the community is adequately protected from potential hazardous and nuisance like effects. These performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. All structures, lands, air and waters shall hereafter, in addition to their use, site, and sanitary regulations, comply with the following performance standards.

(2) Air Pollution. No person or activity shall emit any fly ash, dust, fumes, vapors, mists, gases or other particulate or visible emissions in such quantities so as to substantially contribute to exceeding established Village, state, or federal air pollution standards.

(3) Electrical and Radioactivity Disturbances. No activity shall emit electrical or radioactivity disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

(4) Fire and Explosive Hazards. All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire fighting and fire suppression equipment and devices that are standard in the industry.

(5) Glare and Heat. No activity shall emit glare or heat that is visible or measurable outside its premises.

(6) Noise. See Chapter 8.03

(7) Odors. No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises.

(8) Vibrations.

(a) No activity in any district shall emit vibrations which are discernible without instruments outside its premises.

(b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

(9) Water Quality.

(a) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating, or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.

(b) In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward the exceeding of the minimum local, state or federal standards.

## **16.84-16.89 RESERVED FOR FUTURE USE**

### **16.90 SIGNS, CANOPIES CANOPYS AND AWNINGS**

(1) Purpose. The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards.

(2) Definitions. The following definitions are used in this Section:

(a) Area of Sign. The area is the smallest rectangle into which the sign will fit excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be the entire area of the smallest rectangle into which the sign will fit.

(b) Awning. A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure. Decorative awnings without lettering or imagery are not considered signs.

(c) Banners. A banner sign is a temporary sign generally constructed of a flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which goods, events or advertising has been placed.

(d) Billboard. A billboard is a sign for hire or rent upon which is placed or may be placed advertising for any off-premises activity, business, product, or service and visible to passers-by.

(e) Blanketing. The unreasonable obstruction of a view of a sign caused by the placement of another sign.

(f) Canopy. A canopy is a shelter attached to or connected with a building and extending into a setback or over the public sidewalk. Decorative canopies without lettering or imagery are not considered signs.

(g) Changeable Copy/Message. A sign such as a message center or bulletin board where the copy or message changes.

(h) Contractors Sign. A sign placed at the site of new construction or property renovation by the contractor performing the work.

(i) Day. A day shall be designated as a period of twenty-four (24) hours.

(j) Directly Illuminated Sign. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

(k) Directory Sign. Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.

(l) Electronic Message Unit Sign. Any sign whose message may be changed by electronic process, including such message as copy, art, graphics, time, date, temperatures, weather or information concerning civic, charitable or the advertising of

products or services for sale on the premises. This also includes traveling or segmented message displays.

(m) Flags or Pennants. Devices generally made of flexible materials, such as cloth, paper or plastic and displayed on strings, wires or poles.

(n) Flashing Sign. Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

(o) Ground and/or Pole Sign. Any sign which is supported by structures or supports in or upon the ground and independent of support from any building. (Also referred to as "Free Standing Sign.")

(p) Identification Sign. Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

(q) Indirectly Illuminated Sign. Shall mean a sign that is illuminated from a source outside of the actual sign.

(r) Marquee Sign. Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.

(s) Neon or Other Gas Tube Illumination. Illumination from a light source consisting of a neon or other gas tubes which forms letters, symbols, or other shapes.

(t) Nonconforming Sign. Any sign which does not conform to the regulations of this Chapter.

(u) Off-Premises Event Sign. A sign which promotes an event such as a rummage sale or fund-raising activity and which sign is not specifically located at the site of the organized activity.

(v) Off-Premises Sign. Any sign, device or display which advertises goods other than those commonly available or services other than those commonly available or services other than those commonly performed on the premise on which the sign is located.

(w) Permanent Sign. A sign placed, installed or attached to a building or property other than a temporary sign or banner.

(x) Political Sign. Any sign displaying a candidate for an election, or a current election's subject matter.

(y) Portable Sign. Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.

(z) Poster Sign. Poster signs are generally constructed of heavy laminated paper approximately six to ten (6-10) square feet in size.

(aa) Projecting Sign. Any sign extending more than 18 inches from the face of a wall or building.

(bb) Promotional Goods Signs/Banners. A sign placed on goods merchandised and/or sold outside of a business building, but within the property owner's boundary, or within the boundary of the developer from which the business rents or leases space for conduct of business. When such signs denote the produce and price of

the merchandise upon which it is located, and is two (2) square feet or less in size, a sign permit is not required.

