

Article I: Performance Standards—Industrial Developments

Sec. 13-1-160 Article Intent.

It is the intent of this Article to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

Sec. 13-1-161 Vibration.

- (a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- (b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

Sec. 13-1-162 Regulation of Outdoor Lighting.

- (a) **Purpose; Intent.** It is the intent of this Section to define practical and effective measures by which the obtrusive aspects of excessive and/or careless outdoor light usage can be minimized, while preserving safety, security and nighttime use and enjoyment of property. These measures will reasonably curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate light amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the wastage of light, sky glow, and glare resulting from over-lighting and poorly shielded or inappropriately directed lighting fixtures.
- (b) **Conformance With Applicable Codes.** All outdoor illuminating devices shall be installed and maintained in conformance with the provisions of this Section, the Village Building and Electrical Codes, and applicable zoning and sign regulations of the jurisdictions as applicable and under appropriate permit and inspection.
- (c) **Applicability.**
 - (1) ***New Uses, Buildings and Major Additions or Modifications.***
 - a. For all proposed new land uses, developments, buildings and structures that require a building permit or other authorization from the Village, all outdoor lighting fixtures shall meet the requirements of this Section.

- b. All building additions and/or modifications of twenty-five percent (25%) or more in terms of additional dwelling units, gross floor area, or parking area, either with a single addition or with cumulative additions subsequent to the effective date of this Section, shall be subject to the requirements of this Section for the entire property, including previously installed lighting and any new lighting.
- (2) **Existing Uses.** Existing uses shall be exempted from the provisions of this Section pursuant to the circumstances as described in Subsection (h) below. Existing uses and lighting which substantially deviate from the purposes and intent stated in Subsection (a) above, and which are brought to the attention of the Village Board by an aggrieved party or by a report from a Village official, may constitute a public nuisance, subject to abatement or other relief pursuant to Village ordinances and state law.
 - (3) **Resumption of Use After Abandonment.** If a property or use with non-conforming lighting is abandoned as defined below in Subsection (d), then all outdoor lighting shall be reviewed and brought into compliance with this Section before any use is resumed.
 - (4) **Street Lighting.** Lighting for public roadways and streets is exempted from the provisions of this Section.
- (d) **Definitions.** As used in this Section unless the context clearly indicates otherwise, certain words and phrases shall mean the following:
- (1) **Development Project.** Any residential, commercial, industrial or mixed use subdivision plat, certified survey map parcel, or other development plan which is submitted to the Village for approval.
 - (2) **Diffuse.** To spread or scatter widely or thinly.
 - (3) **Direct Illumination.** Illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building surfaces.
 - (4) **Fully Shielded Light Fixture.** A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by a photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding shall be permanently affixed.
 - (5) **Glare.** The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes have adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes have become adopted.
 - (6) **Installed.** The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.
 - (7) **Light Pollution.** Any adverse man-made light.

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- (8) **Light Trespass.** Light from an outdoor luminaire falling on an adjacent property as observed at four (4) feet above ground at the property line.
 - (9) **Lumen per Acre Cap.** The upper limit, or most light allowed. Lower lighting levels are encouraged.
 - (10) **Luminaire.** The complete lighting assembly, less the support assembly.
 - (11) **Outdoor Light Fixture.** An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but not be limited to, lights used for:
 - a. Parking lot lighting.
 - b. Buildings and structures.
 - c. Recreational areas.
 - d. Landscape lighting.
 - e. Billboards and other signs (advertising or other).
 - f. Product display area lighting.
 - g. Illuminating building overhangs and open canopies.
 - (12) **Outdoor Recreation Facility.** An area designed for active recreation, whether publicly or privately owned, including, but not limited to, baseball diamonds, soccer and football fields, golf courses, tennis courts, and swimming pools.
 - (13) **Person.** Any individual, tenant, lessee, owner, or any commercial entity including, but not limited to, firm, business, partnership, joint venture, corporation, or limited liability company.
 - (14) **Sign, Externally Illuminated.** A sign illuminated by light sources from outside the sign surface.
 - (15) **Sign, Internally Illuminated.** A sign illuminated by light sources enclosed entirely within the sign cabinet and not directly visible from outside the sign.
 - (16) **Sign, Neon.** A sign including luminous gas-filled tubes formed into the text, symbols or decorative elements and directly visible from the outside of the sign cabinet.
 - (17) **Sky Glow.** The brightening of the night sky that results from the scattering of artificial visible radiation by the constituents of the atmosphere.
 - (18) **Temporary Lighting.** Lighting which does not conform to the provisions of this Section and which will not be used for more than one consecutive thirty (30) day period within a calendar year, with one (1) consecutive thirty (30) day extension. Temporary lighting is intended for uses which by their nature are of a limited duration; for example, holiday lighting decorations, civic events, or construction projects.
 - (19) **Translucent.** Permitting light to pass through but diffusing it so that persons, objects, etc., on the opposite side are not clearly visible.
 - (20) **Use, Abandonment of.** The relinquishment of a property, or the cessation of a use or activity, by the owner or tenant for a continuous period of six (6) months,

excluding temporary or short-term interruptions for the purpose of remodeling, maintaining or rearranging a facility. A use shall be deemed abandoned when such use is suspended as evidenced by the cessation of activities or conditions which constitute the principal use of the property.

- (e) **Shielding and Outdoor Lighting Standards.** The following lighting standards are hereby imposed and required:
- (1) **Shielding Requirement.** All non-exempt outdoor lighting fixtures shall be fully shielded.
 - (2) **Light Trespass Prohibited.** All non-exempt outdoor lighting fixtures shall be placed so as to not cause light trespass, or light glare.
 - (3) **Fixture Limitation.** All non-exempt outdoor lighting fixtures shall be of a type and placed so as to not allow any light above the horizontal, as measured at the luminaire.
 - (4) **Shielding.** All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as described in Subsection (d)(4) for fully shielded fixtures.
 - (5) **Maximum Lumens Per Acre.** Residential and all other uses except commercial or business uses shall not exceed five thousand five hundred (5500) lumens per acre. Commercial or business zoned uses shall not exceed seventy thousand (70,000) lumens per property.
- (f) **Outdoor Advertising Signs.** External illumination for signs shall conform to all provisions of this Section. All upward directed lighting is prohibited.
- (g) **Special Uses.**
- (1) **Recreational Facilities.** Lighting for outdoor athletic fields, courts or tracks are exempt from the provisions of this Section except that field lighting for these facilities shall be turned off within one-half hour after the last game or event of the night.
 - (2) **Temporary Exemptions.** Any person may request of the Village Board a temporary exemption from the provisions of this Section.
- (h) **Exemptions.**
- (1) **Nonconformance.** Any lighting in existence as of the original effective date of this Section is subject to the following:
 - a. Bottom-mounted or unshielded outdoor advertising sign lighting shall not be used beginning five (5) years after enactment of this Section.
 - b. All other outdoor light fixtures lawfully installed prior to and operable on the original effective date of this Section are exempt from all requirements of this Section. There shall be no change in use or lamp type, or any replacement (except for same-type and same-output lamp replacement), or structural alteration made, without conforming to all applicable requirements of this Section. Further, if the property is abandoned, or if there is a change in use of the property, the provisions of this Section will apply when the abandonment ceases or the new use commences.

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- (2) **State and Federal Facilities.** Compliance with the intent of this Section at all state and federal facilities is encouraged, but is not mandatory.
 - (3) **Emergency Lighting.** Emergency lighting, used by law enforcement, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this Section as long as the emergency exists.
 - (4) **Swimming Pool and Fountain Lighting.** Underwater lighting used for the illumination of swimming pools and fountains is exempt from the lamp type and shielding standards, though it must conform to all other provisions of this Section.
 - (5) **Residential Fixtures.**
 - a. Outdoor light fixtures attached to residential buildings and located below the eave and less than two thousand (2,000) lumens are exempt from the provisions of this Section. Light fixtures two thousand (2,000) lumens and over are not exempt. Outdoor fixtures above the eave, or attached to buildings or poles separate from the residence are not exempt. Spot or flood lights shall be fully shielded and directed no more than 45° above straight down.
 - b. Examples of lamps with two thousand lumens or less: The acceptability and shielding restrictions applicable to a particular lamp are decided by its initial lumen output, not wattage (check manufacturer's specifications). Examples of lamp types of two thousand (2,000) lumens or less are:
 1. 100 watt standard incandescent.
 2. 15 watt cool white fluorescent.
 3. 15 watt compact fluorescent.
 4. 18 watt low pressure sodium.
 - (6) **Flags, Lighted.** United States and State of Wisconsin flags are exempt from the provisions of this Section. All other outdoor lighted flags, such as, but not limited to, decorative and commercial flags shall conform to the provisions of this Section.
 - (7) **Holiday Lighting.** Holiday lighting is exempt from the provisions of this Section from the seven (7) days before Thanksgiving until January 30 of the following year.
 - (8) **Internally Illuminated and Neon Outdoor Signs.** Internally illuminated and neon lighted outdoor signs are exempt from the provisions of this Section.
 - (9) **Laser and Search Lights.** Laser and search lights are exempt from the provisions of this Section when used for temporary purposes of not more than five (5) consecutive days in a six (6) month period. This restriction shall apply to either the same person or same property.
 - (10) **Towers.** Legally required safety lighting for towers shall be exempt from this Section.
 - (11) **Airfields and Airports.** Airfields and airports, both commercial and non-commercial, shall be exempt from the provisions of this Section where lighting is used for air safety reasons. All other lighting shall conform to this Section.
 - (i) **Special Considerations.** When an existing light would be in violation of this Section, but is exempted, the exemption may be withdrawn if the Village Board finds the lighting to be:

13-1-162

- a. Substantially aggravating or constitutes a nuisance to affected properties or traffic on public right-of-ways; or
 - b. The lighting serves little useful purpose or is excessive in view of its purpose, upon finding of the Village Board.
- (j) **Appeals.** Any person substantially aggrieved by any decision of the designated official made in administering this Section has the right to appeal to the Zoning Board of Appeals.
- (k) **Law Governing Conflicts.** Where any provision of federal, state, county, or local statutes, codes, ordinances, or laws conflict with any provision of this Section, the more restrictive shall govern unless otherwise regulated by law.

Sec. 13-1-163 Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 154.18, Wis. Adm. Code.

Sec. 13-1-164 Particulate Emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11, Wis. Adm. Code.

Sec. 13-1-165 Visible Emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wis. Adm. Code.

Sec. 13-1-166 Hazardous Pollutants.

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wis. Adm. Code.

Sec. 13-1-167 through Sec. 13-1-179 Reserved for Future Use.

