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- (4) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.
- (d) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** Minimum one hundred (100) feet.
 - (2) **Lot Area.** Minimum twenty-one thousand seven hundred eighty (21,780) square feet.
 - (3) **Front Yard.** Minimum twenty-five (25) feet.
 - (4) **Side Yard.** Minimum fifteen (15) feet.
 - (5) **Rear Yard.** Minimum thirty (30) feet.
 - (6) **Building Height.** Maximum thirty-five (35) feet.

* Requirements may be modified by conditional use permit.

- (e) **Other Requirements.** Uses permitted and conditional in the B-3 District are subject to the following requirements:
- (1) No building or improvement shall be erected, placed or altered on any lands in the B-3 District until the plans for such building or improvement including site, landscaping and building plan and specifications, have been approved by the Village Board. The Village Board shall review and approve, approve conditionally or disapprove such plans with respect to conformity with deed restrictions and protective covenants placed on the land in the B-3 District. The deed restriction and protective covenants must be approved by the Village Board. The approved deed restriction and protective covenants must be recorded on the land prior to rezoning to the B-3 District.
 - (2) Design standards in the B-3 District shall include as a minimum the following standards:
 - a. All uses shall comply with Village performance standards for air pollution, fire and explosive hazards, glare and heat, liquid or solid wastes, noise and vibration, odors, radioactivity and electrical disturbances and refuse.
 - b. All business, servicing or processing, except off-street parking and loading and outside storage areas regulated by restrictive covenants, shall be conducted within completely enclosed buildings.
 - c. The building coverage on any zoning lot shall not exceed fifty-five percent (55%), nor be less than twenty-five percent (25%).
 - d. All areas not covered by buildings or parking lots shall be landscaped subject to detail requirements of restrictive covenants.
 - e. All zoning lots abutting residentially zoned districts shall be screened.

Sec. 13-1-52 I-1 Industrial District.

- (a) **Purpose.** This District is intended to provide an area for manufacturing, marketing, and industrial and agribusiness activities not located in a planned B-3 business park setting. It is also intended to provide an area for a variety of uses which require relatively large

installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.

- (b) **Permitted Uses.** Except as specified, no uses are permitted as a matter of right within the I-1 District. All uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article E:
- (1) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the I-1 District. Such use shall be subject to the consideration of the Village Board and Plan Commission with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:
- (1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products. [20, 23-28, 30, 32-39]
 - (2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
 - (3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening. [50, 51]
 - (4) Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroads, including station houses, platforms, and signal towers, but not including warehouses owned by companies other than railroad companies or road terminal companies.
 - (5) Wholesale establishments and warehouses. [50-51]
 - (6) Building construction contractors. [15-17]
 - (7) Highway passenger and motor freight transportation. [41-42]
 - (8) Light Industry and Service Uses.
 - a. Automotive body repair.
 - b. Automotive upholstery.
 - c. Cleaning, pressing, dyeing.
 - d. Commercial bakeries.
 - e. Commercial greenhouses.
 - f. Distributors.
 - g. Food locker plants.

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- h. Printing and publishing.
 - i. Trade and contractor's facilities.
 - j. Offices.
 - k. Painting services.
 - l. Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility.
 - m. Recreation vehicle, boat and miscellaneous storage.
- (9) Public Facilities and Uses.
- a. Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - b. Schools and churches.
 - c. Airports, airstrips and landing fields.
- (10) Agriculture Related Industry and Service Uses.
- a. Production of natural and processed cheese.
 - b. Production of shortening, table oils, margarine and other edible fats and oils.
 - c. Production of condensed and evaporated milk.
 - d. Wet milling of corn.
 - e. Production of creamery butter.
 - f. Drying and dehydrating fruits and vegetables.
 - g. Preparation of feeds for animal and fowl.
 - h. Pea venteries.
 - i. Creameries and dairies.
 - j. Production of flour and other grain mill products; blending and preparing of flour.
 - k. Fluid milk processing.
 - l. Production of frozen fruits, fruit juices, vegetables and other specialties.
 - m. Fruit and vegetable sauces and seasoning, and salad dressing preparation.
 - n. Poultry and small game dressing and packing providing that all operations be conducted within an enclosed building.
 - o. Production of sausages and other meat products providing that all
 - p. Corn shelling, hay baling and threshing services.
 - q. Grist mill services.
 - r. Horticultural services.
 - s. Canning of fruits, vegetables, preserves, jams and jellies.
 - t. Canning of specialty foods.
 - u. Grain elevators and bulk storage of feed grains.
 - v. Fertilizer production, sales, storage, mixing and blending.
 - w. Sales or maintenance of farm implements and related equipment.
 - x. Animal hospitals, shelters and kennels.

- y. Veterinarian services.
- z. Sawmills.
- (11) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.
- (d) **Prohibited Uses.**
 - (1) Specifically excluded from this designation and expressly prohibited is any use or business which is dangerous or which would create a public nuisance.
 - (2) All residential uses are expressly prohibited.
 - (3) Also specifically excluded and expressly prohibited is any use or business involving the wrecking of automobiles, junk yards, scrap yards, garbage removal or the slaughter of animals or poultry.
- (e) **Lot, Yard and Building Requirements.**
 - (1) **Lot Frontage.** No minimum.
 - (2) **Lot Area.** Minimum fifteen thousand (15,000) square feet.
 - (3) **Front Yard.** Minimum fifty (50) feet.
 - (4) **Side Yards.** Minimum twenty (20) feet.*
 - (5) **Rear Yard.** Minimum twenty (20) feet.*
 - (6) **Building Height.** Maximum sixty (60) feet.
 - (7) **Percentage of Lot Coverage.** Maximum seventy percent (70%).

*** Required Buffer Strips in Industrial Districts.** Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any industrial-residential boundary, a buffer strip not less than forty (40) feet in width as measured at right angles to said lot line. Plant materials at least six (6) feet in height of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District shall be planted in the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the industrial-residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. Fencing may be used in lieu of planting materials to provide said screening. The fencing shall be not less than four (4) nor more than eight (8) feet in height, and shall be of such materials as to effectively screen the industrial area. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

Sec. 13-1-53 A-1 Agricultural District.

- (a) **Purpose.** The A-1 Agricultural District is intended to provide for the continuation of general farming and related uses in those areas of the Village that are not yet committed

to urban development. It is further intended for this District to protect lands contained therein from urban development until their orderly transition into urban-oriented districts is required.

(b) **Permitted Uses.**

- (1) General farming, including agriculture, dairying, floriculture, forestry, grazing, hay, orchards, truck farming and viticulture (grape growing); provided, however, that farm buildings housing animals, barnyards, and feed lots shall not be located in a floodland, and shall be at least one hundred (100) feet from any navigable water or district boundary.
- (2) Keeping and raising of domestic stock for agribusiness, show, breeding, or other purposes incidental to the principal use of the premises, and for the use of the occupants of the premises, provided that such use shall not be located within one hundred fifty (150) feet of a dwelling unit other than the dwelling unit on the property in question.
- (3) Forestry, grazing, hatcheries, nurseries, orchards, paddocks, poultry raising, stables, and truck farming.
- (4) Harvesting of wild crops and management of wildlife including nonresidential buildings used solely in conjunction with such activity.
- (5) In-season roadside stands for the sale of farm products produced on the premises, and up to two (2) unlighted signs not larger than eight (8) square feet each advertising such sale.
- (6) Customary home occupations.
- (7) One (1) and two (2) family farm residences and a single mobile home, but only when occupied by owners and/or persons engaged in farming activities on the farm on which it is located.
- (8) Woodlots and tree farms.
- (9) Production of forest crops, including tree plantations.
- (10) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Permitted Accessory Uses.**

- (1) Attached or detached private garages and carports accessory to permitted or permitted accessory uses.
- (2) General farm buildings including barns, silos, sheds, storage bins and including not more than one (1) roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to the setback, sign and other provisions of this Chapter.
- (3) One (1) farm dwelling. The only residences allowed as permitted uses on newly established parcels are those to be occupied by a person who or a family at least one (1) member of which earns a substantial part of his or her livelihood from farm operations on the parcel or is related to the operator of the larger farm parcel from

which the new parcel is taken. Preexisting residences located in areas subject to zoning under this Section which do not conform to this paragraph may be continued in residential use. The minimum parcel size to establish a residence or a farm operation is thirty-five (35) acres. No structure or improvement may be built on the land unless consistent with agricultural uses.

- (4) Private garages and parking space.
 - (5) Private swimming pool and tennis court.
 - (6) Home occupation.
 - (7) Signs as regulated by the Village.
 - (8) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed time necessary for such constructing.
 - (9) Gardening and other horticultural uses where no sale of products is conducted on the premises.
- (d) **Conditional Uses.**
- (1) Airports, airstrips and landing fields provided that the site is not less than twenty (20) acres.
 - (2) Commercial feed lots, livestock sales facilities and fur farms.
 - (3) Housing for farm laborers and seasonal or migratory farm workers.
 - (4) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios; siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.
 - (5) Utilities.
 - (6) Veterinary clinics, provided that no structure or animal enclosure shall be located closer than one hundred fifty (150) feet to a property boundary. [074, 075]
 - (7) Public and parochial schools, provided no building shall be located within fifty (50) feet of any lot line.
 - (8) Churches, including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site, provided no more than ten (10) persons shall reside on the site and no building shall be located within fifty (50) feet of any lot line.
 - (9) Golf courses, country clubs, tennis clubs or public swimming pools serving more than one (1) family. The principal structure for any of the above listed uses shall be one hundred (100) feet or more from any abutting lot in a Residential District, and accessory structures shall be a minimum of fifty (50) feet from any lot line.
 - (10) Essential service structures, including but not limited to buildings such as telephone exchange stations, booster or pressure-regulating stations, wells, pumping stations, elevated tanks, lift stations and electrical power substations, provided no building shall be located within ten (10) feet from any lot line of an abutting lot in a Residential District. Prior to granting such permit, it shall be found that the architectural design

of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare.