(cc) Real Estate Signs. Any sign, which are used to offer for sale, lease or rent the property upon which the sign is placed.

(dd) Roof Sign. Any sign erected upon or over the roof or parapet of any building.

(ee) Sandwich Board Sign. A hinged or unhinged A-frame or other similar portable sign, which is temporary in nature.

(ff) Sign. A sign shall include anything that promotes, calls attention or invites patronage (or anything similar to the aforementioned) to a business, location or product.

(gg) Temporary Sign. Any sign intended to be displayed for a short period of time or which is displayed only during regular business hours and removed for storage at other times, including banners, flags, decorative-type displays or anything similar to the aforementioned.

(hh) Vision Triangle. A vision triangle has one (1) corner as the intersection of the right-of-way, and the other two (2) corners as points twenty (20) feet in each direction from the initial point along the right-of-way.

(ii) Wall Sign. Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than eighteen (18) inches from such wall.

(jj) Window Sign. Any sign located completely within an enclosed building and visible from a public way. For purposes of this Chapter a window sign shall not include any sign permanently attached in the window or directly painted on the glass for more than 60 days.

### (3) Application Process

(a) Application. Except those specified in Section 16.90(4), no signs billboards, awnings or canopies shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Chapter. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Village of Elkhart Lake. Applications for a permanent sign permit shall be made to the Village Clerk and approved by the Planning Commission. Qualifying charitable organizations will be exempt from the sign permit fee, but other regulations still apply.

(b) Criteria for Assessment. In evaluating any sign application, the Planning Commission may make such orders and establish such conditions as may be appropriate to meet the criteria of this section to protect the public health, welfare, safety and natural beauty of the Village. The Planning Commission shall consider the following criteria in evaluating an application for a sign permit:

1. Appropriateness of the style and dimensions of the sign when viewed in context of the structures existing on the property as well as the size of such structures and the typography and landscaping of the property in general.

2. Compatibility of the sign in the context of signs existing in the neighborhood.
  3. Impact of the sign upon vehicular traffic movement.
  4. Impact of the sign on property values in the vicinity of the sign.
  5. Impact of the sign upon the natural beauty and attractiveness of the Village.
- (c) Required Information. Application for a sign permit shall be made in writing upon forms furnished by the Village, which contain the following information about the sign: dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign. Applicant must attach to the application a scale drawing of the design of the sign.
- (d) Permit Fees. The following permit fees (Exhibit A) shall be paid to the Village Clerk for each sign permit issued from the Section, provided, however, that a fee shall not be charged for putting an existing sign in conformity with this Section. Fees will be determined from time to time by the Village Board.

(4) Excepted Signs Not Requiring a Permit.

The following signs do not require a sign permit, provided that they are not located over a public road right-of-way or in, on or over public water:

- (a) Commercial, Industrial and (Planned Unit Development) (Commercial /Industrial) Districts.
  1. Warning signs not to exceed four (4) square feet located on the premises.
  2. Memorial signs, tablets, names of building and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.
  3. Official signs, such as traffic control, parking restriction, information and notices.
  4. Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type sign shall be limited to seventy-two (72) hours per sale.
  5. Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without limitation other than reasonable size and necessity.
  6. Signs not exceeding two (2) square feet in area and bearing only property numbers, post office box numbers or names of occupants of premises.
  7. Flags and insignia of any government, except when displaying in connection with commercial promotion.
  8. Legal notices, identification information or directional signs erected by governmental bodies.

9. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
10. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
11. Political message signs during an election campaign, as defined in Sec. 12.04(1), Wis. Stats. As amended, limited to two (2) per premises, and subject to the Village of Elkhart Lake's Authority to regulate size, shape and placement for the public safety. Political signs may be posed sixty (60) days before an election and must be removed within ten (10) days after said election. Said sign shall be a maximum of thirty-two (32) square feet.
12. Window signs are allowed with no permits.
13. Bills and posters shall be allowed with no permits.
14. Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which such signs are temporarily located.
15. Directory Signs or Banners for public, charitable or religious institutions not to exceed thirty-two (32) square feet in area located on premises.
16. Promotional Goods signs placed by the property owner or by the tenant not exceeding two (2) square feet in size.
17. Sandwich Board signs limited to one (1) per business or tenant and not exceeding eight (8) square feet per side display area, with a maximum of twenty-four (24) inches, shall not be placed in the street right-of-way, on sidewalks, or in any other public right-of-way, and only can be displayed during regular business hours.