Article J: Signal Receiving Antennas; Wind Energy Systems;
Wireless Telecommunications Systems

Sec. 13-1-180 Signal Receiving Antennas (Satellite Dishes).

- (a) **Purpose.** In order to secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this Section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:
- (1) Provide uniform regulation where necessary of all signal receiving antenna devices;
 - (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
 - (3) Preserve the integrity of historic preservation districts;
 - (4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roof-mounted antenna; and
 - (5) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- (b) **Definitions.**
- (1) For purposes of this Section, a "signal receiving antenna" is defined as any apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas, and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.
 - (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his/her interest. The personal representative of at least one (1) owner shall be considered an owner.
- (c) **Limited Permit Requirement.**
- (1) No owner shall, within the Village of Elk Mound, build, construct, use or place any type of signal receiving antenna or over-the-air reception device that is roof-mounted or proposed to be located in a designated historic preservation district until a permit shall have first been obtained from the Zoning Administrator.
 - (2) Application for a signal receiving antenna permit when required under Subsection (c)(1) shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a sufficient set of mounting plans and specifications to allow

a determination to be made that the device can be safely roof-mounted, or, in the case of a historic preservation district, can be located in such a manner as to not seriously detract from the historic character of the district. There is no fee for such permit. If such application meets the requirements of this Section, the application shall be approved.

- (d) **Exemption.** Signal receiving devices less than thirty-six (36) inches in diameter are exempt from the requirements of this Section, except for the requirements in Subsection (e)(1), (6), (8) and (11).
- (e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the Village of Elk Mound shall comply with the following provisions:
 - (1) **Setbacks.**
 - a. Any signal receiving antenna and its mounting post shall be located a minimum of ten (10) feet from any property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.
 - b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property following compliance with Subsection (c) above. For corner lots, a side yard is only a yard that does not face a street.
 - c. If side yard, front yard or roof mounting is requested, the Zoning Administrator shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.
 - (2) **Mounting.** Signal receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.
 - (3) **Diameter.** The diameter of the signal receiving antenna shall not exceed fifteen (15) feet for the ground-mounted antenna and ten (10) feet for the roof-mounted antenna, except for stations used to provide community antenna television services.
 - (4) **Height.**
 - a. A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed eighteen (18) feet in height, as measured from the ground to the highest point of the dish.
 - b. A roof-mounted antenna may not exceed fifteen (15) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.

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- (5) **Wind Pressure.** All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
 - (6) **Electrical Installations.** Electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.
 - (7) **Temporary Placement.** No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section.
 - (8) **Advertising.** No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
 - (9) **Interference with Broadcasting.** Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 - (10) **Compliance with Federal Regulations.** The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.
 - (11) **Aesthetic Considerations.** Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.
- (f) **Enforcement.**
- (1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Village Board, a Village enforcement official or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.
 - (2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-6.

Sec. 13-1-181 Wind Energy Systems.

No person shall construct or operate a wind energy conversion system (WECS) in the Village of Elk Mound without having fully complied with the provisions of PSC 128, Wis. Adm. Code.

Sec. 13-1-182 Mobile Tower Siting.

(a) **Title; Purpose; Authority.**

- (1) **Title.** This Section is entitled the Village of Elk Mound Mobile Tower Siting Ordinance.
- (2) **Purpose.** The purpose of this Section is to regulate by zoning permit:
 - a. The siting and construction of any new mobile service support structure and facilities;
 - b. With regard to a Class I collocation, the substantial modification of an existing support structure and mobile service facilities; and
 - c. With regard to a Class II collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- (3) **Authority.** The Village of Elk Mound Village Board has the specific authority under Secs. 62.23 and 66.0404, Wis. Stats., to adopt and enforce this Section.

(b) **Definitions.** The following definitions shall be applicable in this Section:

- (1) **Antenna.** Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
- (2) **Building Permit.** A permit issued by the Village that authorizes an applicant to conduct construction activity that is consistent with the Village's Building Code [Title 15, Chapter 1 of the Code of Ordinances].
- (3) **Class 1 Collocation.** The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.
- (4) **Class 2 Collocation.** The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
- (5) **Collocation.** Class 1 or Class 2 collocation or both.
- (6) **Distributed Antenna System.** A network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.
- (7) **Equipment Compound.** An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

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- (8) **Existing Structure.** A support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the Village.
 - (9) **Fall Zone.** The area over which a mobile support structure is designed to collapse.
 - (10) **Mobile Service.** Has the meaning given in 47 USC 153(33).
 - (11) **Mobile Service Facility.** The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a planned geographic area, but does not include the underlying support structure.
 - (12) **Mobile Service Provider.** A person who provides mobile service.
 - (13) **Mobile Service Support Structure (Tower).** A freestanding structure that is designed to support a mobile service facility.
 - (14) **Permit.** A permit, other than a building permit, or approval issued by the Village which authorizes any of the following activities by an applicant:
 - a. A Class 1 collocation.
 - b. A Class 2 collocation.
 - c. The construction of a mobile service support structure.
 - (15) **Public Utility.** Has the meaning given in Sec. 196.01(5), Wis. Stats.
 - (16) **Search Ring.** A shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.
 - (17) **Substantial Modification.** The modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:
 - a. For structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet.
 - b. For structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by ten percent (10%) or more.
 - c. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by twenty (20) feet or more, unless a larger area is necessary for collocation.
 - d. Increases the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2,500) square feet.
 - (18) **Support Structure.** An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.
 - (19) **Utility Pole.** A structure owned or operated by an alternative telecommunications utility, as defined in Sec. 196.01(1d), Wis. Stats.; public utility, as defined in Sec. 196.01(5), Wis. Stats.; telecommunications utility, as defined in Sec. 196.01(10), Wis.

Stats.; political subdivision; or cooperative association organized under Ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Sec. 182.017(1g)(cq), Wis. Stats.; for video service, as defined in Sec. 66.0420(2)(y), Wis. Stats.; for electricity; or to provide light.

(c) **Siting and Construction of Any New Mobile Service Support Structure and Facilities; Regulation Limitations.**

(1) ***Application Process.***

- a. A Village zoning permit is required for the siting and construction of any new mobile service structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Village obtainable with this permit through the conditional use permit process.
- b. A written permit application shall be completed by the applicant and submitted to the Village Clerk-Treasurer. The application shall contain, at a minimum, the following information:
 1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address - shall be provided.
 2. The location of the proposed or affected support structure.
 3. The location of the proposed mobile service facility.
 4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- c. A permit application will be provided by the Village upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.

- d. If an applicant submits to the Village an application for conditional use and zoning permits to engage in an activity described in this Section, which contains all of the information required under this Section, the Village shall consider the application complete. If the Village determines that the application is incomplete, the Village shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is considered complete.
 - e. Within ninety (90) days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 - 1. Review the application to determine whether it complies with all applicable aspects of the Village's Building Code and, subject to the limitations in this Section, provisions of this Zoning Code.
 - 2. Make a final decision whether to approve or disapprove the application.
 - 3. Notify the applicant, in writing, of its final decision.
 - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - f. The Village may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement under Subsection (c)(1)b6.
 - g. If the applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in the Zoning Code, that Zoning Code provision does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
 - h. The fee for the permit shall be as provided in Section 1-3-1 [but may not exceed Three Thousand Dollars (\$3,000.00) per Sec. 66.0404(4)(d), Wis. Stats.].
- (2) **Regulatory and Application Limitations.** With regard to the siting and construction of a new mobile service support structure/facilities, the substantial modification of an existing support structure and mobile service facility as part of a Class 1 collocation, or a Class 2 collocation, the Village, pursuant to Sec. 66.0404(4), Wis. Stats., shall not:
- a. Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
 - b. Enact a moratorium ordinance on the permitting, construction, or approval of any such activities.

- c. Enact an ordinance regulation prohibiting the placement of a mobile service support structure in particular locations within the Village.
- d. Charge a mobile radio service provider a fee in excess on the amounts prescribed in Sec. 66.0404(4)(d), Wis. Stats.
- e. Charge a mobile radio service provider any recurring fee for an activity described in Sec. 66.0404(2)(a), Wis. Stats., or a Class 2 collocation.
- f. Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of mobile service permits or applications.
- g. Disapprove of an application to conduct an activity described in Sec. 66.0404(2)(a), Wis. Stats., based solely on aesthetic concerns.
- h. Disapprove an application to conduct a Class 2 collocation on aesthetic concerns.
- i. Enact or enforce a Village ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
- j. Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the Village which fall into disuse. [Note: Per Sec. 66.0404(4)(i), Wis. Stats., there is a rebuttable presumption that a surety requirement of Twenty Thousand Dollars (\$20,000.00) or less complies with this Subsection.]
- k. Prohibit the placement of emergency power systems.
- l. Require that a mobile service support structure be placed on property owned by the political subdivision.
- m. Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- n. Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the Village at less than market rate, or provide the Village other services via the structure or facilities at less than the market rate.
- o. Limit the duration of any permit that is granted.
- p. Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.
- q. Disapprove an application based on an assessment by the Village of the suitability of other locations for conducting the activity.
- r. Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.
- s. Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures.
- t. Consider an activity a substantial modification under Subsection (b)(17)a-b above if a greater height is necessary to avoid interference with an existing antenna.

- u. Consider an activity a substantial modification under Subsection (b)(17)c above if a greater protrusion is necessary to shelter the antenna from increment weather or to connect the antenna to the existing structure by cable.
- v. Limit the height of a mobile support structure to under two hundred (200) feet.
- w. Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the Village in connection with the Village's exercise of its authority to approve the application.
- x. Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the Village to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Village or an entity in which the Village or other political subdivision has a governance, competitive, economic, financial or other interest.

(d) **Class 1 Collocation.**

(1) ***Application Process.***

- a. A zoning permit is required for a Class 1 collocation. A Class 1 collocation is a conditional use in the Village obtainable with this permit through the conditional use process of this Chapter.
- b. A written permit application shall be completed by the applicant and submitted to the Village. The application must contain, at a minimum, the following information:
 - 1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address shall be provided.
 - 2. The location of the proposed or affected support structure.
 - 3. The location of the proposed mobile service facility.
 - 4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - 5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - 6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service

support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

- c. A permit application will be provided by the Village upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.
 - d. If an applicant submits to the Village an application for a permit to engage in an activity described in this Section, which contains all of the information required under this Section, the Village shall consider the application complete. If the Village does not believe that the application is complete, the Village shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - e. Within ninety (90) days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 1. Review the application to determine whether it complies with all applicable aspects of the Village's Building Code and, subject to the limitations of this Section, zoning ordinances.
 2. Make a final decision whether to approve or disapprove the application.
 3. Notify the applicant, in writing, of its final decision.
 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - f. The Village may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Subsection (d)(1)b6.
 - g. If an applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that Zoning Code provision does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
 - h. The fee for the permit shall be as provided in Section 1-3-1 [but may not exceed Three Thousand Dollars (\$3,000.00) per Sec. 66.0404(4)(d), Wis. Stats.].
- (2) **Regulatory and Application Limitations.** The regulatory and application parameters and limitations prescribed in Subsection (c)(2) above shall be applicable.
- (e) **Class 2 Collocation.**
- (1) **Application Process.**
 - a. A Village zoning permit is required for a Class 2 collocation. A Class 2 collocation is a permitted use in the Village but still requires the issuance of Village building permits.