- (11) Hospitals for human care, sanitariums, rest homes, and nursing homes, provided that all structures, except fences, shall be located one hundred (100) feet or more from the lot line of any abutting lot in a Residential District.
 - (12) Cemeteries.
 - (13) Fur farms, kennels, greenhouses and other agricultural uses that may cause noxious odors or noise, or create health or sanitation hazards.
 - (14) Campgrounds, tourist camps and travel trailer parks, subject to the provisions of this Chapter and the Wisconsin Administrative Code.
 - (15) Trap or skeet shooting facilities, target ranges, gun clubs, shooting preserves.
 - (16) Riding stables.
 - (17) Golf courses.
- (e) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** Minimum two hundred (200) feet.
 - (2) **Lot Area.** Minimum two (2) acres.
 - (3) **Principal Building.**
 - a. Front Yard: Minimum eighty (80) feet.
 - b. Side Yards: Minimum fifty (50) feet.
 - c. Rear Yard: Minimum fifty (50) feet.
 - (4) **Accessory Building.**
 - a. Front Yard: Minimum eighty (80) feet.
 - b. Side Yards: Minimum forty-five (45) feet.
 - c. Rear Yard: Minimum forty-five (45) feet.
 - d. Building Height: Maximum fifty (50) feet.

Sec. 13-1-54 PF Public Facilities District.

- (a) **Purpose.** The PF Public Facilities District is characterized by parks and outdoor recreation for large groups of people, golf courses, schools and utilities.
- (b) **Permitted Uses.**
 - (1) Parks.
 - (2) Golf courses.
 - (3) Utilities.
 - (4) Schools.
 - (5) Churches.
 - (6) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
- (c) **Conditional Uses.**
 - (1) Tourist camps.

- (2) Outdoor advertising signs.
- (3) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.
- (d) **Lot, Building and Yard Requirements.** See requirements for B-1 District.

Sec. 13-1-55 WP Wellhead Protection Overlay District.

- (a) **Purpose.** The users of the public water supply system located in the Village of Elk Mound depend exclusively on ground water for safe drinking water. Certain land use practices and activities can seriously threaten or degrade ground water quality. The purpose of the Wellhead Protection Overlay District is to institute land use regulations and restrictions to protect the Village of Elk Mound municipal water supply and wells, and to promote the public health, safety and general welfare of the residents of the Village of Elk Mound.
- (b) **Authority.** These regulations are established pursuant to the authority granted by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added ground water protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety and welfare.
- (c) **Applicability.**
 - (1) The regulations specified in the Wellhead Protection Overlay District shall apply within the Village of Elk Mound limits.
 - (2) No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered, and no development shall commence without full compliance with the terms of this Section and other applicable regulations.
- (d) **Definitions.** As used in this Section:
 - (1) **Aquifer.** A saturated, permeable, geologic formation that contains and will yield significant quantities of water.
 - (2) **Existing Facilities Which May Cause or Threaten to Cause Environmental Pollution.** Existing facilities which may cause or threaten to cause environmental pollution within the Village of Elk Mound include, but are not limited to, the Department of Natural Resources' draft or current list of *Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution*, the Department of Commerce list of Underground Storage Tanks (USTs), lists of facilities with hazardous, solid waste permits, and any facility which is considered a prohibited use under this Section, all of which are incorporated herein as if fully set forth.
 - (3) **Cone of Depression.** The area around a well, in which the water level has been lowered at least one-tenth (1/10) of a foot by pumping of the well.
 - (4) **Five Year Time of Travel.** The five (5) year time of travel is the recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take five (5) years to reach a pumping well.

- (5) **Recharge Area.** The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
- (6) **Well Field.** A piece of land used primarily for the purpose of locating wells to supply a municipal water system.
- (7) **Wellhead Protection Overlay District.** Shall be defined to include the following area:

The area of land which contributes water to the well starting at the well and continuing out to a line delineating the five (5) year time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the *State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2* with Zone boundaries normalized (if practical) to road centerlines, railways, surface water features, the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines and property lines.

- (8) **Zone of Saturation.** The saturated zone is the area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.
- (e) **Supremacy of the District.** The regulations of this overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the Wellhead Protection Overlay District are more stringent.
- (f) **Permitted Uses.** Permitted uses within the Wellhead Protection Overlay District are subject to the separation distance requirements set forth in Subsection (g), Separation Distance Requirements, the prohibition of uses, activities or structures designated in Subsection (h), Prohibited Uses, and include:
 - (1) Public and private parks and beaches, provided there are no on-site wastewater disposal systems or holding tanks.
 - (2) Playgrounds.
 - (3) Wildlife areas and natural areas.
 - (4) Trails such as biking, hiking skiing, nature, equestrian and fitness trails.
 - (5) Residential which is municipally sewered.
 - (6) Agricultural activities which are conducted in accordance with *USDA-SCS Wisconsin Field Office Technical Guide Specification 590* nutrient management standards.
 - (7) Commercial establishments which are municipally sewered.
 - (8) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
- (g) **Separation Distance Requirements.** The following separation distances as specified in NR 811.16, Wis. Adm. Code, shall be maintained:

- (1) Fifty (50) feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA C600 specifications.
 - (2) Two hundred (200) feet between a public water supply well and any sanitary sewer main not meeting the above specifications, any sanitary sewer lift station or single-family residential fuel oil tank.
 - (3) Four hundred (400) feet between a public water supply well and a stormwater detention, retention, infiltration or drainage basin.
 - (4) The provisions of NR 811.16(4)(d)4., 5., and 6., Wis. Adm. Code, are not listed here as uses, activities or structures contained therein are prohibited in the District.
- (h) **Prohibited Uses.** The method of regulation by prohibition of certain uses is employed to provide the greatest assurance that inadvertent discharge of pollutants into the groundwater supply will not occur, since such an event would result in almost certain contamination of the public water supply, and costly mitigation or remediation for which liability is difficult or impossible to establish. The prohibited uses, activities or structures for the Wellhead Protection Overlay District include:
- (1) Above and below ground hydrocarbon or petroleum storage tanks.
 - (2) Cemeteries.
 - (3) Chemical manufacturers (Standard Industrial Classification Major Group 28).
 - (4) Coal storage.
 - (5) Dry cleaners.
 - (6) Hazardous, toxic or radioactive materials transfer and storage under Title III or SARA planning.
 - (7) Industrial lagoons and pits.
 - (8) Jewelry plating and metal plating.
 - (9) Landfills and any other solid waste facility, except post-consumer recycling.
 - (10) Machine or metal working shops.
 - (11) Manure storage.
 - (12) Non-metallic earthen materials extraction or sand and gravel pits.
 - (13) Pesticide and fertilizer dealer, transfer or storage.
 - (14) Research labs, universities and hospitals.
 - (15) Railroad yards and maintenance stations.
 - (16) Rendering plants and slaughterhouses.
 - (17) Salt or deicing material storage.
 - (18) Salvage or junk yards.
 - (19) Septage or sludge spreading, storage or treatment.
 - (20) Septage, wastewater, or sewage lagoons.
 - (21) Septic tanks, holding tanks or other on-site sewage treatment systems.
 - (22) Stockyards and feedlots.
 - (23) Stormwater infiltration basins without pre-treatment.

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- (24) Vehicular services, including filling and service stations, repair, renovation and body working.
- (25) Wood preserving.
- (i) **Requirements for Existing Facilities Which May Cause or Threaten to Cause Environmental Pollution.**
- (1) Existing facilities within the Wellhead Protection Overlay District at the time of enactment of such district which may cause or threaten to cause environmental pollution include, but are not limited to, the Wisconsin Department of Natural Resources' draft or current list of *Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution*, Wisconsin Department of Commerce's list of Underground Storage Tanks, lists of facilities with hazardous, solid waste permits, and all other facilities which are considered a prohibited use in Subsection (h), Prohibited Uses, all of which are incorporated herein as if fully set forth.
 - (2) Such facilities as above which exist within the district at the time of enactment of a district shall provide copies of all federal, state and local facility operation approval or certificates and ongoing environmental monitoring results to the Village.
 - (3) Such facilities as above which exist within the district at the time of enactment of a district shall provide environmental or safety structures/monitoring to include an operational safety plan, hazardous material containment, best management practices, stormwater runoff management and groundwater monitoring.
 - (4) Such facilities as above which exist within the district at the time of enactment of a district shall replace equipment, or expand on the site or property of record associated with the facility at the time of enactment of a district, in a manner that improves the environment and safety technologies already being utilized.
 - (5) Such facilities as above which exist within the district at the time of enactment of a district shall have the responsibility to devising, filing and maintaining, with the Village, a current contingency plan which details how they intend to respond to any emergency which occurs at their facility, including notifying municipal, county and state officials.
 - (6) Such facilities as above cannot engage in or employ a use, activity, or structure listed in Subsection (h), Prohibited Uses, which they did not engage in or employ at the time of enactment of a district, and can only expand those present uses, activities, or structures on the site or property of record associated with the facility at the time of enactment of a district, and in a manner that improves the environmental and safety technologies already being utilized.
- (j) **Conditional Uses.** Any individual, person, partnership, corporation, or other legal entity and/or facility may request that the Village Board grant a Conditional Use Permit for certain uses, activities and structures within the Wellhead Protection Overlay District.
- (1) All requests shall be made in writing to the Plan Commission and shall include:
 - a. A site plan map with all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and two (2) foot ground elevation contours.