(b) Residential, Conservancy, Agricultural and [Planned Unit Development] Districts.

1. Warning signs not to exceed four (4) square feet located on the premises.
2. Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.
3. Official signs, such as traffic control, parking restriction, information and notices.
4. Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale.
5. Signs not exceeding two (2) square feet in area and bearing only property numbers, post office box numbers or names of occupants of premises.
6. Flags and insignia of any government, except when displayed in connection with commercial promotion.

7. Legal notices, identification information or directional signs erected by governmental bodies.
8. Window signs are allowed with no permits.
9. Signs over show windows or doors and parallel to face of building of a non-conforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed four (4) square feet.
10. Awnings or canopies servicing only a particular single-family dwelling unit, provided the same shall conform to the regulations applicable to the zoning district in which the same are located.
11. House numbers or signs identifying parks or country clubs or official bulletin boards.
12. Political message signs during an election campaign as defined in Sec.12.04(1), Wis. Stats. Limited to two (2) per premises, and subject to the Village Board's authority to regulate size, shape and placement for the public safety. Political signs may be posted sixty (60) days before an election and must be removed within ten (10) days after said election. Said sign shall be a maximum of eight (8) square feet.
13. Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which such signs are temporarily located.
14. Directory Signs or Banners for public, charitable or religious institutions not to exceed thirty-two (32) square feet in area located on premises.
15. Promotional Goods signs placed by property owner or by tenant not exceeding two (2) square feet in size.

(5) Permitted Commercial and Industrial Signs

Permitted Signs. The following signs shall require a permit to be issued by the Village of Elkhart Lake. Signs may be permitted in all commercial, [[planned unit development] (commercial/ industrial)], and industrial districts, subject to the following restrictions:

- (a) Wall signs placed against the exterior walls of a building shall not extend more than eighteen (18) inches outside of a building's wall surface, nor extend above or beyond the wall itself. Total sign area (including multiple business/tenant signs on a single property) shall not exceed one (1) square foot for each lineal foot of the building parallel with the street frontage. Rear or side entrance signs are subject to the same size restrictions as that found at the principal (front/main) entrance to the building. Signs on other building façades (i.e. non-entrance side façades) are limited to one-half (1/2) square foot per lineal foot of such façade. All signs attached or affixed to a building shall not exceed twenty (20) feet in height above the mean ground level grade.

- (b) Projecting identification signs not exceeding two (2) signs per business shall be permitted, but not to exceed two (2) such signs per side of a building. Projecting identification signs are permitted only on sides with street frontage. Such signs are limited to identifying the business name and street address, principal services offered and any graphic design elements. These signs may include the logos or trademarked names of products sold by the business provided the size of such logos or trademarks do not exceed one-half (1/2) the size of the name of the business selling the products, excepting from such size limitation the name of the business where the business name is trademarked. Projecting signs fastened to, suspended from or supported by a building shall not extend more than four (4) feet maximum but cannot extend farther than one-half (1/2) of the sidewalk width, shall not be less than ten (10) feet above the sidewalk, and shall not exceed twenty (20) square feet in size. Maximum height shall not exceed fifteen (15) feet or front of façade, whichever is less, and shall be located a minimum of ten (10) feet from a side lot line.
- (c) Pole signs shall not exceed twenty (20) feet in height in the C-1 district, and thirty (30) feet in height in the C-4 district. Height is measured above the mean centerline of street grade. The sign shall be completely within the property upon which it is located. One (1) pole sign per street frontage is permitted. Size is limited to one hundred (100) square feet for one (1) side, or two hundred (200) square feet for all sides. All pole signs have a minimum landscaped area of sixteen (16) square feet around the base of the pole.
- (d) Ground signs shall not exceed ten (10) feet in height measured at its highest point, and shall be limited to seventy-five (75) square feet for one (1) face or one hundred fifty (150) square feet for all faces. One (1) ground sign is permitted on a street frontage provided there is no pole sign on that side. All ground signs shall have a minimum landscaped area of sixteen (16) square feet around the base of the ground sign unless a waiver is granted by the Plan Commission.
- (e) Combinations of any of the above signs shall meet all requirements for the individual sign.
- (f) Signs in the C-1, C-2, C-3, and C-4 Districts shall only advertise on-site businesses and events. In instances where the property owner or business tenant wishes to erect a sandwich board, refer to the regulations for sandwich board signs under 16.90(4)(a).
- (g) Where a property owner or business tenant wishes to erect a promotional goods sign, such signs may not exceed two (2) square feet in size. Such signs shall not be placed upon public right-of-way or property, excepting in the C-3 Commercial District.
- (h) Exterior neon or gas illumination signs require a permanent sign permit.
- (i) Off-premises event signs or over-the-street banners are permitted without permit by qualifying charitable and nonprofit organizations or