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- b. A written permit application shall be completed by the applicant and submitted to the Village. The application must contain, at a minimum, the following information:
 1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address shall be provided.
 2. The location of the proposed or affected support structure.
 3. The location of the proposed mobile service facility.
 - c. A permit application will be provided by the Village upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.
 - d. Per Title 15, Chapter 1 of this Code of Ordinances, a Class 2 collocation is also subject to the same requirements for the issuance of a building permit to which any other type of commercial development/construction or land use development is subject.
 - e. If an applicant submits to the Village an application for a permit to engage in an activity described in this Section, which contains all of the information required under this Section, the Village shall consider the application complete. If any of the required information is not in the application, the Village shall notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - f. Within forty-five (45) days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the forty-five (45) day period:
 1. Make a final decision whether to approve or disapprove the application.
 2. Notify the applicant, in writing, of its final decision.
 3. If the application is approved, issue the applicant the relevant permit.
 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - g. The fee for the permit shall be as provided in Section 1-3-1 [but may not exceed Five Hundred Dollars (\$500.00) or the commercial building permit fee equivalent, per Sec. 66.0404(4)(d)].
- (2) **Regulatory and Application Limitations.** The regulatory and application parameters and limitations prescribed in Subsection (c)(2) above shall be applicable.
- (f) **Penalty Provisions.** Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this Section shall, upon conviction, be subject to the penalties and/or forfeitures prescribed in Section 13-1-245, plus applicable surcharges,

13-1-182

assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this Section. In addition, the Village of Elk Mound may seek injunctive relief from a court of record to enjoin further violations.

Sec. 13-1-183 through Sec. 13-1-199 Reserved for Future Use.

Article K: Accessory Uses and Structures; Screening
and Landscaping; Fences and Hedges

Sec. 13-1-200 Accessory Uses or Structures.

(a) **Building Permit Required for Accessory Buildings.**

(1) ***Permit Required.***

- a. No owner shall, within the Village of Elk Mound, build, construct, use or place any type of an accessory structure or building, including prefabricated accessory buildings, until a building permit shall have first been obtained from the Building Inspector. Application for an accessory structure permit shall be made in writing to the Building Inspector.
- b. With such accessory building application, there shall be submitted the following information:
 1. A complete set of building plans and specifications;
 2. Three (3) copies of a site plan or drawing accurately showing the location on the entire lot of the proposed accessory structure with respect to distances to adjoining alleys, streets, property lines, easements, and other structures. The dimensions shall be shown of the lot, proposed accessory structure, principal structure (house), and any other accessory structures on the lot. A public street right-of-way is a property boundary line. The site plan must be drawn to scale, such as a scale of 1 inch = 20 feet; and
 3. A plat of survey, as prepared by a Wisconsin Registered Land Surveyor, shall be required if the property is located within or abuts a shoreland, wetland, floodplain, navigable waterway, or verification is difficult. If applicable, the Ordinary High Water Mark [two (2) feet above the 100-year floodplain elevation] and Wetland Delineation shall be shown.
- c. The required building plans and specifications shall include the following information:
 1. Floor plans, exterior dimensions, and a statement indicating the use of the accessory structure, including any second story area.
 2. Height of the accessory structure measured from the site lot grade to the peak of the roof peak and the building's exterior dimensions.
 3. Information and renderings illustrating design characteristics for all four sides of the proposed detached accessory structure, along with a current photograph of the principal structure on the parcel.
 4. Sufficiently detailed information on the type of construction and materials to be utilized, including that which is proposed to be used with the outside walls and roofing and the finish and color of such materials. Such

information shall include what type of foundation and framing (type and spacing of lumber) is proposed to be used.

5. In the case of a premanufactured residential accessory building, a copy of the manufacturer's plans, specifications and instructions shall be submitted.
 6. Description of the flooring and foundation to be used.
 7. Any changes to the original information provided with the original application must be resubmitted for further review by the Building Inspector to ensure that the changes are still in compliance with the minimum standards set forth herein.
 8. Any additional information required by Village officials.
- (2) **Applicability to Temporary, Movable and Permanent Buildings.** For purposes of this Zoning Code, no regulatory distinction is made between temporary, permanent, prefabricated or movable accessory buildings (such as those mounted on skids); all such accessory structures require an accessory building zoning permit and shall comply with the standards of this Zoning Code. Sheds built off-site and moved onto a lot and prefabricated accessory structures require a permit.
- (b) **Principal Structure/Use to be Present.**
- (1) **Establishment of Principal Use Requirement.**
 - a. An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction, unless a special limited-duration, one-time waiver is granted by the Village Board due to unique circumstances or one of the limited exceptions in Subsection (b)(2) below exists.
 - b. In the administration of Article, a person may not claim that two (2) or more buildings should be counted as one building by virtue of any of the following:
 1. Connection by a breezeway of any length.
 2. Connection by a deck.
 3. Connection by a porch.
 4. Any underground connection of any type.
 5. Any connection that is not heated, ventilated, or air conditioned in the same manner of the main building.
 6. Any connection that serves no significant purpose other than a walkway.
 7. Any connection that is significantly smaller in dimension than the connected parts; or
 8. Any connection that allows motor vehicles to drive through the connection.

[**Note:** The above distinction is intended to require each building to have a single, integrated configuration of enclosed space and to prohibit the appearance of multiple buildings in excess of established limitations.]
 - (2) **Special Circumstances When an Existing Accessory Structure is Present.** A detached accessory structure that becomes the only structure on a lot as a result of a land division, a property line adjustment, or a demolition of the primary structure may

remain on the lot if the owner has executed a contract with the Village and placed a deed restriction on the parcel with the County Register of Deeds as follows:

- a. ***For a land division***, the contract and deed restriction must require the owner to remove the accessory structure if, within two (2) years of final plat or certified survey map approval, a principal structure has not been built and received final inspection. The contract shall be executed with the Village and the deed restriction placed on the parcel with the County Register of Deeds prior to the final land division approval.
 - b. ***For a property line adjustment***, the contract and deed restriction must require the owner to remove the accessory structure if a principal structure has not been built and received final inspection within two (2) years. The two (2) years period begins on the date the property line adjustment legally occurs, at which time the contract shall be executed with the Village and the deed restriction placed on the parcel with the County Register of Deeds.
 - c. ***For a demolition of a primary structure***, the contract and deed restriction must require the owner to remove the accessory structure if a principal structure has not been built and received final inspection within two (2) years. The two (2) years period begins on the date of the final Village inspection of the demolition. The contract and restrictive covenant shall be executed with the Village and the deed restriction placed on the parcel with the County Register of Deeds prior to the issuance of the demolition permit by the Village.
- (3) ***Zoning District Requirements To Be Complied With***. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided in this Article.
- (c) **Number of Detached Garages and Accessory Buildings on Residential Lots**. In any residential district, in addition to the principal building, one (1) major detached accessory building/garage, one (1) minor utility accessory building of one hundred and fifty (150) square feet or smaller, and two (2) non-portable children's play structures may be placed on a lot.
- (d) **Standards for Attached Accessory Buildings/Garages**.
- (1) ***Setback Requirements***. All accessory buildings which are attached to the principal building, including attached garages, shall comply with the yard/setback requirements of the principal building. An attached or detached accessory structure or use shall not be forward of the front line of the principal structure.
 - (2) ***Determination of Attached Status***. When accessory buildings are attached to the principal building, including attached garages, by a breezeway, passageway or similar means, or are separated by a nominal gap, they are considered to be a part of the principal building and shall comply in all respects with the yard/setback requirements and local building code requirements for the principal building.
 - (3) ***Carports***. For purposes of this Section, a carport, as defined in Section 13-1-300(a), shall be considered to be an attached garage.

- (4) **Attached Garage Square Footage Limits.**
 - a. The maximum square feet of attached garage floor area shall be limited to the smaller of either one thousand (1,000) square feet or the first floor dwelling unit area in the case of a single family residence.
 - b. The maximum square feet of attached garage floor area shall be limited to the smaller of either six hundred (600) square feet or the first floor dwelling unit area in the case of a duplex, two-family dwelling, or multi-family dwelling.
 - c. Garages attached to dwellings shall be three (3) stalls or less. Dwellings with an attached three (3) stall garage are not permitted to have an additional detached garage on the parcel.
- (e) **Standards for Detached Accessory Buildings/Garages; Lot Area Coverage; Square Footage.**
 - (1) **Size Restrictions.** In the aggregate, detached accessory buildings and structures, including detached garages, shall not occupy more than thirty percent (30%) of any required rear yard area, or be larger than two thousand (2,000) square feet, whichever is more restrictive.
 - (2) **Front or Side Yard Placement Prohibited.** No detached accessory building other than a garage shall occupy any portion of the required front or side yard. Only rear yard placement is permissible. An accessory structure or use shall not be located forward of the front line of the principal structure.
 - (3) **Height.** Single-story detached garages and other single-story detached accessory buildings shall be twenty (20) feet or less in height. Two-story detached garages and other detached accessory buildings shall be twenty-five (25) feet or less in height. Accessory buildings in commercial and industrial districts shall not exceed twenty-five (25) feet in height.
 - (4) **Yard Setback Requirements.** Detached accessory buildings and garages shall have a six (6) foot setback from side or rear lot lines, except where the zoning district classification requires a specific setback standard. However, where a rear lot abuts an alley, accessory buildings not attached to the principal building shall be located so as to be not closer than six (6) feet to the rear lot line, except that when the accessory building is a garage that has its entrance facing the alley, the rear yard setback shall be twenty (20) feet for the garage.
 - (5) **Setback from Principal Structure.** An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure.
 - (6) **Setback from Other Accessory Buildings.** No detached accessory building shall be located within five (5) feet of any other accessory building.
 - (7) **Placement Where Utility Easements Exist.** Where there is an existing utility easement, no detached garage or accessory building may be located closer than three

- (3) feet to such utility easement. In newly platted land divisions, detached garages and accessory buildings shall be located ten (10) feet from the utility easement.
- (8) **Lot Area Coverage Determination.**
- a. The dimensions of any swimming pool, detached accessory building/garage, detached wind and solar energy conversion units, and other detached accessory buildings/structures shall be included in the determination of available lot area coverage and square footage for accessory structures.
 - b. The dimensions of any storable swimming pool, children's play structures, firewood storage enclosures, and other accessory structures specifically exempted in this Article shall not be included in the determination of available lot area coverage and square footage for accessory structures.
- (f) **Use Restrictions — Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes.
- (g) **Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the side line of the adjacent structure.
- (h) **Landscaping or Gardening Uses and Lawn Accessories.** Accessory decorative lawn accessories, structures and vegetation used for landscaping or gardening may be placed in any required yard area. Permitted landscaping or gardening structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, fountains, statuary, bird baths, walks, paths, paved terraces, ornamental pools, trees, shrubs and flowers and gardens, provided newly placed vegetation and accessories are located no closer than three (3) feet to a property or right-of-way line. Pergolas and gazebos shall comply with setback requirements.
- (i) **Temporary Accessory Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (j) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
- (1) That such private garage shall be located not less than five (5) feet from the front lot line;
 - (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
 - (3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.
- (k) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall

not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties and shall not register more than one-half foot candles at the property line.