- b. A business plan and/or other documentation which describes in detail the use, activities, and structures proposed.
 - c. An environmental assessment report prepared by a licensed environmental engineer which details the risk to, and potential impact of, the proposed use, activities and structures on groundwater quality.
 - d. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring.
 - e. A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.
- (2) All Conditional Use Permits granted under this Section shall be subject to conditions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply, and/or bonds and/or sureties satisfactory to the Village. These conditions shall include, but not be limited to:
- a. Provide current copies of all federal, state and local facility operation approval or certificates and ongoing environmental monitoring results to County Emergency Government and the Village of Elk Mound.
 - b. Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
 - c. Replace equipment or expand in a manner that improves the environmental and safety technologies being utilized.
 - d. Devise, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to County Emergency Government and the Village of Elk Mound.
- (3) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.
- (4) The individual, person, partnership, corporation, or other legal entity and/or facility making the request shall reimburse the Village for consultant fees and Plan Commission expenses associated with this review at the invoiced amount, plus administrative costs.
- (5) The Village Board shall decide upon a request for a Conditional Use Permit only after full consideration of the recommendations made by the Village Plan Commission. Any condition above and beyond those specified in Subsection (j), Conditional Uses, that are recommendation by the Plan Commission or established by the Village Board may be applied to the granting of the Conditional Use Permit. (See Article E.)
- (k) **Violations, Enforcement and Penalties.**
- (1) It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this Section. In case of any violation, the Village Board shall institute appropriate action or proceeding to enjoin a violation of this Section.

- (2) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Section shall, upon conviction thereof, forfeit to the Village of Elk Mound, a penalty as prescribed in Section 1-1-6. Each and every day of violation shall constitute a separate offense in addition to any penalties. Compliance with this Section is mandatory, and no building, structure or use shall be allowed without full compliance.
- (3) In the event any individual, person, partnership, corporation, or other legal entity (hereinafter "individual") that owns an Existing Facility Which May Cause or Threaten to Cause Environmental Pollution, or any individual and/or facility possession a Conditional Use Permit under the provisions of Subsection (j), Conditional Uses, and that individual/facility causes, or is the site of, the release of any contaminants which endanger the municipal water supply associated with a Wellhead Protection Overlay District, the activity causing said release shall immediately cease and a cleanup satisfactory to the Village shall occur.
- (4) The individual/facility shall be responsible for all costs of cleanup, Village consultant or outside contractor fees, fees at the invoice amount plus administrative costs for oversight, review and documentation, plus the following:
 - a. The cost of Village employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Village representing the Village's cost for expenses, benefits, insurance, sick leave, holidays, workman's compensation, holidays, overtime, vacation, and similar benefits.
 - b. The cost of Village equipment employed in the cleanup.
 - c. The cost of mileage incurred on Village vehicles used in any activity related to the cleanup, or of mileage fees reimbursed to Village employees attributed to the cleanup.

Sec. 13-1-56 AEO Adult Entertainment Overlay District.

(a) Authority.

- (1) The Village Board has authority, to be liberally construed in favor of the Village, under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, morals, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
- (2) The Village Board recognizes it lacks authority to regulate obscenity under Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and

- (3) Adult establishments in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
 - (4) The Village Board recognizes the U.S. Supreme Court has held that material with adult content is within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
 - (5) However, the Village Board is aware, based on the experiences of other communities, that adult establishments may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Elk Mound; and
 - (6) Among these secondary effects are:
 - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
 - b. The potential depreciation of property values in neighborhoods where adult establishments featuring nude dancing exist;
 - c. Health risks associated with the spread of sexually transmitted diseases; and
 - d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and
 - (7) The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Elk Mound; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
 - (8) The Village Board has determined that the enactment of a zoning ordinance provision allowing adult establishments viable areas in which to exist within the Village while keeping those adult establishments separated from each other, residential areas, schools, churches, day care centers, or bars or taverns, promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such adult establishments.
- (b) **Purpose.** The purpose of the AEO Adult Entertainment Overlay District is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the Village so as not to suppress their existence.

- (c) **Definitions.** For purposes of this District, the following definitions shall be applicable:
- (1) **Adult Establishment.** Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
 - (2) **Adult Bookstore.** An establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
 - (3) **Adult Entertainment.** Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
 - (4) **Adult Motion Picture Theater.** Any establishment for the presentation of motion pictures that as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.
 - (5) **Adult Novelty Store.** Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
 - (6) **Specified Anatomical Areas.** Means either:
 - a. Less than completely and opaquely covered human genitals pubic region.
 - b. Human male genitals in a discernible turgid state, even if opaquely covered.
 - c. Less than completely and opaquely covered nipples or areolas of the human female breast.
 - (7) **Specified Sexual Activities.** Means simulated or actual:
 - a. Showing of human genitals in a state of sexual stimulation or arousal; or
 - b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
 - (8) **Substantial.** Forty percent (40%) or more of business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary

records, receipts and documentation to the Village upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.

(d) **Location.**

- (1) No adult establishment shall be located:
 - a. Within any zoning district other than general commercial, limited commercial, highway commercial, industrial, and heavy industrial.
 - b. Within two hundred fifty (250) feet (plus) feet of an existing adult establishment.
 - c. Within two hundred fifty (250) feet of any dwelling as defined by this Zoning Code.
 - d. Within two hundred fifty (250) feet of any pre-existing school, church or daycare, as defined in this Zoning Code.
 - e. Within two hundred fifty (250) feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.
- (2) For purposes of this District, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another establishment, dwelling, school, church, daycare or establishment selling or dispensing fermented malt beverages or intoxicating liquor.

(e) **Hours of Operation.**

- (1) No adult establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, between the hours of 2:30 a.m. and 8:00 a.m. on Saturdays, or between the hours of 2:30 a.m. and 12:00 noon on Sundays.
- (2) All adult establishments shall be open to inspection at all reasonable times by the Police Department, Zoning Administrator and/or other Village representatives.

Sec. 13-1-57 E-1 Mineral Extraction or Landfill Overlay District.

- (a) **Purpose.** The intent of this District is to provide a means of properly siting, regulating and reclaiming mineral extraction and landfill sites.
- (b) **Permitted Uses.**
 - (1) Mineral extraction operations and landfill sites that are presently in existence, provided that applicable provisions of this Section are complied with.
 - (2) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-134.
- (c) **Conditional Uses.** Conditional uses in the District shall include all conditional uses listed in the underlying district. Conditional use procedures, as described in Article D, shall be adhered to as well as the requirements of this Section, with the more restrictive provision being applicable. In addition, the following are permitted conditional uses:
 - (1) Extension of legally existing mineral extraction operation or the creation of a new such extraction operation.

- (2) New mineral extraction operations and the following: Landfills; solid waste management facilities, recycling centers; bio-remediation sites; and soil extraction or scraping for purposes of obtaining fill material for such large scale operations as landfill sealing, roadbed construction, etc; or similar uses. These uses shall be a conditional use in all zoning districts except in the R-1, R-2, R-3, R-4, R-5, and R-6 Districts.
- (d) **Basic District Standards.**
- (1) **Basic Standards.** The basic standards in this District shall be controlled by those of the underlying district unless more restrictive standards are established in the conditional use approval. Also, excavations or fill areas within two hundred (200) feet from any right-of-way or property line shall not be permitted unless the Village Board determines that the operational plans adequately provide for:
- Safety of abutting land uses and for safe ingress to, egress from and traffic flow past the site.
 - Aesthetic screening from abutting properties.
 - Dust control from the operation and/or any stockpiling.
 - Staging of the operation to produce a minimal time frame between commencing of operations and restoration within this two hundred (200) foot area.
- (2) **Permit Validity; Operational Requirements.** The conditional use permit shall be in effect for a period not to exceed one (1) year and may be renewed upon application for a period not to exceed one (1) year; a shorter period may be established by Village Board action. There shall be an annual fee as prescribed by Section 1-3-1 for such permit. Modifications or additional conditions may be imposed upon application for renewal. Operational requirements shall include the following where applicable, and all require Village Board approval:
- Fencing or other suitable barriers shall be erected as necessary to protect the public.
 - Machinery, roads and equipment used in the extractive operation shall be constructed, maintained and operated in such a manner as to minimize dust.
 - Crushing, washing, refining or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.
 - Planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Village and other applicable agencies.
 - Hours of operation may be established and enforced by the Village Board.
 - Other requirements deemed necessary by the Village Board.
- (3) **Plan of Reclamation.** A reclamation plan meeting the standards of NR 135, Wis. Adm. Code, shall be submitted and approved by all applicable agencies and the Village Board.
- (e) **Existing Operations.** Existing operations shall be subject to the following further requirements:

- (1) **Permit.** Within sixty (60) days after the original adoption of this Section all existing extractive operations shall be required to register with the Zoning Administrator, submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A permit shall be granted to such existing operation, subject to compliance with the operational requirements, listed above where they can be reasonably applied under existing circumstances.
 - (2) **Plan for Restoration.** There shall be required within one (1) year after original adoption of this Section, the submission of a plan for restoration of the site of existing extractive operation as provided above. The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Section.
- (f) **Renewal Permit.** Within one year after the original enactment date of this Section, any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this Section.
- (g) **Plan of Operation.** All mineral extraction operations including those operations and activities which lawfully existed prior to the original adoption of this Section shall prepare a plan of operation for the site which shall include the following information:
- (1) Statement of ownership of the parcel and control of the operations.
 - (2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
 - (3) Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations.
 - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
 - (5) Methods of screening from adjacent properties and proximity to adjacent properties.
 - (6) Hours of operation and, if applicable, a phasing plan for future operations.
 - (7) Dust and noise control.
 - (8) Maximum depth.
 - (9) Blasting procedures.
 - (10) Location and height of stockpiles.
 - (11) Such other information the Village Board deems pertinent to the operation.
- (h) **Gravel Crushing; Permit Requirement.** In addition to all other conditional use permit and other requirements prescribed in this Section, an annual permit is required for the placement or operation at any mineral extraction site of any portable or fixed gravel crushing equipment. Such gravel crushing operation permit shall be valid for one (1) year;

the Village Board may attach reasonable conditions to such permit. The annual fee for the permit shall be as prescribed in Section 1-3-1.