associations. Off-premises event signs are limited to no more than four (4), none of which may exceed sixteen (16) square feet in size. No such sign shall be erected or affixed to public property or be displayed for more than five (5) days. Over-the-street banners are limited to thirty (30) days of display. Such banners shall be erected only by the Village with fee for such erection to be determined by the Village and paid for in advance of erection by the requesting entity.

- (j) Awning and Canopies with professionally painted or screen-printed lettering and/or symbols are permitted. The size of such printing shall not exceed twenty-five percent (25%) of awning or canopy surface and is calculated as part of the total permissible wall signage area for the building façade. A sign permit is required for such awnings or canopies.

#### (6) Prohibited Signs

- (a) Traffic Interference. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility. Ground signs within the vision triangle shall include not more than two posts or standards eight (8) inches or less in diameter. The minimum clearance for all signs (ground, wall, projecting) shall not be less than eight (8) feet above the grade of the intersection of the street centerlines and shall be situated so as not to obscure the vision of motorists approaching the street intersection.
- (b) Moving or Flashing Signs. No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or light, bare reflecting-type bulbs, banners, steamers or any other fluttering or spinning ornamentation, except those giving public service information such as time, date, temperature, weather or similar information or where allowed by conditional use permit. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
- (c) Billboards. No new billboards shall be permitted in the Village of Elkhart Lake after March 31, 1998. All billboards then existing shall be subject to Chapter 16.90 (11) Non Conforming Signs. Billboards located upon property annexed to the Village and existing as of January 1, 1997 are permitted to remain unless the owner structurally alters such billboard in any manner. If damaged, or if structural alteration is made/required, such billboard shall be permanently removed. Any billboards not existing as of January 1, 1997 must be removed permanently within one (1) year following annexation, and

with such removal being agreed to in writing by the owner/lessor/lessee thereof in writing prior to such annexation.

- (d) Painted Wall Signs. Painted wall signs which are signs painted directly onto the surface of the building.
  - (e) Obscene Sign Subjects. Signs which bear or contain statements, words, pictures, or symbols of an obscene or pornographic nature.
  - (f) Signs on Public Rights-of-Way. Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs.
  - (g) Roof Signs. No sign shall be erected on a roof.
  - (h) Other Prohibited Signs. Signs that emit audible sound, odor or visible matter.
- (7) Dangerous and Abandoned Signs and Billboards.
- (a) Removal. All signs or billboards shall be removed by the owner or lessee of the premises upon which the signs or billboard is located when a business which it advertises has not been conducted for a period of six (6) months or when, in the judgement of the Building Inspector, such sign or billboard is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Village of Elkhart Lake may remove the sign or billboard at cost of the owner, following 30 days written notice.
  - (b) Alterations. Any sign or billboard which was erected before the adoption of this section shall not be rebuilt or relocated without conforming to all the requirements of this Section.
  - (c) Violations. All signs or billboards constructed or maintained in violation of any provisions of this Section are hereby declared public nuisances within the meaning of this Code or Ordinances. In addition to the above penalty provisions for violation of this Chapter, the Board of Trustees may bring an action to abate the nuisance in the manner set forth in the State Statutes.
- (8) Variances or Exceptions.

Variances or exceptions to these sign regulations may be granted by the Planning Commission.

(9) Construction and Maintenance Regulations for Signs.

- (a) Installation/Design. All signs and billboards shall be designed and fabricated in a professional manner and shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other support shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector. No signs shall be painted on, attached to or affixed to any trees, rocks or other similar organic or inorganic natural matter, including utility poles or apparatus.
- (b) General Requirements.