- (l) **Retaining Walls.** Retaining walls may be permitted on a lot, pursuant to Section 13-1-204.
- (m) **Children's Play Structures.** For purposes of this Section, children's play structures, including play houses, tree houses or elevated play structures and climbing gyms, shall be considered accessory structures for the purpose of setback compliance only, whether such play structures are placed on a foundation or not. Swing sets, slides and sandboxes are not considered children's play structures for purposes of this Section. A building permit is not required for the construction of a play structure. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.
- (n) **Terrace Area Restrictions.** In addition to the definitions and restrictions contained in Title 6, Chapter 2 of this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboard/hoops, in the terrace area.
- (o) **Offensive Uses Prohibited.** No accessory use shall be dangerous, obnoxious or offensive to persons residing in the vicinity, nor shall it impair the use, enjoyment or value of any property.
- (p) **Prohibited Dwelling or Rental Use.**
 - (1) **Dwelling Use Prohibited.** No accessory structure shall be used or let for living purposes, whether for compensation or not.
 - (2) **Rental Use.** An accessory structure shall not be rented or leased to any person not a resident of the principal structure.
- (q) **Gardening.** Home gardening is a permitted accessory use on any residential lot with a dwelling or the principal use on any vacant lot or parcel.
- (r) **Dog Houses/Runs.** Dog houses and/or runs shall comply with the setback requirements in Section 13-1-202.
- (s) **Agricultural (Farm) Buildings.**
 - a. Agricultural buildings, used for agricultural purposes only, such as barns, silos, bins, sheds, and farm machinery sheds in the A-1 Agricultural District, shall not be considered accessory buildings. Such buildings are principal agricultural buildings and shall comply with the yard and height requirements of the agricultural districts. There shall be a building separation of at least ten (10) feet between buildings.
 - b. Non-agricultural accessory buildings are permitted only after the residence is present on the parcel.
- (t) **Tents; Fabric-Covered Structures; Hoop-Supported Structures.**
 - (1) **Prohibited Use as Permanent Accessory Structure.** No tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame, may be used as a permanent accessory structure in a non-agricultural district without Village Board

- approval; such structures may be erected and used no more than six (6) months per year without being removed. An exception is that a plastic or fabric-covered hoop-supported or tubular greenhouse may be maintained if used exclusively for personal greenhouse use.
- (2) **Anchoring Requirement.** Any permitted tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame shall be fastened or anchored in a stable manner to the ground.
 - (3) **Limitations on Utility Service.** No plumbing, electrical, heating or other utility service may be installed in a tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame except for seasonal use in personal greenhouses. A tent shall not be used as a dwelling other than for temporary recreational use.
 - (4) **Compliance with Accessory Building Requirements.** Any tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame, shall comply with the dimensional and yard/setback requirements of this Section.
- (u) **Decks; Patios; Gazebos; Pergolas.** The following require an accessory building zoning permit and shall comply with the following requirements:
- (1) **Decks.** Decks which are constructed six (6) inches or more above lot grade, and which are attached to or closer than eight (8) feet to the principal structure, shall be considered a part of the principal structure and shall comply with the setback requirements for principal structures in that zoning district. Freestanding decks separated from the principal shall be located a minimum of eight (8) feet from the principal structure and shall comply with the setback requirements for accessory structures in that zoning district. Decks constructed less than six (6) inches above lot grade shall comply with the setback requirements for patios.
 - (2) **Patios.** Patios, constructed at or below lot grade, shall comply with the setback requirements for accessory structures in that zoning district.
 - (3) **Gazebos; Pergolas.** A gazebo or pergola connected with a deck which is attached to the principal structure, as defined in Subsection (v)(1) above, shall comply with the setback requirements for principal structures in that zoning district. Freestanding gazebos or pergolas shall comply with the setback requirements for accessory buildings in that zoning district. A gazebo or pergola shall not exceed two hundred forty (240) square feet in size.
- (v) **Air Conditioning Compressors.** Central air conditioning compressors are permitted in the rear yard or side yard without a permit, provided that the compressor shall be located a minimum of five (5) feet from a lot line. Where it is determined that it is impractical to locate a central air conditioning compressor in the side or rear yards due to unique practical limitations with a lot, the Building Inspector may permit placement in the street yard provided that the air conditioning compressor is screened from view.
- (w) **Design Standards for Detached Accessory Buildings; Architectural Requirements.** Except where more restrictive requirements exist for accessory structures elsewhere in this

Section, the following standards shall be complied with for residential detached accessory structures exceeding one hundred and fifty (150) square feet:

- (1) ***Architectural Consistency Requirements in All Residential Zoning Districts.***
 - a. Accessory buildings should have a design composition which is architecturally consistent with the principal building, and should incorporate similar complimentary design elements and colors; the roof pitch and roof line of an accessory building shall be the same or similar to that of the principal building. This Subsection is not applicable to greenhouses.
 - b. Accessory building walls clad with a singular exterior surface material should provide some additional architectural design element(s) to break up the visual plane of the wall. This may be done by the addition of windows, gable end wall treatments, siding design and accent panels, protruding pilasters, or other architectural design treatments consistent with the principal building design. Building facades and elevations which appear as a "blank wall" with no architectural delineation and/or architectural detail shall not be allowed.
 - c. In addition to the above requirements, detached residential accessory structures shall reasonably utilize some similar exterior wall siding materials as then exist on the principal residential structure on the property. In the case of principal residential structures utilizing exterior brick, stone or masonry, similar brick, stone or masonry materials should be used on the front portion of the exterior walls of the detached accessory structure. Masonry, stone or brick accents or trim elements matching similar components on the principal residential structure are acceptable to complement a residence constructed with brick, stone or masonry siding materials. For the remainder of the accessory structure located on a residential residential parcel with a brick, stone or masonry residence, siding materials should resemble siding materials utilized on at least one (1) other non-brick/masonry residential structure found on an adjacent or on the same block in the residential neighborhood, if any, provided that such comparison structure should meet the minimum design standards of this Section.
- (2) ***Exterior Finishes and Materials.***
 - a. The exterior walls of accessory structures shall be clad with: painted metal cladding which in non-reflective; cement fiber siding; engineered composite siding; wood; wood shakes; wood clapboards; vinyl, steel or aluminum beveled siding; brick, stone or other masonry-type veneer materials; or similar materials approved by the Building Inspector. The color and texture of exterior wall materials should be similar to the color used on the exterior of the principal residential structure. Accessory structures in residential districts should utilize exterior wall materials of similar type, color and texture as found on the principal structure on the lot. Pole-type construction accessory structures in residential districts may only be permitted if the criteria herein can be met and a sufficient landscape plan for the structure has been approved.

- b. Roofs of all accessory structures on residential parcels shall be covered with asphalt shingles; wood or shake shingles; standing painted metal siding; tile roofing; or slate roofing. Accessory structures in residential districts shall have roof lines and angles similar to the roof lines and angles of the principal residential structure on the property. No flat roofs shall be permitted on accessory structures (boathouses excepted) unless the principal residential structure has a flat roof covering more than half of the residence, excluding a garage or carport flat roof feature attached to the principal residential structure.
 - c. Galvanized, reflective or corrugated exterior metal siding or roof finishes are not permitted on detached accessory structures. Any metal walls or roofing shall be not less than 26 gauge, roll-formed ribbed sheeting with a factory-applied non-reflective finish with a manufacturer's warranty of not less than twenty (20) years for the metal and finish. The use of used metal siding/roofing is not permitted.
 - d. For structures twenty (20) feet in length or greater, roof design shall include architectural distinction to interrupt the visual continuity of the roof. The inclusion of a roof cupola, roof dormers or roof line changes would act as acceptable architectural elements.
 - e. Detached non-seasonal accessory structures shall not have a rooftop deck (boathouses excepted).
 - f. All accessory structures and garages shall be constructed of durable materials and shall not utilize fabric/plastic/rubber materials or membranes used in such a fashion or manner so as to be a substitute for building walls and/or roof or roofs of said accessory structure or garage.
 - g. Detached accessory structures shall have windows established on at least two (2) walls.
- (3) **Anchoring.** Accessory buildings with foundations shall be secured with anchor bolts. Accessory buildings not located on a foundation shall be provided with suitable anchoring to the ground.
 - (4) **Lot Area Determination.** The dimensions of any swimming pool, children's play structure, detached garage, dedicated sports court, detached gazebo or pergola, and other detached accessory buildings/ structures shall be included in the determination of available lot area coverage for accessory structures. Patios and decks are not included in such determinations.
 - (5) **Required Roof Overhangs.** All detached structures over one hundred fifty (150) square feet in size, in a residential district, must have a minimum one (1) foot overhang with fascia and soffit on all sides, unless an alternative option is approved by the Village Board. No portion of the accessory building, including roof eaves, shall extend across a property line.

Sec. 13-1-201 Outside Storage of Firewood.

- (a) **Permitted Limited Storage.** No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) **Storage.**
 - (1) **Unenclosed Storage.** Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation. Any structures erected to shelter firewood are subject to the setback standards in Section 13-1-200.
 - (2) **Firewood Storage Enclosures.** One (1) firewood enclosure structure per lot is permitted with a roof and four (4) open sides to protect firewood used for fuel. Such structure shall not exceed four hundred eighty (480) square feet, exceed eight (8) feet in height, or be included in accessory structure number, square footage or lot area coverage calculations. Such structure shall not be used for any other purpose. Only equipment used in preparing the firewood and the wood shall be stored in the structure.
- (c) **Debris Removal.** All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- (d) **Diseased Wood.** Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) **Lot Area Coverage.** Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

Sec. 13-1-202 Fences.