(i) **Definitions.** As used in this Section:

- (1) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
- (2) **Nonmetallic Mining or Mineral Extraction Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (3) **Nonmetallic Mining or Mineral Extraction Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining or mineral extraction operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining or mineral extraction operation.
- (4) **Nonmetallic Mining or Mineral Extraction Site.** The location where a nonmetallic mining or mineral extraction operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the mineral extraction operation by activities such as the construction or improvement of roads or haulageways.
- (5) **Operator.** Any person who is engaged in a mineral extraction operation or mineral extraction site reclamation or who applies for or holds a nonmetallic mining permit issued under this mineral extraction reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (6) **Reclamation.** The rehabilitation of a mineral extraction site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (7) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a mineral extraction operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

(j) **Exempt Activities.** The reclamation of sites within this District shall not apply to the following activities:

- (1) Excavations or grading by a person solely for domestic use at his or her residence.
- (2) Excavations or grading conducted for highway construction purposes within the highway right-of-way.

- (3) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
 - (4) Excavations for building construction purposes.
 - (5) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
 - (6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.
- (k) **Financial Assurance.** Before rezoning and a reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.
 - (2) Guaranteed completion of the required reclamation within a period determined by the Village Board.
 - (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Attorney, as well as other costs of a similar nature.
 - (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
 - (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the Village Engineer's estimated cost of the required improvements.
 - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- (l) **Fences.** Prior to reclamation, mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (m) **Inspection.** An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the

property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Section.

- (n) **Prohibitions and Orders.** Mineral extraction mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Section or if other requirements of this Section are not met.

State Law Reference: NR 135, Wis. Adm. Code.

Sec. 13-1-58 through Sec. 13-1-69 Reserved for Future Use.

Article D: Planned Unit Development (PUD)
Overlay District Procedures

Sec. 13-1-70 PUD Planned Unit Development Overlay District - Intent.

- (a) **Purpose.** The PUD Planned Unit Development Overlay District is intended to:
- (1) Permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses;
 - (2) Provide a safe and efficient system for pedestrian and vehicle traffic;
 - (3) Provide attractive recreation and open spaces as integral parts of the developments;
 - (4) Enable economic design in the location of public and private utilities and community facilities;
 - (5) Ensure adequate standards of construction and planning;
 - (6) Allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, 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; and
 - (7) Accommodate areas of integrated mixed land uses, innovative lot sizes and physical design, and strong commitments to commonly held open space.
- (b) **Overlay District Approach; Application To Existing Use Districts.**
- (1) The PUD Planned Unit Development Overlay District shall operate as an overlay zone and as an alternative to the permitted uses and regulations applicable to existing districts. The PUD Planned Unit Development Overlay District is a supplemental zoning classification applied "over" an underlying zoning district or districts to provide an opportunity to develop land in a manner that does not fit the configuration or standards of the underlying districts.
 - (2) The PUD Planned Unit Development Overlay District shall be applicable only to those lands which may hereafter be zoned PUD Planned Unit Development Overlay District by the Village Board, at its discretion.
 - (3) Basic underlying zoning requirements for lands overlay zoned as a PUD Planned Unit Development Overlay District shall continue in full force and effect, and shall be solely applicable until such time as the Village Board grants final approval to the PUD under the procedures hereinafter provided in this Article.
- (c) **Applicability To Parcels With Single Ownership.** The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Village of Elk Mound upon specific petition under Section 13-1-77 of this Chapter and after public hearing, with such development

encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Chapter have been met.

(d) **Conformance With Laws and Regulations.**

(1) A PUD Planned Unit Development Overlay District, authorized and approved as herein provided, shall be carried out in conformity with all federal, state, and municipal laws and regulations. However, in the interpretation and application of this Article, the regulations contained in this Article shall be controlling in the event of a conflict between the provisions of this Article and other local zoning or subdivision regulations.

(2) A PUD Planned Unit Development Overlay District project shall be consistent in all respects to the expressed intent of this Article and to the intent and spirit of this Zoning Code and its underlying districts; it shall be in conformity with the adopted Village Comprehensive Plan (Master Plan or Smart Growth Plan) or any component thereof and shall not be contrary to the general welfare and economic prosperity of the community.

Sec. 13-1-71 Definitions.

In addition to the general Zoning Code definitions contained in Section 13-1-300, the following definitions shall be applicable in this Article:

- (a) **Basic Zoning Regulations/Districts.** Such zoning regulations as are applicable to the use district other than the regulations set forth in this Article.
- (b) **Building Site.** A tract of land not divided by public streets or into lots, excepting for single-family dwelling purposes and which will not be so subdivided, or where the tract of land, if so divided, is in single ownership or is owned by a condominium group. The site must be located on a public street or have direct access over a private right-of-way.
- (c) **Comprehensive Plan.** The official guide for the physical, social, and economic growth of the Village of Elk Mound properly enacted or adopted according to Section 62.23, Wis. Stats., which is now or may hereafter be in effect. May also be referred to as a "Master Plan" or "Smart Growth Plan".
- (d) **Cluster.** The grouping together of a number of structures which have similar use or intended purpose.
- (e) **Density.** The number of dwelling units permitted per square foot of land area or number of dwelling units permitted per acre of land area.
- (f) **Development Plan, General.** The proposal for development of a PUD Planned Unit Development Overlay District, consisting of a general concept plan for the entire area.
- (g) **Open Space.** A parcel or parcels of land or an area of water or a combination thereof with the site designated for a PUD Planned Unit Development Overlay District, and designated and intended for the use or enjoyment of residents of the planned development.

- (h) **Pedestrian Way.** A right-of-way designed for the purpose of providing pedestrian access.
- (i) **Planned Development District (PUD).** An area of land controlled by a single owner, corporation, or other legal entity which is to be developed as a single unit and is referred to herein as a PUD.
- (j) **Precise/Specific Implementation Plan.** The proposal for development of a part of or the whole of the General Development Plan.

Sec. 13-1-72 Types of Planned Unit Developments; Permitted Uses.

- (a) **Types.** This Article contemplates that there may be a Residential, Commercial, Industrial Planned Unit Developments and Mixed Compatible Use Developments as PUD Planned Unit Development Overlay Districts.
- (b) **Permitted Uses.**
 - (1) **Basic Underlying Permitted Uses.** All uses permitted under the basic zoning regulations applicable to the underlying zoning district in which the particular property is located are allowed.
 - (2) **Permitted Accessory Uses.** Any accessory use permitted in the underlying zoning district(s) is permitted in the PUD Planned Unit Development Overlay District
 - (3) **Conditional Uses.** Any conditional use permitted in the underlying zoning district(s) may be applied for in the PUD Planned Unit Development Overlay District. The review of conditional uses proposed to be located within the planned unit development would be conducted as part of the overall review of the PUD Planned Unit Development Overlay District application.
 - (4) **Schools, Parks, and Recreation Facilities.** The developer in the preparation of his/her PUD proposal shall consult with and receive the approval of the Village as to the reservation of suitable sites for adequate area for future schools, parks, playgrounds, drainageways, and other public uses if so designated on the Comprehensive Plan, Official Map, or component area development plan, if any, or as required by the Village of Elk Mound.
 - (5) **Non-Residential Uses.** Nonresidential uses are limited to those uses specifically approved by the Plan Commission and Village Board are permitted in a PUD Planned Unit Development Overlay District, based, in part, on the following criteria:
 - a. Nonresidential development shall be integrated into the total design of the PUD project.
 - b. The Village, at its option, may require that the areas and types of nonresidential facilities to be allowed in a PUD Planned Unit Development Overlay District project be based on a market analysis. The market analysis shall demonstrate that the amount of land proposed is needed and can realistically be supported by area residents and consumers. For these purposes, such analysis should contain the following determinations:

1. Determination of the expected trade area of the proposed commercial facilities.
 2. Determination of the trade area population, present and prospective.
 3. Determination of the expected effective buying power in such trade area.
 4. Determination of net potential customer buying power for stores in the proposed PUD and, on such basis, the recommended store types and floor area.
- c. Offices shall be permitted in residential PUD Planned Unit Development Overlay Districts only when use specifically for the marketing of such development or as allowable professional home offices per Section 13-1-93.

Sec. 13-1-73 General Design Standards for Planned Unit Developments.

(a) **General Considerations.**

- (1) **Adequacy of Design.** Design standards and requirements outlined in this Section shall be utilized by the Village in determining the adequacy of all plans for proposed planned unit developments.
- (2) **Consideration of Comprehensive Plans.** Consideration shall be given to applicable provisions of the Village Comprehensive Plan, Official Map and other adopted plans as they pertain to future school sites, recreation sites, water supply, sewage treatment systems, highway and street alignments, environmental integrity, and other public facilities where appropriate.
- (3) **Consideration of Existing Adjacent Development.** The development of the proposed PUD shall take into consideration relevant features of adjacent existing development.
- (4) **Unsafe or Hazardous Conditions.** Land with unsafe or hazardous conditions, such as open quarries, unconsolidated fill, floodplains or steep slopes, shall not be developed unless the PUD provides for adequate safeguards which are approved by the Village Board.