1. Awnings and Canopies. The lowest part of any awning shall be a minimum of seven (7) feet above the sidewalk. Awnings shall not extend more than four (4) feet maximum but cannot extend farther than one-half (1/2) of sidewalk width.
  2. Illuminated Signs. Any illuminated signs or billboards shall not interfere with surrounding properties or traffic.
  3. Projection. Signs including supports shall not project beyond five (5) feet of the face of the wall to which attached.
  4. Blanketing. Blanketing of signs shall not be allowed.
  5. Maintenance. All billboards and signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.
- (c) Annexed Areas. All signs in newly annexed areas shall comply with this Section within five (5) years of annexation.
- (10) Specific Requirements.
- (a) Temporary Sign Limitations.
1. Temporary Signs. All temporary signs, unless otherwise designated in this Code, may be erected for a maximum of thirty (30) days only after a permit is granted therefore.
  2. Banner Signs, Flags and Pennants. In C-1, C-2, C-3 and C-4 Districts an annual permit may be applied for allowing the erection of one (1) banner per entrance façade (with a maximum of two (2) such entrance façade banners), at any give time as long as such banner if affixed or attached flat against either the building façade or to permanently mounted posts no higher than the wall itself or twenty (20) feet, whichever is less. A permit therefore shall be valid on a calendar year basis, and require annual reapplication. Renewal shall be at the discretion of the Building Inspector, and shall be based upon the applicant's previous history or proper banner maintenance. Permit issuance for a previous calendar year period shall not guarantee issuance for a renewal period. Commercial flags and pennants may be displayed during regular business hours. Special Event Banners, flags and pennants must be removed within five (5) days after any advertised event.
  3. Contractor/subcontractor signs no larger than six (6) square feet may be erected for a maximum of the length of time the contractor is performing work at the site, but not to exceed 90 days.
  4. Electronic Message Unit Signs are permitted only in C-1 and C-4 districts. Such signs may be used only to advertise activities conducted on the premises or to present public service information.

5. Portable Changeable Copy/Message Boards. Changeable Copy /Message Boards which are portable shall not be displayed more frequently than five (5) times per calendar year at any one (1) location, not more than fifteen (15) days each time. The maximum size of such signs shall be thirty-two (32) square feet on each face, back to back. These signs shall not be located in any public right-of-ways or create any vision obstruction and shall be securely fastened to prevent any hazardous condition. Signs being displayed for less than five (5) days shall not require a permit. All such signs being displayed for more than five (5) days shall be limited in use to fifteen (15) days at a time following approval by the Building Inspector.
  6. Search Lights. The Board of Trustees may permit the temporary use of a search light for advertising purposes in any district provided that the search light will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Search light permits shall not be granted for a period of more than five (5) days in any six month (6) month period.
  7. Off-premises event signs or over-the-street banners are permitted without permit by qualifying charitable and nonprofit organization or associations. Off-premises event signs are limited to no more than four (4), none of which may exceed sixteen (16) square feet in size. No such sign shall be erected or affixed to public property or be displayed for more than five (5) days. Over-the-street banners are limited to thirty (30) days of display. Such banners shall be erected only by the Village with fee for such erection to be determined by the Village and paid for in advance of the erection by the requesting entity.
- (11) Nonconforming Signs.
- (a) Signs Eligible for the Characterization as Legal Non-conforming. Any sign located within the Village of Elkhart Lake limits on the date of adoption of this Chapter or located in an area annexed to the Village of Elkhart Lake hereafter which does not conform with the provisions of this Section is eligible for characterization as a legal nonconforming sign and is permitted, provided it meets the following requirements:
    1. The sign was covered by a proper sign permit prior to the date of adoption of this sign ordinance;
    2. If no permit was required under the applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of this sign ordinance.
  - (b) Loss of Legal Nonconforming Status.

1. A sign or billboard loses its nonconforming status and must be immediately brought into compliance with these regulations if one (1) or more of the following should occur:
  - (i) The sign is structurally altered in any way which tends to make the sign less in compliance with the requirements of this Section than it was before relocated;
  - (ii) The sign is relocated;
  - (iii) The business property is sold or leased to a new owner/lessee, in which event all existing signs lose nonconforming status one (1) year after the date of purchase/lease, excepting for continuation of an existing business.
  - (iv) The sign fails to conform to requirements regarding maintenance and repair, abandonment, or dangerous or defective signs.
2. On the date of occurrence of any of the above, the sign shall immediately be brought into compliance with Section with a new permit secured therefore or shall be removed.
3. Legal Nonconforming Sign Maintenance and Repair. Nothing in this Section shall relieve the owner of use of a legal nonconforming sign or the owner of the property in which the sign is located from the provision of this Section regarding safety, maintenance and repair of signs.