- (a) **Definitions.** The following words and terms shall have the meanings herein provided in this Section:
 - (1) **Arbor.** A decorative solid or latticework structure or trellis which is used as an entrance focal point along a barrier which serves the purpose of a fence.
 - (2) **Berm.** A mound of earth higher than the final elevation of a lot.
 - (3) **Fence.** An enclosed barrier or vertical screen device consisting of wood, stone, vinyl or metal intended to limit ingress or egress and/or provide privacy and containment. This definition also includes, but is not limited to, trellises, railings and walls when used around the perimeter of a property.

- (4) **Fence, Agricultural/Farm.** A fence meeting the agricultural fence standards of Chapter 90, Wis. Stats., consisting of wire strands, high tensile strands or other types of material used for agricultural purposes meeting the statutory requirements.
 - (5) **Fence, Architectural or Aesthetic.** A fence constructed to enhance the appearance of the structure or the landscape.
 - (6) **Fence, Boundary.** A fence placed on or within five (5) feet of the property lines of adjacent properties.
 - (7) **Fence, Good Neighbor.** A fence constructed of solid or spaced boards where the face boards are installed at the center of the posts so that the fence looks the same from both sides.
 - (8) **Fence, Protective.** A fence constructed to enclose a hazard to the public health, safety and welfare.
 - (9) **Fence, Security.** A fence designed for protection of a site, of an open-type similar to woven wire or wrought iron fencing, not exceeding eight (8) in height.
 - (10) **Install, Installation, Installed.** To construct, erect, install, place, or replace over sixteen (16) lineal feet.
 - (11) **Lot, Double Frontage.** An interior lot having street frontage on the front and the rear of the lot.
 - (12) **Trellis.** A frame or structure of open latticework.
- (b) **Fence Permit Required.** No person shall install a fence in the Village of Elk Mound without first obtaining a fence permit from the Village, including special purpose fences under Subsection (n), paying the required permit fee prescribed by Sec. 1-3-1, and complying in all respects with the terms and conditions of this Section. A fence permit shall be valid only for the term of issuance, unless sooner revoked. A fence permit is not required for painting, maintenance, or repair or replacement of less than sixteen (16) lineal feet of a fence within a five (5) year period. A fence permit may include reasonable conditions required by the Village. A fence permit application shall be filed with the Village and include the following:
- (1) **Fee Payment.** Payment of the permit fee and completed application forms required by the Building Inspector, Zoning Administrator or Village Clerk-Treasurer.
 - (2) **Plan.** A drawing, site plan or plat map displaying property boundaries, the location of buildings and structures on the property, the proposed location of the fence and its distances from other structures on the parcel.
 - (3) **Design Information.** Accurate design information for the proposed fence, including height and materials to be utilized.
 - (4) **Leased Property — Owner's Consent.** If the fence is proposed to be installed on leased or rented property, the written consent of the owner.
- (c) **Responsibilities of Property Owner; Location Determination.**
- (1) **Proper Location Responsibility.** The property owner installing a fence is solely responsible for ensuring that the fence is properly located on his/her property, and is

in compliance with height, setback, vision clearance and materials requirements. If uncertainty exists regarding the actual location of lot lines, it is the owner's responsibility to secure a lot survey.

- (2) **Covenant/Easement Compliance.** The property owner is responsible for complying with any private subdivision covenants or deed restrictions or utility easement(s) restrictions, including any applicable plan review/approval requirements.
- (d) **Fence Installation General Requirements.** No fence shall be installed except in strict compliance with this Section:
- (1) **Digger's Hotline.** Prior to fence installation, the applicant shall contact Diggers Hotline service to have the project site marked.
 - (2) **Good Neighbor Placement Requirement.** Structural and support components of a fence shall face internally into the applicant's lot, facing away from adjacent properties. Fences shall be installed with the finished side facing adjacent properties or the public right-of-way. Fence posts shall be located on the inside of the fence facing the property on which the fence is located, except when the style of fence is of a design commonly known as a "Good Neighbor Fence."
 - (3) **Grade; Contour.** Fences shall be installed plumb and the top finish of the fence shall be uniform. Fences shall follow the contour of the ground to the extent practical. Adjustments for grade shall occur at the bottom of the fence.
 - (4) **Height.** Fence height shall be measured from the surface of the ground immediately below the fence. Berms, retaining walls or other methods to raise the elevation of the fence site shall require approval by the Building Inspector prior to installation. The height of fences and walls shall be measured vertically from the finished grade on the exterior side of the fence. Raising the finished grade by placing fill solely for the purpose of adding additional height to a fence is prohibited. If a fence is placed on a berm, the berm shall be included in the height of the fence and the height will be measured vertically from the base of the berm.
 - (5) **Placement Near Sidewalks.** Fences shall be installed no closer than six (6) inches to a public sidewalk.
 - (6) **Fence Placement Where Utility Easements Exist.** A fence may be placed within a utility easement, unless prohibited by the easement holder, with the understanding that the utility authority may remove such fence at the property owner's expense, is not liable for any damage to the fence, and is not responsible for the reconstruction of the fence.
 - (7) **Placement in a Drainage Easement.** A fence shall not be located within a drainage easement. Upon written petition, the Zoning Administrator may allow a fence in a drainage easement when it can be shown that the fence will not restrict the flow of stormwater and the easement holder does not object.
 - (8) **Modification of Stormwater Flow.** A solid masonry fence shall not impede the natural flow of stormwater.

(e) **Approved Fence Materials.**

- (1) **Proper Materials.** Fences located in side and/or rear yards of residential parcels shall be constructed using materials suitable for residential-style fencing, including, but not limited to: brick, fieldstone, wrought iron, vinyl, chain link [with a required top rail support and a minimum nine (9) gauge thickness], split rail wood, stockade or board-on-board wood.
- (2) **Open Visibility Standard.** Residential front yard fences shall be fifty percent (50%) open (see-through) and be of wrought iron, picket or split rail design. Chain link fencing is permitted in side or rear yards only and its use is not permitted in residential front yards.
- (3) **Agricultural Fences.** Agricultural/farm fences shall only be permitted in agriculturally-zoned or used districts, as determined by the Village, and shall comply with Ch. 90, Wis. Stats.
- (4) **Improper Materials.** No fence shall be constructed of used, discarded or scrap materials in disrepair, including, but not limited to, pallets, tree branches/stumps, crates, vehicle parts, refuse or other similar items. Materials not specifically manufactured for fencing, such as doors, railroad ties, landscape timbers or utility poles shall not be used in fences. Fences shall not be constructed of luminous materials or smooth or corrugated metal materials.
- (5) **Finish.** All fences, including privacy fences, shall only be painted or stained in neutral colors.

(f) **Modifications to Existing Fences.** All modifications to a pre-existing fence shall comply with this Section. Any existing fence shall not be enlarged, extended or replaced for more than sixteen (16) linear feet in a three (3) year period except in compliance with this Section.

(g) **Height and Placement of Residential Fences Regulated.**

- (1) **Height.** Residential fences six (6) feet or less in height are permitted with a two (2) foot setback on rear and side lot lines, but shall not continue beyond the front of the principal structure or the required front yard setback, whichever is furthest from the street right-of-way. A fence may be placed on a rear or side lot line provided both property owners consent in writing and a copy of such agreement is filed with the Village Clerk-Treasurer per Subsection (h). Residential fences less than or equal to four (4) feet in height are permitted in the street/front yard setback area but shall not be closer than two (2) feet to any public right-of-way and shall not exceed two and one-half (2-1/2) feet in height in a vision clearance triangle [see Subsection (j) below].
- (2) **Narrow Lot Standards.** In any residential district or on any lot or premises, the principal use of which is for residential purposes, no lengthwise fence or other lengthwise barrier or obstruction shall be erected, placed, installed or reinstalled in any area where there is a distance between main residential buildings of ten (10) feet or less.

- (3) **Non-Residential Fences Adjacent to Residential Parcels.** No fence or wall shall be erected, placed or maintained along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
- (h) **Setback for Residential Fences.**
 - (1) **Fence Setback With No Adjacent Owner Consent.** Fences in or adjacent to a residential property (or property primarily residential in use) are permitted along lot lines with a minimum two (2) foot side and rear yard setback without permission from adjacent property owners.
 - (2) **Fence Setback With Adjacent Owner Consent.**
 - a. Fences may be placed on property lines only with the written approval of adjoining property owners, a copy of which shall be provided to the Village; such fences shall fully comply with the permit and standards requirements of this Section.
 - b. If a new fence is constructed or erected on a property line without the express written consent of the adjoining property owner, whether proper permits have been issued or not, a written complaint may be filed with the Zoning Administrator, who shall give notice to the owner of the fence to remove the fence. If the owner does not comply within thirty (30) days from the date of notification, the Zoning Administrator may request the Village of Elk Mound to remove it at the owner's expense.
 - (3) **Front Setback Areas.** Fences may be constructed alongside lot lines but shall not extend into the front setback area as extended to the side lot lines.
- (i) **Industrial/Commercial Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed eight (8) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (j) **Corner Lot Vision Clearance Requirements.**
 - (1) **Standards.** In order to provide adequate vision clearance on corner lots, no fence shall be erected or maintained within the triangular space formed by two (2) intersecting street, alley, or driveway (public or private) property lines and a line joining points on such property lines (or projections thereof) located less than:
 - a. A minimum of twenty (20) feet from the intersection of the two street property lines;
 - b. A minimum of fifteen (15) feet from the intersection of the two alley property lines; or
 - c. A minimum of ten (10) feet from the intersection of the two driveway property lines.
 - (2) **Determination.** Street or alley property lines are measured from the right-of-way or easement lines establishing such street or alley. Driveway lines are measured from the easement establishing such driveway, or, in the case of no easement, from the edge of the driveway surface.

(k) **Prohibited Fences.**

- (1) **Dangerous Condition; Barbed Wire.** No fence shall be constructed which is of a dangerous condition, or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are eight (8) feet above the ground or height and project toward the fenced property and away from any public area.
- (2) **Electric Fences.** Although fences which conduct electricity or are designed to electrically shock are generally prohibited, such fences using smooth wire are allowed for the limited purpose of deer control if located five (5) feet from a lot line.
- (3) **Improper Wire Fencing.** No woven, twisted, welded or interlaced wire fence or farm-type woven wire, such as using chicken wire, shall be located in a non-industrial district, unless such fencing is ornamental in character.
- (4) **Improper Wood-Slat Fencing.** No wood-slat or plastic snow fence shall be permitted as a regular use in a Residential District, except as a temporary use under Subsection (m).
- (5) **Post-Only Fences.** No fence shall consist solely of fence posts or be maintained as an incompletely constructed fence consisting only of posts and supporting members.