- (b) **Location of Structures.** Specific lot size, building location, height, size, floor area, and other such requirements shall be based upon determination by the Village Board, following advisory recommendations from the Plan Commission, as to their appropriateness to the proposed uses and structures as they relate to the total environmental concept of the planned development, consistent with the criteria set forth in this Article, and, as near as practicable, consistent with standards established in applicable existing basic zoning districts and regulations, and with those generally accepted basic standards necessary to insure the protection of the public health, safety and general welfare of that area of the community.

- (c) **Minimum Area Requirements.** Areas designated as planned unit developments shall contain a minimum development area as follows:

Principal Uses	Minimum Area of PUD
Residential PUD	3 acres
Commercial PUD	5 acres
Industrial PUD	5 acres
Mixed Compatible Use	5 acres

(d) **Allowable Residential Densities**

(1) **General Lot Area, Density, Width and Setback/Yard Requirements.**

- a. In a PUD Planned Unit Development Overlay District, area and width requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the number of dwelling units by more than five percent (5%) that would have been permitted if the planned unit development regulations had not been utilized.
- b. Setbacks required by the underlying base use district may be modified in PUD Planned Unit Development Overlay Districts; however, no setback shall be less than twenty-five (25) feet from any street right-of-way.
- c. No principal structures in planned unit developments shall be located closer than thirty (30) feet to another structure.
- d. Structures in residential PUD Planned Unit Development Overlay Districts shall have a rear yard of not less than twenty-five (25) feet.

(2) **Minimum Lot Area Requirements.** Provided the overall number of dwelling units per acre (density) is not increased by more than five percent (5%) beyond the number of dwelling units that would have been permitted if the PUD District had not been utilized, and provided adequate open space is maintained, the planned unit development may include lot areas per dwelling unit smaller than those normally required in the underlying zoning district. However, no lot shall be less than the minimum lot areas indicated below:

Use	Minimum Lot Area per Dwelling Unit (square feet)
Single-family	6,000
Two-family	4,000
Multiple-family (1 story)	3,000
Multiple-family (2 story)	3,000
Multiple-family (3 story)	2,000

(3) **Residential Permitted Densities Standards; Common Open Space Requirements.**

In the case of residential uses, the allowable density shall be based on the following considerations:

- a. That there will result an appropriate relationship between the number of dwelling units and the facilities required and available to service them, such as sewer, water, schools, streets, and other appropriate municipal services.
 - b. That there will be an appropriate provision of common open space to compensate for clustering or other concentration of dwelling units, consistent with the goal of creating a desirable living environment. Except as provided below, no plan for a planned unit development shall be approved unless such plan provides for permanent open space equivalent to twenty percent (20%) of the total area in single-family residential planned unit developments, twenty-five percent (25%) in multi-family residential planned unit developments, and five percent (5%) in commercial/industrial planned unit developments. Such open space may be in any of the following forms, provided they contribute realistically and specifically to the enhancement of the environmental character of the development for benefit of the residents thereof and the general community:
 1. Natural areas such as woods, unique meadows, marshes, lakes, wetlands, streams and ponds, providing either an environmental amenity or serving a useful ecological purpose.
 2. Agricultural areas, including prime crop land, pasture, orchards, and tree nurseries, contributing to the preservation of the agricultural land resource or significantly contributing to the environmental character of the area.
 3. Recreational areas, such as parks, parkways, greenbelts, playfields, and golf courses.
 - c. That there will result an appropriate relationship between the character of existing developments or likely to result from the zoning of property thereto.
- (e) **Building Height and Area Requirements.**
- (1) Buildings in a planned unit development shall not exceed the height permitted in the basic use district.
 - (2) Buildings in a planned unit development shall have a minimum area that is equal to or greater than that required in the basic use district.
- (f) **Single Parcel, Lot or Tract.** At the time of filing, the land proposed for a PUD Planned Unit Development Overlay District shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract.

Sec. 13-1-74 Planned Unit Development Site Design Standards.

- (a) **Natural Features.** Physical layout and form of all structures shall be designed with regard to the topography and natural features of the site.
- (b) **Visual Aspects.** The overall design shall provide for the appearance of external unity throughout the planned unit development project. Variations of building elevations and

materials used therein shall be encouraged insofar as they reinforce rather than hamper the design harmony. Housing and other facilities near the periphery of the planned unit development shall be designed so as to be harmonious with neighboring areas.

(c) **Landscaping.**

(1) **Topographic Features Preservation.** Where natural or existing topographic features contribute to the beauty and utility of a development, consideration shall be given to this preservation. Modifications to topography features should only occur where it contributes to good appearance.

(2) **Plant Types.** Plant material shall be selected for interest in its structure, texture, color, and for its ultimate growth. Further, it is recommended that native materials be employed for their ability to tolerate prevailing weather and natural conditions.

(3) **Plant Guards.** In locations where plant materials will be susceptible to injury by pedestrians and/or motor vehicles, appropriate curbs, tree guards, or other protective devices shall be employed.

(d) **Street Design Standards.** All streets within a PUD Planned Unit Development Overlay District dedicated to the public shall be so indicated on the General Development Plan and shall be constructed in accordance with Village standards (see Title 14), or as modified under this Subsection. Standards of design and construction of roadways within the PUD may be modified as is deemed appropriate by the Village Board; however, in considering such modifications, the Village Board shall consider the impact on traffic/pedestrian safety, snowplowing, and law enforcement/firefighting/emergency medical services responses. Right-of-way widths and street pavement widths may be reduced where it is found that the General Development Plan provides for the separation of motorized traffic from bicycle/pedestrian circulation patterns. The use of private roadways and streets is discouraged.

(e) **Accommodation of Pedestrian Traffic.**

(1) **Sidewalks; Walkways.** Sidewalks and/or other walkways and bicycle paths shall be provided where necessary for the safety and convenience of pedestrian and cyclist traffic within project boundaries. Special attention shall be given to connections accommodating pedestrian movement between the dwelling units' common open space, recreation facilities, schools, commercial establishments, and parking facilities.

(2) **Design Considerations.** Walkway widths and surface treatment of all walkways shall be designed with regard to their function and the anticipated manner of usage. The natural features of the area traversed in the walkway system and suitable lighting in scale with the project shall also be considered. Utilization of pedestrian ramps as required by law and necessary to either resolve conflicts with vehicular traffic or facilitate the movement of senior citizens and/or children.

(f) **Parking and Loading.**

(1) **Required Number of Parking Spaces.** Accessible off-street parking and loading facilities shall be provided as required and specified in Article G of this Chapter.

- (2) **Landscaping of Parking Areas.** Parking areas shall be planned to provide a desirable transition from the streetscape and to provide for adequate landscaping, pedestrian movement, and parking areas. In keeping with this purpose, the following design standards shall be followed for projects in a PUD Planned Unit Development Overlay District; in the event of conflict between these standards and those prescribed in Article G, the following standards shall be applicable:
- a. Parking areas shall be arranged so as to prevent or limit thru traffic to other parking areas.
 - b. Parking areas shall be screened from residential structures and streets with hedges, dense plantings, earth berms, changes in grade and/or walls, or a combination thereof, except where parking areas are designed as an integral part of the street.
 - c. No more than fifteen (15) parking spaces shall be permitted in a continuous row without being interrupted by landscaping unless otherwise approved by the Plan Commission.
 - d. All off-street loading and unloading areas shall be paved and according to the standards in Sec. 13-1-121, the design thereof approved by the Plan Commission.
 - e. All parking areas shall be adequately lighted. All such lighting shall be so arranged as to direct the light away from adjoining residences and shall be of a downward-directed design.
 - f. All parking areas and off-street loading and unloading areas shall be graded and drained so as to dispose of all surface water without erosion and flooding.

(g) **Common Open Space Standards.**

(1) **Common Open Space Covenant/Easement.**

- a. All common open space shall be protected by a "common open space covenant" and "open space easement", approved by the Village Board, following review by the Village Attorney, and sufficient to its maintenance and preservation.
- b. Such common open space covenant or open space easement shall specify:
 1. Ownership of any common open space;
 2. Property rights of owners to such common open space;
 3. Method of maintenance;
 4. Responsibility for maintenance;
 5. Maintenance assessments/obligations and provisions for insurance;
 6. Enforcement of non-payment of assessments/obligations;
 7. Enforcement of negligent maintenance;
 8. An agreement that noncompliance with said covenant enables the Village to assess the property owners of the common open space, to cover the cost of assuming maintenance or improvements;
 9. A warranty that any change in such covenant will not be made without the consent of the Village Board; and
 10. Any other specifications deemed necessary by the Village Board.