(12) Wind Pressure and Dead Load Requirements.

All billboards, signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed to receive dead loads as required in the Building Code or other ordinances of the Village of Elkhart Lake.

(13) Violation of Sign Code.

- (a) Construction Without Permit. Any person, firm or corporation who begins, erects or completes the erection or construction of any sign, awning or canopy controlled by this Section prior to the granting of a sign permit shall pay a penalty double the amount the permit otherwise required.
- (b) Compliance Notice.
  1. If the Building Inspector finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, it shall give written notice to the sign owner and to the property owner.
  2. If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice the Building Inspector may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon

which it is located so as to comply with the provisions of this Section.

(c) Violation: Penalties. Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:

1. Any person found guilty of violating any part of this Section who has previously been notified of being in violation or been convicted of violating the same Section within one (1) year shall, upon conviction thereof, be subject to a minimum forfeiture as prescribe by Chapter 16.23(8) for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.
2. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Article shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any provision of this Section.

#### **16.91 FENCES, HEDGES AND ARBORS**

(1) Fence. Any enclosure or barrier, solid or otherwise, made of wood, metal, stone, plastic, plant, or other material, as around or along a yard, walkway, field or other area and classified as follows:

- (a) Boundary Fence. A fence placed on or within three (3) feet of the property lines of adjacent properties.
- (b) Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.
- (c) Decorative Fence. A fence not exceeding a height of thirty-six (36) inches from ground level, made of material other than wire, metal, chain, or poured concrete, and constructed in a substantially open pattern (such as weave or board and space pattern) and not solid pattern (such as block, concrete or privacy pattern) and meant to enhance the appearance of the structure or the landscape.
- (d) Picket Fence. A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- (e) Retaining Wall. A solid barrier of any material constructed to hold back a mass of earth. A retaining wall shall be considered a fence for purposes of this section.
- (f) Hedge Fence. A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.
- (g) Security Fence. An open weave fence, not exceeding ten (10) feet in height and placed on the property line.
- (h) Pet Fencing. Any partial yard enclosure for a pet with a twenty (20) foot setback from all property lines.
- (i) Arbor or Trellis. A latticework bower or structure which may be intertwined with climbing vines and flowers.

(2) Placement of Fences Regulated. Fences and walls shall be permitted in all yards subject to the following limitations:

(a) Single Family Residential Fences(R-1) – Permitted on property lines but shall not in any case exceed a height of six (6) feet in side and rear yards. The front set back area shall be that area between the primary building on the lot and the street. No fence or portion of a fence shall be constructed within the front setback area of a building; provided however, that a decorative fence may be constructed along lot lines but shall not extend in the front setback.

(b) Multi-family Residential Fences (R-2 & R-3) and Commercial Fences C-1,2,3, & 4). Permitted on property lines in but shall not in any case exceed six (6) feet in side and rear yards. The front set back area shall be that area between the primary building on the lot and the street. No fence or portion of a fence shall be constructed within the front setback area of a building; provided however, that a decorative fence may be constructed along lot lines but shall not extend in the front setback.

(c) Industrial Fences: Security and protective fences only.

(d) All Other Districts: By special approval by the Board of Trustees.

3. Prohibited Fences. No fence shall be constructed which is a picket fence or which is of an otherwise dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrial zoned districts if the devices securing the barbed wire to the fence are ten (10) feet above the ground or higher and project toward the fenced property and away from any public area.

4. Fences to be Repaired. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or a decorative side of a fence shall face adjoining property.

5. Temporary Fences. Fences erected for the protection of planting or to warn of construction hazard, or similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.

6. Non-Conforming Fences and Hedges. Any fence or hedge existing on the effective date of this chapter of the Municipal Code and not in conformance with this article may be maintained, but no alteration, modification or improvement of same shall be permitted unless as a result of such alteration, modification or improvement said fence shall comply with this section.

7. Administration and Permit Requirements. All fences and hedges shall require a permit to be issued by the Building Inspector prior to construction or planting. Any appeals of a decision of the Building Inspector regarding the provisions of this chapter shall be made pursuant to Section 16.20 of the Municipal Code of the Village of Elkhart Lake. All examination and/or approval fees for all fences shall be \$10.00 There shall be no plan examination and/or approval fee for hedges. The Building Inspector shall enforce this chapter pursuant to Section 16.20 of the Municipal Code of the Village of Elkhart Lake.