(l) **Fences to be Repaired; Corrective Action.**

- (1) **Good Repair Requirement.** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property. Fences shall be maintained in a manner as to prevent rust, corrosion and deterioration, so as not to become a public or private nuisance, and so as not to be dilapidated or a danger to adjoining property owners or the public. Fences shall not create an appearance of patchwork, which is indicative of a state of disrepair. Every fence installed shall be maintained by the owner in such a way that it will remain plumb and in good repair.
- (2) **Compliance Standards for Existing Fences.** Any existing fences which do not conform to the requirements of this Section and which are damaged, or in need of repair to the extent that exceeds fifty percent (50%) of the then value of the fence, said entire fence shall either be completely dismantled or reconstructed in compliance with the provision of this Section.
- (3) **Failure to Maintain.** All new and existing fences shall be maintained in such a manner so as not to allow rust, dents or deterioration to take place. Failure to maintain a fence in good condition and repair will result in the Village issuing an order to the property owner to take whatever steps are necessary to correct the condition. Said notice shall set forth a reasonable time for compliance and shall set forth a notice that failure to comply will result in a violation and with a penalty set forth in Section 1-1-6.

(m) **Temporary Fences; Permit Not Required.**

- (1) **Standards.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored

streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.

- (2) **Seasonal Fences.** This Section is not intended to regulate seasonal or temporary fences such as garden or snow fences except that such fences shall be removed when the condition or season for the said fence was erected no longer exists. Under no circumstances shall a snow fence be erected for more than five (5) months.
- (n) **Special Purpose Fences; Trellises; Arbors.**
- (1) **Swimming Pool/Hot Tub Fences.** Swimming pool and hot tub fences shall comply with the requirements of Section 13-1-203.
 - (2) **Pet Enclosures; Dog Runs.** Pet enclosures and dog runs shall be permitted in residential districts subject to the following conditions:
 - a. No fence permit is required prior to installation of a pet enclosure or dog run.
 - b. No pet enclosure or dog run shall be in excess of two hundred and fifty (250) square feet in area, or be more than six (6) feet in height above the surface of the ground.
 - c. Pet enclosures and dog runs may be constructed of any material permitted for a residential fence.
 - d. No pet enclosure or dog run shall be constructed contrary to required vision clearance area requirements.
 - e. Pet enclosures and dog runs shall be located no closer than ten (10) feet to a side or rear lot line, and shall not be located to the front of the principal structure.
 - (3) **Anhydrous Ammonia Sites.** Anhydrous ammonia tank sites shall be fenced as prescribed in Section 8-1-13.
 - (4) **Arbors.** An arbor may extend above a pedestrian walkway provided it is not taller than nine (9) feet, wider than five (5) feet, or deeper than three (3) feet.
 - (5) **Trellises.** A trellis may be incorporated into the overall design of a fence provided no part is taller than eight (8) feet and does not extend for more than ten (10) percent of the length of the side on which it is located.
- (o) **Nonconforming Fences.** Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained, but alterations, modifications or improvements of more than fifty percent (50%) of said fence shall require the owner to bring the fence into compliance with this Section.
- (p) **Special Needs Residents – Fencing.** Owners of a residence where a special needs resident has a documented need for a special contained yard area are permitted to provide an enclosed fenced yard in the rear of the lot. The property owner, in order to secure a permit to construct and maintain such a fence, shall provide to the Village independent medical documentation of a resident's special needs requiring a contained yard area. The right to maintain such a fence shall expire when the special need no longer exists and the

fence shall then be removed, at the owner's expense, at such time. The fence shall be constructed at the owner's expense and shall conform with the following:

- (1) **Location.** Fenced enclosures under this Subsection shall be placed in the rear of the home in a manner that preserves existing vegetation and natural screening, except that lots five (5) acres or larger may have a special needs fenced enclosure in the front yard with appropriate natural screening and landscaping designed to minimize the visual impact of such fence.
- (2) **Enclosure Materials.** Only materials such as masonry, wrought iron, chain link, wood stockade, board on board, or composite materials shall be used. Such fencing shall be consistent with applicable private restrictive covenants, where applicable, which may impose additional requirements as to fencing and materials which may be used.
- (3) **Color.** Special needs fencing shall utilize natural colors, with no painting.
- (4) **Landscaping.** When a suitable planting screen is not present on the site, plantings shall be added to any non-residential side of the special fence. Plants shall be spaced so that in ten (10) years' time the plants shall have matured into a continuous vegetative screen. Suitable plants include upright evergreens and coniferous trees and shrubs such as lilac.
- (5) **Height.** The special needs fence shall not be more than seven (7) feet in height.

Sec. 13-1-203 Swimming Pools and Hot Tubs.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than two (2) feet located below the surface of ground elevation, having an area greater than one hundred fifty (150) square feet, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool. Such pool is installed in such a manner that the in-ground pool will remain in place as a fixture throughout the full year and will be considered as a permanent or semi-permanent structure on the land.
- (b) **Exempt Storable Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of twenty-four (24) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section. Inflatable pools of all types are exempt.
- (c) **Permit; Construction Requirements.**
 - (1) **Permit Required.** Before work is commenced on the construction or erection of private or residential swimming pools or hot tubs or on any alterations, additions,

remodeling or other improvements, an application for a swimming pool or hot tub building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data shall be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The required building permit fee pursuant to the Village Building Code shall accompany such application.

- (2) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction or installation of a swimming pool or hot tub unless the following construction requirements are observed and the fee as prescribed in Section 1-3-1 is paid:

- a. All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements for pool or hot tub installation shall be in accord with all state regulations and with any and all Ordinances of the Village of Elk Mound now in effect or hereafter enacted.
- b. All plumbing work shall be in accordance with all applicable Ordinances of the Village of Elk Mound and all state codes. Every private or residential swimming pool or hot tub shall be provided with a suitable draining method and, in no case, shall waters from any pool or hot tub be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located or in the general vicinity.
- c. All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool or hot tub shall be in conformance with the state laws and Village Ordinances regulating electrical installations.

(d) **Setbacks and Other Requirements.**

- (1) **Permissible Locations.** Private non-storable swimming pools or hot tubs shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool or hot tub shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (2) **Setbacks.** All non-storable swimming pools and outdoor hot tubs shall be at least ten (10) feet from any lot line or building, measured at the water line, unless designed and approved by the Village as an addition to a building.
- (3) **Prohibited Placement Areas.** Non-storable swimming pools and hot tubs shall not be constructed in the front yard or in a required corner side yard.
- (4) **Area Calculations.** Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.

(e) **Enclosure.**

- (1) **Fence; In-Ground Pools.** All outdoor, below grade swimming pools shall have a fence or other solid structure not less than four (4) feet in height completely enclosing the pool with no opening therein (other than doors or gates) larger than three (3) inches square. All gates or doors opening through the enclosure shall be kept securely closed and locked at all times when not in actual use and shall be equipped with a self-closing and self-latching device designed to keep and be capable of keeping such door or gate securely locked at all times when not in actual use.
- (2) **Non-storable Above-Ground Pools; Pool Wall Barrier.**
 - a. An approved barrier shall consist of a solid wall of durable material of which the pool itself is constructed and shall extend directly above the vertical water enclosing wall of the pool. Such walls shall extend more than four (4) feet above the level of the ground immediately adjacent to the pool. Such a solid pool wall barrier shall not be located within six (6) feet of any other wall or fence or other structure which can be readily climbed by children. Every entrance to a pool, such as a ladder, must be secured or adequately safeguarded to prevent unauthorized entry into the pool.
 - b. The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top. All gates or doors opening through such enclosures shall be equipped with a latching device capable of keeping the gate or door securely closed at all times when not in actual use. Each such gate shall be secured by a combination lock or by a lock worked by a key.
 - c. An above-ground swimming pool which has a pool wall exceeding forty-eight (48) inches above the grade and has no decking shall be exempt from the fencing requirement, provided it has a retracable ladder or gate capable of being closed and latched and locked with a combination lock or by a lock worked by a key when the swimming pool is not in use.
- (3) **Miscellaneous Requirements.**
 - a. Swimming pools and hot tubs surrounded in whole or in part by a deck which has steps leading to the swimming pool or hot tub shall be equipped with a gate a minimum of four (4) feet in height and capable of being latched and locked with a combination lock or by a lock worked by a key to secure access to the swimming pool or hot tub when not in use.
 - b. Service gates and gates which are part of a fence or wall enclosing a swimming pool or hot tub which are located across a driveway shall be kept closed and latched at all times by the property owner or occupier when not in use for ingress or egress. When such areas are not in use, such gates shall be locked with a combination lock or by a lock worked by a key.

- c. Hot tubs equipped with a fitted cover and capable of supporting a minimum of two hundred (200) pounds shall be exempt from required fencing.
- (f) **Draining and Approval Thereof.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Plumbing Inspector.
- (g) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- (h) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.
- (i) **Compliance.** All swimming pools and outdoor hot tubs existing at the time of original passage of this Code of Ordinances not satisfactorily fenced shall comply with the fencing requirements of this Section or when water is placed in the pool. Enclosures on existing pools shall be inspected by the Building Inspector for compliance. Variations in enclosure requirements that do not adversely affect the safety of the public may be approved.

Sec. 13-1-204 Retaining Walls.

- (a) **Purpose.** The purpose of this Section is to protect private and public property from the adverse effects of inadequately designed, located and constructed retaining walls.
- (b) **Permit Required.**
 - (1) **When Required.** A permit from the Zoning Administrator or Building Inspector shall be required for all retaining walls constructed which exceed twenty-four (24) inches in height, including terraced retaining wall projects where the total height of all walls exceeds twenty-four (24) inches and are located closer than fifteen (15) feet to a property line.
 - (2) **Application.**
 - a. Application shall be made to the Zoning Administrator or Building Inspector and shall include applicant information, a site plan or survey, and a set of construction plans. Plans for retaining walls five (5) feet or greater shall be prepared and sealed by a Wisconsin-licensed engineer. The Zoning Administrator or Building Inspector may require such other information deemed necessary to adequately review the proposed retaining wall may also be required. The Zoning Administrator or Building Inspector shall have the authority, as a condition of granting such permit, to require such additions, changes and safeguards as he/she determines to be necessary.
 - b. The survey or site plan shall accurately portray existing conditions on the parcel.