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- c. Said covenant shall obligate the stated responsible parties to adequately maintain any common open space and complete any necessary improvements to any common open space.
 - (2) **Recording of the Common Open Space Covenant.** Such covenant shall be written so as to run with the land and the covenant shall become part of the deed to each lot or parcel within the development.
 - (3) **Enforcement of the Common Open Space Covenant.**
 - a. Noncompliance with the above standards governing common open space empowers the Village, as well as other owners in the development, to enforce the common open space covenant.
 - b. If the Village determines that the responsible party is not in compliance with any provisions of the covenant and is not satisfactorily maintaining the common open space, or has not made the necessary improvements to the common open space, the Village of Elk Mound may, at its own discretion, intervene to maintain the common open space, or complete the necessary improvements to the common open space, and may specifically assess by special charge the property owners within the development which have a right of enjoyment of the common open space, an amount of money sufficient to cover any costs incurred by the Village.
 - c. Such charges shall be paid by the owners of said properties within thirty (30) days after receipt of a statement therefor and, if not paid, such charges shall be placed on the property tax roll as a special assessment or charge.
 - (4) **Condominium Open Space.** Any common open space held under condominium ownership shall meet the minimum requirements of Chapter 703, Wis. Stats., governing condominiums, and shall provide a common open space covenant as part of the required condominium declaration.

Sec. 13-1-75 General Requirements as to Public Services and Facilities.

- (a) **Drainage.** The development site shall be provided with adequate drainage facilities for surface and storm waters. All applicable stormwater management requirements shall be fully complied with.
- (b) **Public Road Accessibility.** The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
- (c) **Undue Burden on Public Services.** No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
- (d) **Public Utilities.** Public water and sewer facilities shall be provided.

Sec. 13-1-76 Subsequent Land Division.

The division of any land or lands within a PUD Planned Unit Development Overlay District for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the Village (Title 14) when such division is contemplated.

Sec. 13-1-77 Procedural Requirements—Intent.

Sections 13-1-70 through 13-1-76 set forth the basic philosophy and intent in providing for PUD Planned Unit Development Overlay Districts, the kinds thereof, the general requirements, physical requirements and requirements as to public services and facilities. The following sections are intended to set forth the procedures and considerations involved leading to possible approval of such developments.

Sec. 13-1-78 Procedural Requirements for Planned Unit Developments.

- (a) **General Zoning Procedures.** The procedure for zoning to a PUD Planned Unit Development Overlay District shall be the same as required for any other rezoning application, except that an application for zoning to a PUD Planned Unit Development Overlay District may be considered only in conjunction with a General Development Plan as hereinafter defined and shall be subject to the following additional requirements below.
- (b) **Pre-Application Conference.** Prior to the official submission of the petition for the approval of a PUD Planned Unit Development Overlay District, the applicant (owner or his/her agent) shall meet with the Plan Commission, Village zoning staff and/or appropriate technical professionals advisory to the Village for a preliminary discussion as to the scope and nature of the proposed development, and to discuss possible alternative approaches to the development of the specific area.
- (c) **Petition for Review and Approval; General Development Plan.** Following the pre-application conference, the owner or his/her agent may file a petition with the Village Clerk-Treasurer for an amendment to the Village's Zoning Map designating and adding a PUD Planned Unit Development Overlay District, thereby permitting the application of the provisions of this Article to the designated area. Such petition shall be accompanied by a review fee as prescribed by Section 1-3-1, as well as incorporate the following information:
 - (1) **General Informational Statement.** A statement which sets forth the relationship of the proposed PUD Planned Unit Development Overlay District to the Village's adopted Comprehensive Plan, Neighborhood Plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD Planned Unit Development Overlay District, including the following information:

- a. Total area to be included in the PUD Planned Unit Development Overlay District, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
 - d. Any proposed departures from the standards of development as set forth in the Village zoning regulations, land division/subdivision ordinance, other Village regulations or administrative rules, or other universal guidelines.
 - e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.
- (2) **General Development Plan.** The General Development Plan consists of a general concept plan for the entire area covered by the proposed PUD Planned Unit Development Overlay District, and shall be submitted concurrently with the petition for rezoning of the area to a PUD Planned Unit Development Overlay District. In addition to any other site plan or architectural review requirements in this Chapter, the General Development Plan shall provide the following in sufficient detail to make possible an evaluation under the criteria prescribed in Sec. 13-1-79:
- a. A legal description of the boundaries of the subject property included in the proposed PUD and a general location map showing the relationship of the proposed development site to surrounding properties. The boundaries of the proposed planned unit development shall be dimensioned and drawn at a scale no smaller than 1" = 200', identifying the use(s) of all abutting properties.
 - b. The topography of the site showing contours at an interval of no more than five (5) feet and showing all significant natural terrain features such as wooded areas, marshes, drainageways, and water bodies.
 - c. The location of actual and proposed public and private roads, driveways, sidewalks and parking facilities.
 - d. The size, arrangement, location and use of any proposed individual building sites and building groups on each individual site, and the type, size and location of all structures. Specifically addressed shall be the proposed density of residential development.
 - e. General architectural plans, elevations and perspective drawings and sketches illustrating the design and character of proposed structures.
 - f. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.

Specifically addressed shall be the character of recreational and open space areas, including designation of any such areas to be classified as "common open space".

- g. General landscape treatment.
 - h. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
 - i. The existing and proposed location of all private utilities or other easements.
 - j. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 - k. If the development is to be staged, a staging plan.
 - l. A plan showing how the entire development can be further subdivided in the future.
 - m. Appropriate statistical data relative to the proposed development.
 - n. A general outline of intended organizational structure related to property owners' associations, deed restrictions, etc.
 - o. A general summary of the total estimated value of the completed development including structures, site improvement costs, landscaping and special features.
 - p. The expected date of the commencement of the physical development of the site, which shall include a statement outlining the amount of construction which shall constitute "commencement of the physical development of the site". As a condition of processing, this date and statement shall be mutually agreed upon by the petitioner and the Village.
 - q. A written construction schedule mutually agreed upon by the petitioner and the Village, which details the amount of completed construction which will be equivalent to seventy-five percent (75%) of the projected cost of the development. For purposes of this Article, such figure shall be referred to as the amount of development construction which has been "substantially completed."
 - r. A subdivision plat of all subdivided lands in the same form and meeting all the requirements of a normal subdivision plat, if subdivided lands are included in the planned unit development. (Note: The submission of one (1) or more of the above documents and plans, or a portion(s) of any one of the above documents and plans may be waived by the Village when such are not applicable for the review of a particular type of development).
 - s. Any other information deemed appropriate and necessary by the Plan Commission, Village Board or Village zoning officials.
- (d) **Referral to Plan Commission.** Upon submittal to the Village Clerk-Treasurer, the petition for a PUD Planned Unit Development Overlay District shall be referred to the Plan Commission for its review and consideration. The Plan Commission shall, within sixty (60) days after referral, forward the petition to the Village Board with a recommendation that the zoning and related General Development Plan be approved as submitted, approved with modifications, or disapproved. The Plan Commission may add any additional conditions

or restrictions which it may deem necessary or appropriate to recommend to promote the spirit and intent of this Zoning Code and the purpose of this Article guiding planned unit developments.

- (e) **Public Hearing.** Upon receipt of the Plan Commission's recommendations, the Village Board shall, before determining the disposition of the petition, hold a public hearing on the petition for a PUD Planned Unit Development Overlay District in the manner provided in Sections 13-1-84 through 13-1-85 for Conditional Uses. Notice of such hearing shall include reference to the development plans filed in conjunction with the requested zoning change.
- (f) **Village Board Approval.** The Village Board, following a recommendation from the Plan Commission and public hearing thereon and after due consideration, shall either deny the petition, approve the petition as submitted, or approve the petition subject to any additional conditions, restrictions and/or modifications the Village Board may impose. Approval of the proposed zoning to a PUD Planned Unit Development Overlay District shall constitute approval of the related General Development Plan, which shall be made part of the zoning record as an integral component of the right of use for the area in conformity with such plan.
- (g) **Detailed Implementation Plan; Submittal and Approval.**
 - (1) **Submittal Requirement; Timeframe.** Within eighteen (18) months following the approval of the General Development Plan and PUD Planned Unit Development Overlay District, unless the time is extended by the Village Board, a Detailed Implementation Plan for the entire area, or a portion/phase thereof, shall be submitted to the Village Clerk-Treasurer.
 - (2) **Contents.** The Detailed Implementation Plan shall include the following:
 - a. A written statement describing the area of the proposed development and its relationship to the General Development Plan, along with a description of any proposed variations.
 - b. A plat of survey as required by Chapter 236, Wis. Stats., of the areas of the Detailed Implementation Plan showing all existing utilities and recorded easements.
 - c. The topography of the area of the Detailed Implementation Plan showing contours at an interval of no more than five (5) feet.
 - d. A detailed site development plan showing at a scale no smaller than 1" - 200' the specific designation of proposed land utilization, including the pattern of public and private roads, driveways, walkways, and parking facilities; detailed lot layout, and the arrangements of building groups other than single family residences; the use intended for any non-residential buildings; and the specific treatment of open spaces.
 - e. A proposed grading plan for the area of the Detailed Implementation Plan.
 - f. Specific landscape plans for all common open space, amenities or housing groups other than private single-family lots, including fences, walls, signs and lighting.