## **16.92 SWIMMING POOLS**

(1) Definition. A private or residential swimming pool is an outdoor structure containing a body of water and having a depth for water at any point greater than one and one-half ( 1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool. The regulations herein shall also be applicable to permanent hot tubs.

(2) Exempt Pools. Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet in diameter and a maximum wall height of fifteen (15) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Chapter.

(3) Permit Required. All materials and methods of construction in the construction, alteration, addition, remodeling, or other improvements of private residential swimming pools shall be applied for at the municipal office and approved by the Building Inspector prior to commencement of construction. A fee of ten dollars (\$10.00) shall accompany the application.

(4) Construction Requirements. In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in subsection (3), unless the following construction requirements are observed:

(a) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installations shall be in accord with all state regulations and codes and with any and all ordinances of the Village now in effect or hereafter enacted.

(b) All plumbing work shall be in accordance with all applicable ordinances of the Village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, septic system, or onto lands of other property owners adjacent to that on which the pool is located. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval from the State Board of Health shall be necessary before the construction of any such pool may commence.

(c) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state code and Village ordinances regulating electrical installations.

(5) Setbacks and Other Requirements.

(a) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

(b) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the zoning code for an accessory building, and in no case shall the water line of any pool be less than ten (10) feet from any lot line.

(6) Fence.

(a) Pools within the scope of this Chapter which are not enclosed with a permanent building shall be completely enclosed by a fence or wall of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the fence, wall, or cover can be securely fastened in place and when in place shall be capable of sustaining a person weighting two hundred fifty (250) pounds. Such fence or wall shall not be less than four (4) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept locked while the pool is not in actual use.

(b) The pool enclosure may be omitted where portable pools are installed above ground and have raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top or where the sidewalls are a minimum of thirty-six (36) inches high and pool ladders can be removed when not in use.

(c) Above-ground pools with sides greater than forty-two (42) inches above grade high are not required to be enclosed by a suitable fence, and if using a ladder for ingress or egress shall have this ladder removed or flipped up when the pool is not in use.

(7) Compliance. All swimming pools existing at the time of passage of this code of ordinances not satisfactorily fenced shall comply with the fencing requirements of this Chapter.

(8) Filter System Required. All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

(9) Dirt Bottoms Prohibited. All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

### **16.93 SIGNAL RECEIVING ANTENNAS**

(1) Purpose. This section regulating the placement of signal receiving antennas is adopted to:

- (a) Provide uniform regulation of all signal receiving antenna devices;
- (b) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
- (c) Protect the public from injury from antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the antenna; and
- (d) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.

(2) Definitions.

(a) For purposes of this Section, a “signal receiving antenna” is defined as any apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.

(b) “Owner” means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered owner.

(3) Installation Standards. Signal receiving antennas installed in any zoning district within the Village shall comply with the following provisions:

(a) Setbacks.

1. Ground mounted signal receiving antennas shall meet all setback and yard requirements for accessory structures in the district in which they are located and are only permitted in the rear yard in residential districts, provided that they shall be no closer than five (5) feet to the rear lot line. Signal receiving antennas are permitted only in the side and rear yard in commercial, industrial, and public/instructional zoning districts, provided that they shall be no closer than five (5) feet to any rear lot line, side lot line or alley. They shall not occupy more than fifty percent (50%) of a side yard nor more than seventy-five percent (75%) of a rear yard area. Building mounted signal receiving antennas shall not exceed the setback and yard requirements of the zoning district in which located.

2. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard or roof of any lot. If reasonable reception of signals is not possible with a rear yard or roof placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. For corner lots, a side yard is only a yard that does not face a street.

(b) Mounting. Signal receiving antennas attached to the wall or roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Assessor/Building Inspector may require engineering calculations.

(c) Diameter. A satellite television dish antenna shall not exceed eighteen (18) inches in diameter. The diameter of any other signal receiving antenna shall not exceed eight (8) feet, except for systems used to provide community antenna television services.

(d) Height.

1. A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed fifteen (15) feet in height above the roof line of primary structure.

2. A roof-mounted antenna may not exceed fifteen (15) feet in heights above the surrounding roof line.

(e) Wind Pressure. All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.

(f) Electrical Installations. Electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code. Wisconsin state Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. All signal receiving antennas shall be grounded against direct lightning strikes.