- c. Any application for a permit for any retaining wall designed to be five (5) feet or more high or proposed to be located one (1) foot or closer to a property line shall be referred to the Plan Commission for a determination. No permit shall be issued until the Plan Commission approves the same as to location, materials, appearance, design, drainage and landscaping.
- (3) **Permit Exceptions.** The following types of retaining walls shall not be required to obtain a permit:
- a. Edgings anywhere on a lot less than eight (8) inches in height of stone, brick, concrete, metal, timber, plastic or other materials around plantings, trees, gardens, patios, driveways or trees.
 - b. Decorative walls not in excess of twenty-four (24) inches in height and located a minimum of five (5) feet from the property line constructed of natural or manufactured stone, brick or timbers around plantings, trees, gardens, patios, driveways or trees.
- (4) **Application Processing.** The Zoning Administrator or Building Inspector may issue a permit for a retaining wall which conforms to the following:
- a. Is located one (1) foot or more from a property line and is not more than five (5) feet in height.
 - b. Is not constructed in a drainageway, drainage swale or drainage easement, or in a Village right-of-way, unless deemed necessary by the Village Engineer.
 - c. Is not located on an easment.
 - d. Is constructed of structurally sound materials, with a design and color which are generally harmonious with its surroundings.
 - e. Does not have an undue adverse effect on values of adjacent or nearby properties.
- (c) **Standards.** Approval of any retaining wall under the provisions of this Section shall be based on such factors as the Zoning Administrator, Building Inspector or Plan Commission, as the case may be, deems relevant, including, but not limited to, whether:
- (1) **Appropriate Use.** In the offset area, the difference in grade between lots is best controlled by a retaining wall, or in the setback area terrain makes a slope to the municipal right-of-way impractical.
 - (2) **Sound Design.** The retaining wall will be structurally sound and so constructed that the wall will properly contain and support the ground, pavement, walks and other nearby structures. The retaining wall shall be designed to properly resist the lateral pressure of the retained material in accordance with accepted engineering practices. Retaining walls containing drained earth should be designed for pressure equivalent to that exerted by an equivalent fluid weighing not less than thirty (30) pounds per cubic foot and having a depth equal to that of the retained earth.
 - (3) **Neighborhood Impacts.** The retaining wall's appearance, design, concept, location and height are harmonious with the principal structure on the lot and nearby properties.

- (4) **Corner Vision Clearance.** If located on a corner lot, the retaining wall shall not unduly obstruct the vision clearance setback area.
- (d) **Maintenance.** Retaining walls shall be properly maintained and be kept in a sound condition. Retaining walls which are determined by the Village to be of a faulty or dangerous condition or are poorly maintained so as to adversely affect the values of adjacent or nearby properties shall be repaired or removed within sixty (60) days by order of the Zoning Administrator or Building Inspector, unless an emergency exists posing a hazard to public safety requires a shorter compliance period.

Sec. 13-1-205 Portable Storage Units.

(a) **Scope of Provisions.**

- (1) **Portable Storage Container Units.** A portable storage unit may be either:
 - a. Any container, shed-like container, or other portable structure, typically enclosed or open only on the top of the unit, no larger in dimension than ten (10) feet wide x ten (10) feet in height x twenty (20) feet in length and transported to a residential location for temporary storage purposes (typically known as PODs, MODs, etc.). Such units or containers are designed or intended to be used for the storage of personal property and are located for such purposes outside of an enclosed building; or
 - b. Non self-propelled, fully enclosed trailers that are designed or used to transport materials, goods and equipment and are temporarily placed on property zoned or used for residential purposes (semi-trailers) for storage purposes.
- (2) **Units Excluded; Limitations.** Dumpsters and commercial shipping containers of the kind used to ship goods and materials by rail, ship or truck are not included in the scope of this Section and are subject to different regulations. Commercial shipping containers shall not be placed or used for storage or any other purpose on a residential property.

(b) **Permissible Portable Storage Unit Use.** The use of portable storage units on a residential parcel is allowed under the following conditions:

- (1) **Authorization.** Authorization has been obtained from the Building Inspector pursuant to Subsection (c) below for temporary placement on a property.
- (2) **Number.** There shall be no more than one (1) portable storage unit per residential property. No other type of temporary storage or shipping container may also be located on the property.
- (3) **Duration.** A portable storage unit shall not remain on a residential property for more than thirty (30) consecutive days, and must not be placed on any one property in a zoning district in excess of thirty (30) days in a twelve (12) month period.
- (4) **Placement Location.**
 - a. The portable storage unit shall be placed within the buildable area of the lot and be on a concrete, asphalt or similar hard surface.

- b. If a portable storage unit is placed in the required front yard, the unit shall be located only in the area primarily used for vehicular ingress and egress and shall be located a minimum of ten (10) feet from the edge of the curb. Where no curb exists, the portable storage unit shall have a fifteen (15) foot setback from the edge of the pavement.
 - c. If a portable storage unit is placed in a rear or side yard, the setback requirements for accessory buildings for that zoning district shall be complied with.
- (5) **Prohibited Materials.** Portable storage units shall not be used to store materials and substances including or of a similar nature: contractor's materials and equipment, nonresidential items and equipment, solid waste, refuse, hazardous materials, explosives, flammable liquids, and other harmful or illegal substances and materials.
 - (6) **Construction Site Exception.** Portable storage units for the temporary storage of personal property associated with and made necessary by construction at a residential property are exempt from the aforementioned conditions. Portable storage units associated with construction activities at a site where a building permit has been issued are permitted for the duration of the construction and shall be removed from the site within fifteen (15) days of the end of construction.
- (c) **Authorization Procedures.**
- (1) **Notification.** The owner or occupant of a residential lot or parcel on which a portable storage unit will be placed is responsible for providing notice to the Building Inspector within twenty-four (24) hours of placement. The owner or occupant shall provide his/her name, property address, contact telephone number(s), and email address.
 - (2) **Authorization.** The Building Inspector will respond by mail or email with a written authorization if the owner or occupant has provided sufficient information. Upon request, the Building Inspector may grant a time extension upon a showing of good cause and there have been no violations of the requirements under this Section.

Sec. 13-1-206 Sports Courts.

- (a) **Scope of Provisions.** A sports court is a dedicated hard surfaced area purpose-built for playing tennis, basketball, shuffleboard, or other similar such sporting activities on a residential lot. A residential driveway or paved parking area occasionally used for such activities is not considered to be a sports court. A sports court may be constructed and maintained on a residential lot in addition to permissible detached accessory structures.
- (b) **Permit Application.**
 - (1) **Permit Requirement.** An accessory building zoning permit per Section 13-1-200(a) is required for all sports courts prior to construction.
 - (2) **Application Requirements.** In addition to the required application information prescribed in Section 13-1-200(a), permit applications for sports courts shall include the following additional information:

- a. Court dimensions;
- b. A site plan drawn to scale showing the location of the court on the lot, and the distance from other structures and property lines;
- c. Lighting plan;
- d. Landscaping plan;
- e. Fencing plan, including information on the height and type of proposed fencing; and
- f. Any other information deemed necessary by the Building Inspector.

(c) **Standards for Sports Courts.**

- (1) **Number.** A residential lot is permitted to have one (1) sports court. A sports court may only be constructed on a lot after the principal structure is under construction or present.
- (2) **Location.** Sports courts may only be located in rear or side yard areas. No sports court may be constructed in a front yard or over an easement.
- (3) **Setback Requirements.** A sports court, and attendant facilities (example: equipment structure), shall be located a minimum of ten (10) feet from any property lines or residential structure.
- (4) **Lighting.** If a sports court will have lighting, such lights shall be extinguished by 10:00 p.m., shall be directed onto the court, and shall be shielded and directed downwards to minimize light migration and glare onto adjacent properties. All such lighting shall comply with Village of Elk Mound lighting ordinances.
- (5) **Fencing.**
 - a. Fencing enclosing a sports court on a residential parcel shall use either purpose-manufactured sports netting or utilize corrosion-resistant #9 gauge woven wire mesh similar to chain link design. No such fence shall exceed exceed ten (10) feet in height. Fence posts shall be decay-resistant.
 - b. Upon application for consideration, the Plan Commission may modify such fencing requirements where structures or vegetation provide a substantial equivalent of the fencing required by this Section. However, such waiver shall not permit a sports court enclosure fence to serve as a lot line fence governed by Section 13-1-202.
- (6) **Drainage.** Adequate provisions, satisfactory to the Building Inspector, shall be made to prevent drainage of surface water from the sports court onto adjoining properties.
- (7) **Additional Requirements.** The Building Inspector shall have the authority when granting a permit to require such design changes, additions and safeguards which he/she determines to be necessary.

(d) **Miscellaneous Requirements.**

- (1) **Hours of Operation.** No sports court located within one hundred (100) feet of an adjacent residence shall be used between 10:00 p.m. and 7:00 a.m.
- (2) **Private Use Only.** Sports courts on residential parcels shall not be used for commercial purposes.

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- (3) **Noise Limitations.** No excessive, loud or unnecessary noises from a sports court which disturb the comfort and quiet of neighboring residents is permissible. Village noise ordinances shall be complied with.
 - (4) **Nuisances.** No sports court shall be maintained or operated in such a manner as to create a hazard or nuisance or in other ways be detrimental to the public safety, health and welfare or result in substantial adverse effect on neighboring properties.
 - (e) **Complaints.** In the event complaints are received regarding a sports court, the Building Inspector shall refer such complaints to the Plan Commission. Following written notice to the property owner with the sports court and public hearing, the Plan Commission may issue an order to terminate the objectionable activity complained about or impose appropriate changes.

Sec. 13-1-207 through Sec. 13-1-219 Reserved for Future Use.

Article L: Administration

Sec. 13-1-220 General Administrative System.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and recommendation by the Plan Commission and ultimate action by the Village Board. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

Sec. 13-1-221 Zoning Administrator.

(a) **Appointment.**

- (1) The Village Board shall designate the Zoning Administrator as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter.
- (2) Due to the size of the Village of Elk Mound, it may not be feasible to find a suitable person willing to take on the responsibility of being Zoning Administrator on a part-time basis. It is therefore provided that the function of the Zoning Administrator can be delegated to a committee of the Village Board, to another Village official, or a single member of the Village Board or the Village President. An officer other than a Village Board member or another employee of the Village may also be designated to handle the duties of Zoning Administrator on a part-time basis in addition to the other duties performed by such person.

(b) **Duties.** In enforcing and administering this Chapter, the Zoning Administrator shall perform the following duties:

- (1) Issue the necessary building permits and occupancy and zoning use permits required by the provisions of this Chapter, provided its provisions have been complied with.
- (2) Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.
- (3) In case of any finding of a violation of a provision of this Chapter, notify, in writing, the actual violator where known, the owner of the property on which the violation has taken place and the Village Board, indicating the nature of the violation and the action necessary to correct it.
- (4) Receive, file and process for action all applications for conditional uses, variances and amendments to this Chapter which are filed in the zoning office.