- g. Architectural plans for any non-residential buildings, multi-family structures or building clusters other than conventional single-family homes on individual lots in sufficient detail to indicate the floor area, bulk, and visual character of such buildings.
 - h. Detailed storm drainage, sanitary sewage disposal, and water system plans approved by the Village Engineer.
 - i. Proposed engineering standards for all roads, parking areas, and walkways.
 - j. Agreements, bylaws, covenants, and other documents providing for permanent preservation and maintenance of common open space areas and amenities.
 - k. A schedule and map as to the intended phasing of development if more than one (1) phase is intended.
 - l. Any other information deemed appropriate and necessary by the Village Board, Plan Commission or Village zoning officials.
- (3) **Review and Approval.** Upon submittal, the Village Clerk-Treasurer shall refer the Detailed Implementation Plan and related documents to the Plan Commission. The Plan Commission shall, within sixty (60) days of referral, forward its recommendation to the Village Board that the Detailed Implementation Plan be approved as submitted, approved with modifications, or disapproved. The Village Board shall then take whatever action it deems appropriate on such Detailed Implementation Plan. Before plans submitted for a Detailed Implementation Plan will be approved, the developer shall give satisfactory proof that he/she has contracted to install all necessary improvements or file a performance bond, letter of credit or cash deposit, approved as to form by the Village Attorney, that such improvements will be installed within the time required by the Village Board. A Detailed Implementation Plan which is in conformity with an approved General Development Plan shall be entitled to approval, subject only to approval of the details of the Detailed Implementation Plan.
- (4) **Variations.** Consistent with the basic goal of limited flexibility, minor variations may subsequently be permitted in details of the approved plans, subject to approval of the Plan Commission. If, in the opinion of the Plan Commission, any requested variation constitutes a substantial alteration of the original General Development and Detailed Implementation Plans as approved, the matter shall be referred to the Village Board for a hearing and action thereof. The introduction of any new category of use or increase of more than two percent (2%) from the approved density shall automatically constitute a substantial variation.
- (h) **Development Implementation.**
- (1) **Conformity With Approved Plans.** No specific use or building permit shall be issued for any part of such approved General Development Plan except for an area covered by an approved Detailed Implementation Plan and in conformity with such Plan.
 - (2) **Official Record.** Detailed building and landscape plans, as well as all other commitments and contractual agreements with the Village related to a Detailed

Implementation Plan, shall be made a part of the official record and shall be considered supplementary components of the PUD Planned Unit Development Overlay District.

(i) **Phasing Time Schedule; Extensions.**

- (1) **Phasing Schedule.** Each Detailed Implementation Plan shall be accompanied by a phasing schedule showing the times within which each phase or segment of the Detailed Implementation Plan will be completed. Approval of any Detailed Implementation Plan by the Village Board shall carry with it approval of the time schedule for completion of each phase or segment thereof, including any changes or amendments required by the Village Board.
- (2) **Time Extensions.** In the event that any portion of such time schedule is not met, the Village Board, upon written request of the developer for an extension of time, delivered to the Village Board at least twenty-five (25) days prior to the expiration of the completion date for which such extension is requested, may, for good cause shown, extend said completion date for such length of time as the Village Board, at its sole discretion, deems justified by the circumstances. There shall be no limit upon the number of time extensions which may be requested.
- (3) **Failure to Meet Phasing Schedule.** Upon failure of the developer to satisfactorily meet any phase or segment of the completion or phasing schedule, as determined by the Zoning Administrator or Building Inspector, within thirty (30) days of the expiration date thereof or within thirty (30) days of denial by the Village Board for extension thereof, all permits and approvals shall be void or suspended on other segments of the Detailed Implementation Plan until such time as the developer is able to be in conformance with the completion schedule phasing.

(j) **Rescinding An Approval.** Failure to comply with the conditions, commitments, guarantees, or the conditions established in the approval of such planned unit development project shall be cause for rescinding the approval of the same. Upon notice given by the Zoning Administrator or Building Inspector, the developer shall then be required to appear before the Village Board at a public meeting to explain any such failure to comply. The Village Board at such hearing shall determine whether or not the developer shall have failed to comply and if there has been such a failure, may either:

- (1) **Rescind Its Approval.** The Village Board may rescind its earlier approval, whereupon such rescission and the cessation of all rights and privileges of the developer and owner, including the right to complete construction or to construct any building or other structure or improvements, shall become effective on the 31st day following mailing, by certified mail, to the developer at his/her last known address of a written notice of such rescission; or
- (2) **Compliance Extension.** The Village Board, in the alternative to rescission, may adjourn such hearing for a period not to exceed sixty (60) days to enable the developer to comply; whereupon, if the developer is then in substantial compliance

and has then established to the reasonable satisfaction of the Village Board that there will be compliance in the future, the rights and privileges of the developer and owner shall continue for such period of time that there shall be such compliance. If the developer is not then in substantial compliance or does not establish to the reasonable satisfaction of the Village Board that there will be compliance in the future, the Village Board will proceed in accordance with Subsection (j)(1) above for rescission.

(k) **Revocation; Abandonment of Plan; Revocation to Basic Zoning Regulations and Uses.**

- (1) **Revocation Upon Failure to Submit Precise Implementation Plan.** In the event the developer shall fail to submit a Detailed Implementation Plan as revoked herein, the General Development Plan shall also be deemed revoked.
- (2) **Developer Abandonment of Project.** In the event the developer shall elect to abandon the General Development Plan, after the same is approved and the area zoned to PUD Planned Unit Development Overlay District, the developer shall immediately notify the Village Board, in writing, and, upon receipt of such notice of abandonment, the General Development Plan shall be deemed revoked.
- (3) **Reclassification to Basic Underlying Zoning District.** When recessions occur pursuant to the above, the area involved shall automatically revert to its underlying zoning and its applicable zoning regulations and uses.

(l) **Major Changes.**

- (1) **Major Changes Defined.** Subsequent changes which alter the concept or intent of the planned unit development shall be defined as a "major change" and include, but are not limited to, the following:
 - a. Any change in the boundaries of the PUD District.
 - b. Any change in the permitted use to a less restrictive use.
 - c. Any construction of an accessory building or structure that is greater in dimensions than permitted by Section 13-1-200.
 - d. Any increase in the number of dwelling units over limits allowed by this Article.
 - e. Any change in the lot area or width requirements which were established at the time of approval.
 - f. Any change in the yard requirements which were established at the time of approval.
 - g. Any change in the amount or maintenance responsibility of common open space.
 - h. Any change in street locations or alignment.
 - i. Any change in the drainage plan.
 - j. Any subsequent land division.
 - k. Any change in the final governing agreements, provisions or covenants, agreed upon at the time of approval.
 - l. Any other change which is determined by the Zoning Administrator to constitute a major change.

- (2) **Action on Major Changes.** The Zoning Administrator shall forward any major change to the Village Board for approval. Notice of the proposed change shall be given to all current property owners within the planned unit development area, at the expense of the petitioner, and shall be forwarded to any established association, pursuant to the procedures of the submitted association bylaws. Such major change shall be submitted as a new amendment to the PUD Planned Unit Development Overlay District and association general development plan and detailed implementation plan, and shall follow the procedures in this Article for new applications.
- (m) **Subsequent Land Division.** Any division of land or lands within a PUD Planned Unit Development Overlay District shall be accomplished pursuant to the land divisions regulations contained in Title 14 of the Village of Elk Mound Code of Ordinances. If such division is contemplated at the time of application for PUD District treatment, a preliminary plat of the lands proposed to be divided should also be filed with the Village at that time.

Sec. 13-1-79 Criteria for Approval of the Petition for Planned Unit Development.

- (a) **General Requirements.** The approval of a project encompassed in a PUD Planned Unit Development Overlay District shall be within the discretion of the Village Board. The Village Board, at its discretion, may determine that consideration of a project as a PUD Planned Unit Development Overlay District is not appropriate, and that conventional consideration and review under the standard requirements of this Zoning Code is appropriate and in the best interests of the Village and its citizens. The Plan Commission, in making a recommendation, and the Village Board, in making a determination approving a petition for a PUD Planned Unit Development Overlay District, shall base determinations on compliance with the following criteria:
- (1) **Compliance With Intent of Zoning Code.** That the proposed development is consistent with the specific requirements of this Article governing planned unit developments and with the spirit and intent of this Zoning Code.
 - (2) **Professionally-Prepared Plans.** That the proposed development plan has been prepared with competent professional advice and guidance, and produces significant benefits in terms of improved environmental design sufficient to justify the application of the planned unit development concept instead of conventional zoning regulations.
 - (3) **Consideration of Physical Nature of the Site.** That the site development plan reflects sensitive consideration of the physical nature of the site with particular concern for conservation of natural features, preservation of open space, and careful shaping of terrain to ensure proper drainage and preservation of natural features wherever appropriate.
 - (4) **Compatibility With Other Developments.** That the general character and density of use of the planned unit development produces an attractive environment appropriate

to the uses proposed and which is compatible with existing developments in the surrounding area and with general community development plans and policies.

- (5) **Municipal Services.** That the development can be provided with appropriate municipal services.
- (6) **Functional Design.** That proposed design standards provide adequately for practical operation and maintenance based on actual functional need in terms of circulation, parking, emergency services, delivery services, snow plowing, and garbage and refuse collection.
- (7) **Provisions for Common Open Space.** That adequate provision has been made to ensure proper maintenance and preservation of "common open space" which has been provided within the development for the recreational and aesthetic enhancement of the development, or to preserve or protect natural environmental or ecological resources. Such provisions may be made by dedication to the public or by retention in private ownership with appropriate covenants. Private ownership may be in common or individual ownership subject to the following:
 - a. The "common open space" shall be protected against future development by conveying to the Village and to each property owner within the planned unit development intended to be benefitted, as part of the conditions for development plan approval, a perpetual "open space easement" or "common open space covenant" running with the land and over such areas restricting them against future building development or use, except as is consistent with the use as designated on the approved plan for recreational or aesthetic purposes, or for the preservation of conservancy, natural environmental or ecologic resources.
 - b. The care and maintenance of such "common open space" shall be ensured by adequate covenants and deed restrictions, approved by the Village Attorney, running to the Village as well as to each property, assuring such maintenance. Where such maintenance is not carried out to the satisfaction of the Village, the Village shall be empowered and authorized to treat such area as a special service district and to provide the necessary maintenance service and to levy the cost thereof as a special charge on all properties within such service area.
 - c. In the case of roadways and other rights-of-way which are not dedicated to the public as part of the conditions for project approval, there shall be granted to the Village such easements over the same as may be necessary to enable the Village to provide suitable and adequate fire protection, sanitary and storm sewer, water, and other required municipal services of the project area.
 - d. Ownership and tax responsibility of private open space areas and rights-of-way shall be established in a manner acceptable to the Village and made part of the condition of the plan.
 - e. Areas established for public use shall be dedicated to the Village on preliminary and final subdivision plats consistent with the approved development plan.