(g) Temporary Placement. No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Chapter. Failure to comply shall result in a citation being issued for violation of this Chapter. Any person making such temporary placement shall first give written notice to the Village Clerk of the date when such placement shall begin and end.

(h) Advertising. No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.

(i) Interference with Broadcasting. Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(j) Compliance with Federal Regulations. The installation and use of every signal receiving and sending antennas shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.

(k) Aesthetic Considerations. Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.

#### (4) Enforcement.

(a) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this chapter. In the event of any violation, the Village Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter.

(b) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction, be subject to the general penalty found in Section 16.23(8).

## **16.94 POLYSTRUCTURES**

(1) Purpose. This section prohibits the use and placement of polystructures in the Village.

(2) Defined. A “polystructure” is defined as a freestanding enclosure, not regulated by building codes, and intended for storage having a frame of steel or some other material, and covered with various types of plastic, polyurethane, vinyl canvas, sheet metal or other flexible sheeting materials. Temporary greenhouses, utility sheds, or screen houses are not referred to under this category.

(3) General Conditions. Polystructures constitute a temporary accessory building.

(a) Duration. Poly structures are not allowed within the Village of Elkhart Lake at any time.

(4) Compliance. All existing polystructures must be removed within 30 days of the enactment of the ordinance and are prohibited in the Village for any future use.

## **16.95 HOME OCCUPATIONS**

(1) Defined. A “home occupation” is defined as any activity involving the rendition of services or sales, carried out for gain by a resident, upon the resident’s premises, where the residential premises is the principal location for the carrying on of the business of the home occupation.

(2) General Conditions. Home occupations shall comply with the following general conditions:

(a) The total area devoted to such home occupations shall not exceed twenty percent (20%) of the gross area of the dwelling unit involved and shall be located within a principal structure.

(b) Offensive noise, vibration, dust, odors, pollution or interference with electronic receptions shall not be permitted to emanate from the dwelling.

(c) Persons operating a home occupation shall employ no more than one (1) nonresident employee.

(d) Materials used in or produced by an authorized home occupation may not be stored or displayed outside or be displayed so as to be visible from outside the premises.

(e) The volume of vehicular or pedestrian traffic or parking shall not result in congestion or be in excess of what is compatible with a residential neighborhood.

(f) All authorized home occupations shall meet fire and building safety requirements.

(g) Persons conducting home occupations must furnish such information as required by municipal officials with respect to procedures and processes, equipment, materials, chemicals, and any other items utilized in the home occupation.

(h) Any authorized home occupations which require plumbing, electrical or structural changes, when such changes are not dictated by the primary residential use, shall be prohibited.

(i) No home occupation as defined, shall be altered or enlarged unless it complies with all of the standards applicable to the district in which it is located and the standards of this Section

(3) Permitted Home Occupations. The following home occupations are permitted in any residence, without Planning Commission review, provided that all conditions of this Section are met:

- (a) Dressmaking, tailoring, and sewing.
- (b) Painting, sculpturing, weaving, printmaking, lapidary work, ceramics, writing, and similar artistic endeavors.
- (c) Typing, transcribing, word processing, telephone answering, preparing mailing, and similar business services.
- (d) Computer programming.
- (e) Teaching of voice, musical instruments, dance, or other tutoring, limited to no more than two (2) students at one (1) time.
- (f) Constructing models, yard novelties, and similar woodworking projects.
- (g) Office of a manufacturer's representative, architect, tradesman, engineer, consultant, realtor, accountants or attorneys.
- (h) Photographic studios, as long as chemicals are not used in developing film.
- (i) State-Licensed family day care.

(4) Prohibited Home Occupations. The following are prohibited as home occupations, even if the conditions of Subsection (1) are met:

- (a) Barbershops and beauty parlors.
- (b) Pet grooming and boarding.
- (c) Automobile or truck repair or painting shops.
- (d) Small engine repair shops.
- (e) Welding.
- (f) Furniture stripping and/or refinishing.
- (g) Catering services.
- (h) Landscaping and lawn services.

(5) Unspecified Home Occupations. Any proposed home occupation that is neither permitted nor specifically prohibited by this Section shall be granted or denied at the discretion of the Elkhart Lake Planning Commission and upon consideration of those standards contained in Subsection (1) above and as outlined in 16.25 (Conditional Use Permit.). Denial of a home occupation by the Elkhart Lake Planning Commission can be appealed to the Board of Trustees of the Village of Elkhart Lake.