- (5) Initiate, direct and review, from time to time, a study of the provisions of this Chapter and make reports of the recommendations to the Plan Commission and Village Board for investigation and appropriate action.
- (6) Carry out such additional responsibilities as are hereinafter set forth by the provisions of this Chapter.
- (c) **Authority.** In the enforcement of this Chapter, the Zoning Administrator shall have the power and authority for the following:
 - (1) At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.
 - (2) Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Chapter, such revocation to be in effect until reinstated by the Zoning Administrator or the Zoning Board of Appeals, or take any other action as directed by the Village Board to insure compliance with or to prevent violation of its provisions.
 - (3) In the name of the Village and with authorization of the Village Board commence any legal proceedings necessary to enforce the provisions of this Chapter or the Building Code, including the collection of forfeitures provided for herein.

Sec. 13-1-222 Role of Specific Village Officials in Zoning Administration.

- (a) **Plan Commission.** The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village of Elk Mound to the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, its functions are primarily recommendatory to the Village Board pursuant to guidelines set forth in this Chapter as to various matters and, always, being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing. The Plan Commission shall have the powers to conduct and hold public hearings on all proposed amendments to the Village Zoning Ordinance as provided in Sec. 62.23(7)(d), Wis. Stats.
- (b) **Village Board.** The Village Board, the governing body of the Village, subject to recommendations by the Plan Commission and the holding of public hearings by said Board, has ultimate authority to grant planned unit development applications, issue conditional use permits, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter. The

Village Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this Chapter.

- (c) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article N of this Chapter for detail provisions.

Sec. 13-1-223 Zoning Permit.

- (a) **Permit Required.** No building shall be erected, moved or structurally altered until a zoning permit therefor shall have been applied for and issued.
- (b) **Application.** All applications for a zoning permit shall be accompanied by a location sketch in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing or intended use of each building, or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of these zoning regulations.
- (c) **Application; Dimensions.** All dimensions shown relating to the location and size of the lot shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.
- (d) **Issuance or Denial.** Except as otherwise provided in these zoning regulations, the Zoning Administrator shall forward the application, with his/her recommendation, to the Village Board for determination, and the Village Board shall issue or refuse to issue a zoning permit within thirty (30) days after receipt of an application therefor. Refusal to issue a zoning permit shall be given in writing, with the reasons for such refusal.
- (e) **Proper Applicants; In General.** The following shall be considered proper applicants for a zoning permit or certificate of compliance under the terms of these zoning regulations:
- (1) Record title owner under properly recorded instrument of conveyance;
 - (2) Vendee under properly recorded land contract;
 - (3) Vendee under written contract of sale, agreement to sell, earnest money agreement, or similar real estate agreement;
 - (4) Duly authorized agent for any of the above.
- (f) **Identification.** The Zoning Administrator may request proper proof of the applicant showing that he/she is a proper applicant, under the terms of this Chapter. The application for a zoning permit or certificate of compliance shall not be considered filed until such time as the requested proof is filed with the Zoning Administrator office. The Zoning Administrator may revise the form of application for zoning permit and certificate of compliance to conform with the terms of this Chapter. If the applicant is not the fee simple

- owner of the property involved, the name of the owner of any lienholder shall be included in the application.
- (g) **Time Limitations.** Any zoning permit granted under this Chapter shall become null and void within six (6) months after it is issued if construction on the property for which the permit is granted has not been commenced within the six (6) month period. In all such cases where a permit has become null and void, a new application must be filed for a new zoning permit before any construction can be commenced at such location. All zoning permits granted under the terms of this Chapter shall be valid for only twelve (12) months. Zoning permits shall expire on the first anniversary date from their issuance. If a certificate of compliance has not been issued for the property by the expiration date of the zoning permit, application for a new zoning permit must be made in order to continue work on the premises involved.
- (h) **Conditions for Refusal; Appeal Procedure.** The Zoning Administrator or Village Engineer shall not issue a zoning permit for any property, the improvement of which might tend to interfere with the exterior lines of planned new streets, highways, parkways, parks or playgrounds, or the exterior lines of planned widening or extending of existing streets, highways, parkways, parks or playgrounds. Any person who feels aggrieved by the decision of the Zoning Administrator or Village Engineer may appeal to the Zoning Board of Appeals, which has power in a specific case, by the vote of a majority of its members, to grant a permit for a building or such street, highway, parkway, park or playground, which will as little as practicable increase the cost of opening such street, highway, parkway, park or playground and such Zoning Board of Appeals may impose reasonable requirements as a condition of granting such permit, which requirements shall be designed to promote the health, convenience, safety or general welfare of the Village. Such board shall refuse a permit where the applicant will not be substantially damaged by placing his/her building outside the planned street, highway, parkway, park or playground.
- (i) **Fees.** Prior to issuing a zoning permit the Zoning Administrator shall collect from the applicant to defray the cost to the Village of processing the application, a permit fee.
- (j) **Additional Requirements.** In addition to other requirements of this Chapter, no building, zoning or moving permit shall be issued unless:
- (1) Sanitary sewer and water is available, or installation thereof has been approved by the Village Board or, alternatively;
 - (2) A sanitary sewer system in accordance with SPS 382, Wis. Adm. Code, and related sections thereof, has been approved for the premises and the premises is in compliance with NR112.01 through NR112.25, Wis. Adm. Code.

Sec. 13-1-224 Site Plan Approval.

- (a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, (including mobile home parks and subdivisions)

- except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this Section.
- (b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- (c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his/her findings, to the Plan Commission within ten (10) days. The Plan Commission shall review the application and may refer the application and plans to any expert consultants selected by the Village Board to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within forty (40) days of its receipt of the application, the Plan Commission shall authorize the Zoning Administrator to issue or refuse a Zoning Permit.
- (d) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:
- (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.
- (e) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may secure such professional recommendations from retained experts as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Village Board and shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

Sec. 13-1-225 Violations and Penalties.

- (a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Village Board, the Zoning Administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the Village Board, the Zoning Administrator or the Village Attorney may institute appropriate legal action or proceedings.
- (c) **Penalties.**
 - (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-6 of this Code of Ordinances.
 - (2) Failure to obtain a permit prior to commencement of work under this Chapter shall double the fee for the required permit.
 - (3) The Village of Elk Mound may refuse to issue a building permit for structures/parcels in violation of any provision of this Zoning Code.

Sec. 13-1-226 Fees.

The following fees shall be applicable for this Chapter:

- (a) **Rezoning and Zoning Application.** A fee per application (including repetitions of previous applications) is required, as prescribed by the fee schedule in Section 1-3-1.
- (b) **Conditional Use Permit Application.** All conditional use applications shall be filed with the Village Clerk-Treasurer along with a filing fee prescribed in Section 1-3-1.
- (c) **Variance and Appeals Applications.** All applications for variances and appeals shall be filed with the Village Clerk-Treasurer along with a filing fee prescribed in Section 1-3-1.
- (d) **Building Permit Application.** The fees for building permits shall be established in Title 15, Building Code, of this Code of Ordinances.

Sec. 13-1-227 through Sec. 13-1-239 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-240 Authority.

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

Sec. 13-1-241 Initiation of Changes or Amendments.

The Village Board, the Plan Commission, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

Sec. 13-1-242 Procedure for Changes or Amendments.

(a) Petition.

- (1) Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Village Board and shall be filed with the Village Clerk-Treasurer. The person requesting such action shall provide all information requested on the petition including:
 - a. Name and street address of the petitioner.
 - b. The lot number of any real estate owned by the petitioner adjacent to the area proposed to be changed.
 - c. Legal description of the property to be altered.
 - d. The existing use of all buildings on such land.
 - e. The principal use of all properties within three hundred (300) feet of such land.
 - f. Purpose for which such property is to be used.
 - g. Reciting of facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this Chapter.
 - h. Names and addresses of all abutting and opposite property owners within three (300) feet of the property to be altered.

- i. Plot plan or survey plat, drawn to scale, showing the property to be rezoned, location of structures, and property lines within three hundred (300) feet of the parcel.
 - j. Any further information requested to the petition or which may be required by the Plan Commission to facilitate the making of a comprehensive report to the Village Board.
 - (2) Failure to supply such information shall be grounds for dismissal of the petition.
 - (3) A petition for change or amendment submitted by a private property owner shall be prepared in triplicate and filed with the Village Clerk-Treasurer and shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative processing.
- (b) **Plan Commission Recommendation.** The Village Board or the Village Clerk-Treasurer shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and zoning map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may on occasion, of its own volition, conduct its own public hearing on proposed amendment(s).
- (c) **Public Hearing.**
 - (1) The Village Board, following receipt of recommendation of the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985, Wis. Stats. At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
 - (2) The Village Board may delegate to the Plan Commission the responsibility to hold public hearings as required under this Section.
- (d) **Village Board Action; Rezoning Voting; Down Zoning.**
 - (1) Following such public hearing, the Plan Commission shall make a recommendation on the proposed rezoning ordinance making the proposed rezoning, change or amendment. The Village Board shall then review the Plan Commission's recommendation and make its determination.
 - (2) The Village Board may enact a down zoning ordinance only if the ordinance is approved by at least two-thirds of the members-elect, except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.
 - (3) "Down zoning ordinance" means a zoning ordinance that affects an area of land in the following ways:

- a. By decreasing the development density of the land to be less dense than was allowed under its previous usage; or
- b. By reducing the permitted uses of the land that are specified in a zoning ordinance, or other land use regulation, to fewer uses than were allowed under its previous usage.

State Law Reference: Section 66.1005, Wis. Stats.

Sec. 13-1-243 Protest.

- (a) **Statutory Protest – Rezoning.** In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Village Board membership.
- (b) **Statutory Protest – Zoning Code Text Amendment.** In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

Sec. 13-1-244 Substandard Lots.

- (a) **Definition.** Per Sec. 66.10015(1)(e), Wis. Stats., a "substandard lot" is a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current lot size requirements."
- (b) **Prohibited Actions Regarding Substandard Lots.** Notwithstanding any other law or rule, or any action or proceeding under common law, the Village, and its subunits and officials, may not enact or enforce an ordinance or take any other action that prohibits a property owner from doing any of the following:
 - (1) Conveying an ownership interest in a substandard lot.
 - (2) Using a substandard lot as a building site if all of the following apply:
 - a. The substandard lot or parcel has never been developed with one (1) or more of its structures placed partly upon an adjacent lot or parcel.
 - b. The substandard lot or parcel is developed to comply with all other ordinances of the Village.