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- (8) **Other Factors.** Any other factors which in the discretion of the Village Board are necessary to protect the public health, safety, and welfare of the area of the community.
- (b) **Proposed Construction Schedule.** The Plan Commission and Village Board, in making their respective recommendations and determinations, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD Planned Unit Development Overlay District, commencement of the physical development within one (1) year of approval being deemed reasonable. The petitioners for the proposed PUD Planned Unit Development Overlay District shall indicate when they intend to commence development and that the development will be carried out according to the written construction schedule as outlined in Subsection (c)(2)p-q. The construction schedule shall be a binding legal agreement between the developer and the Village, requiring signatures of the authorized agent of the planned unit development project and of the Village. Failure of the developer to commence the physical development of the planned unit development within the specified time period, or failure of the developer to complete the development as agreed under the construction schedule, empowers the Village to take the necessary actions specified in Section 13-1-79.
- (c) **Residential PUD Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
- (1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
 - (2) The total net residential density within the planned unit development will be compatible with the Village Comprehensive Plan (Master Plan and Official Map), Neighborhood Plan, or components thereof, and shall be compatible with the density of the district wherein located.
 - (3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:
 - a. Planned residential developments in the residential districts shall not exceed sixteen (16) dwelling units per structure.
 - (4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
 - (5) Provision has been made for adequate, continuing fire and police protection.
 - (6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - (7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.

- (d) **Commercial PUD Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:
 - (1) The economic practicality of the proposed development can be justified.
 - (2) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
 - (3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
 - (4) The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (e) **Industrial PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
 - (1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - (2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.
 - (3) The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
 - (4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
- (f) **Mixed Use PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:
 - (1) The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.

- (2) The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.
- (3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

Article E: Conditional Uses

Sec. 13-1-80 Statement of Purpose—Conditional Uses.

The purpose of a conditional use is to provide a reasonable degree of discretion in determining the suitability of certain uses of a special nature, so as to make impractical their predetermination as a principal use in a district. The development and execution of this Article is based upon the division of the Village of Elk Mound into zoning districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a specific location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses, and are those uses specifically designated as conditional uses by the zoning district or which are classified as a conditional use under the review procedures in this Article. The listing of a use as a conditional use is not a legislative determination that the use is inherently in the public interest in that district. [See *AllEnergy Corp. v. Trempealeau County*, 2017 WI 52 (2017)].

Sec. 13-1-81 Authority of the Plan Commission and Village Board; Requirements.

- (a) **Authority; Intent.** The Village Board may authorize the Zoning Administrator to issue a conditional use permit after review, public hearing, advisory recommendation from the Plan Commission and approval from the Village Board, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Village Board action, and the resulting conditional use permit, when, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Village Board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) **Conditional Uses Adjacent to Freeways.** Any development for which a conditional use permit is requested within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed

interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission and/or Village Board shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.

- (c) **General Authority to Require Conditions.** Per Section 13-1-88, conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be recommended by the Plan Commission and required by the Village Board upon their findings that these are necessary to fulfill the purpose and intent of this Chapter.
- (d) **Compliance With Other Zoning Conditions.** Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

Sec. 13-1-82 Initiation of Conditional Use Request.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use permit is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located, or a conditional use substantially similar to a listed conditional use.

Sec. 13-1-83 Application for Conditional Use.

- (a) **Application Filing Requirements.** An application for a conditional use permit, accompanied with the application fee prescribed by the Village, shall be filed on a form prescribed by the Village of Elk Mound. Such applications shall be forwarded to the Plan Commission upon receipt by the Zoning Administrator or Village Clerk-Treasurer.
- (b) **Required Plans/Information.** The plans/information required for review of all conditional use permit applications shall generally consist of any or all of the following, as required by the Zoning Administrator:
 - (1) **Site Development Plan.** A site development plan, which shall include and address:
 - a. Location of all buildings on lots, including both existing and proposed structures.
 - b. Location and number of existing and proposed parking spaces.
 - c. Vehicular circulation.
 - (2) **Dimension Plan.** A dimension plan, which shall include and address:
 - a. Lot dimensions and area.

- b. Dimensions of proposed and existing structures.
- c. Setbacks of all buildings located on property in question.
- d. Architectural elevations.
- (3) **Grading Plan.** A grading plan, which shall include and address:
 - a. Existing contour.
 - b. Proposed changes in contour.
 - c. Drainage configuration.
- (4) **Landscape Plan.** A landscape plan, which shall include and address:
 - a. Location of all existing major trees, and which trees are proposed to be removed.
- (5) **Statement.** A written statement on why the conditional use is being applied for and what use is intended for the property.
- (c) **Additional Information.** In order to secure information upon which to base its determination, the Zoning Administrator may require the applicant to furnish, in addition to the information required above and for a building permit, the following information:
 - (1) **Contours; Soil Types.** A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetation cover.
 - (2) **Location of Buildings; Parking Areas.** Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping and lighting.
 - (3) **Building and Utilities Plans.** Plans for buildings, sewage disposal facilities, water supply systems, and arrangements of operations.
 - (4) **Filling/Grading Plan.** Specifications for areas of proposed filling, grading, lagooning or dredging.
 - (5) **Other Information.** Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.

Sec. 13-1-84 Plan Commission Review.

Upon receipt of the application and the information required by Section 13-1-83 above, the request for a conditional use permit shall be placed on the agenda of the first Plan Commission meeting occurring after ten (10) days from the date of submission. The request shall be considered as being officially submitted when all the information requirements, including the payment of all applicable fees, are complied with. At such meeting, the Plan Commission shall make an advisory recommendation regarding the application and a record of the proceedings shall be kept in such a manner and according to such procedures as the Plan Commission shall prescribe from time to time. The Village Board and/or Plan Commission can, on their own motion, apply conditional uses when applications for rezonings come before their bodies.

Sec. 13-1-85 Public Hearing on Application; Notice.

- (a) **Hearing Requirements.** A public hearing shall be held on all conditional use permit applications. The public hearing may be held either by the Plan Commission or Village Board. Notice of the time, place and purpose of such hearing shall be given by publication

of a Class 2 Notice under Chapter 985, Wis. Stats., a minimum of ten (10) days prior to the public hearing in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing, except that in the case of livestock facility siting conditional use hearings, such notice shall be sent to owners of property within three hundred (300) feet.

- (b) **Incomplete Notice.** Failure to fully comply with the notice to adjacent property owners shall not, however, invalidate any previous or subsequent action on the application.

Sec. 13-1-86 Standards—Conditional Uses.

- (a) **Standards; Substantial Evidence Requirement for Conditional Use Applications and Permits.** No application for a conditional use shall be recommended for approval by the Plan Commission, or approved by the Village Board, unless the following conditions are present:

- (1) That the applicant has demonstrated that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied, both of which shall be supported by substantial evidence. Per Sec. 62.23(7)(de)1.b., Wis. Stats., "substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
- (2) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (3) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (4) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (5) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (6) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

- (7) That the conditional use shall conform to all applicable regulations of the district in which it is located.
 - (8) That the proposed use does not violate floodplain regulations governing the site.
 - (9) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Village Board and Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district and the Village Comprehensive Plan.
- (c) **Additional Considerations.** In addition, in passing upon a conditional use permit application, the Plan Commission and Village Board shall also evaluate the effect of the proposed use upon:
- (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.
 - (7) The need of the proposed use for a shoreland location.
 - (8) Its compatibility with uses on adjacent land.
 - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Sec. 13-1-87 Denial of Application for Conditional Use Permit.

When an advisory recommendation of denial of a conditional use application is made by the Plan Commission or an actual denial by the Village Board, the Plan Commission and/or Village Board shall furnish the applicant, in writing, those standards that are not met and enumerate reasons the Plan Commission and/or Village Board has used in determining that each standard was not met. Such findings may be in the form of meeting minutes. Such decision by the Village shall be based on substantial evidence.

Sec. 13-1-88 Conditions and Guarantees Applicable to All Conditional Uses.

The following conditions shall apply to all conditional uses:

- (a) **Conditions Based on Substantial Evidence.**
- (1) Prior to the granting of any conditional use, the Plan Commission may recommend and the Village Board may stipulate such conditions and restrictions upon the

establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-86 above. Any condition imposed must be related to the purpose of the Zoning Code and be based on substantial evidence which is measurable, which shall be documented in the record.

- (2) Per Sec. 62.23(7)(de)2.b., Wis. Stats., any conditions imposed by the Village under this Article shall be supported by substantial evidence, be reasonable, and, to the extent practicable, be measurable, and may include conditions regarding the conditional use permit's duration, transfer, or renewal.
- (b) In all cases in which conditional uses are granted, the Plan Commission may recommend and the Village Board shall require such evidence and guarantees as deemed necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
- (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Type of shore cover;
 - (14) Specified sewage disposal and water supply systems;
 - (15) Planting screens;
 - (16) Piers and docks;
 - (17) Increased parking;
 - (18) Conditions pertaining to permit duration, transfer or renewal; or
 - (19) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (c) **Site Review.** In reviewing each application and making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Plan Commission may 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/use.