

CHAPTER VIII

BUILDING CODE

8.01 SCOPE.

The purpose of this Ordinance is to regulate and control the design, construction, quality of materials, use and occupancy, location and repair of all buildings and structures erected or altered within the corporate limits of the Village of Elmwood Park, in order to promote the public health, safety, morals, prosperity, aesthetics and general welfare of the community.

No building, structure or fence, or any part thereof, shall hereafter be erected, enlarged, altered or demolished within the Village of Elmwood Park or ground broken for same, except as hereinafter provided in this Ordinance. These provisions also cover plumbing, electrical, heating or ventilating work, or anything affecting the fire hazards or safety of any building or structure.

8.02 ADMINISTRATION.

(1) Building Inspector.

(a) Appointment. A Building Inspector shall be appointed as provided in Chapter II of this Ordinance. To be eligible for appointment, they shall have had experience as an architect, professional engineer, or a practical builder who shall be generally informed on the quality and strength of building materials, and on the prevailing methods of building construction. "Building Inspector" is the general term used in this ordinance to name either Building, Electrical, Plumbing, and Pavement Inspectors depending on their area of work by appointment of the Village Board of Trustees.

(b) Powers and Duties. The Building Inspector shall have the power and duty to enforce the provisions of this Ordinance and any other Village Ordinance and law, and order of the State of Wisconsin which relates to building construction, alteration, repair, demolition, use and occupancy, and location of buildings or structures. He shall have the right to decide if and when materials and forms of construction not covered by this Ordinance may be used. It shall be his duty to receive applications required by this Ordinance, issue permits and furnish prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections.

In addition:

1. The Building Inspector shall have the power of a police officer to enforce the codes and ordinances of the Village.

2. The Building Inspector shall have the power to call on any inspector, engineer, or architect or other trade professional with experience in assessing compliance with all applicable codes.

3. The Building Inspector or his authorized representative may enter any building or premises for the purpose of inspection or to prevent violations of this Code, upon presentation

of the proper credentials, except that the Building Inspector shall not enter any dwelling, apartment or guestroom after the same is occupied without the consent of the occupant.

4. Whenever any building work is being done or structure erected contrary to the provisions of this Code, or in an unsafe or dangerous manner, the Building Inspector may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the Building Inspector to recommence and proceed with the work.

5. Whenever any building or portion thereof is being used or occupied contrary to the provisions of this Code, the Building Inspector shall order such use or occupancy discontinued and the building or portion thereof vacated by notice served on any person using or causing such use or occupancy to be continued, and such person shall vacate such building or portion thereof within ten (10) days after receipt of such notice, or make the building or portion thereof comply with the requirements of this Code.

6. Any building or portion thereof which is in violation of the provisions of this Code due to removal, decay, deterioration of anything, appliance, device or requirement required by this Code, or which has become damaged by the elements or fire to an extent of fifty (50%) percent of its value may be condemned by the Building Inspector.

7. The Building Inspector may order portions of the structural frame of a building or structure to be exposed for inspection when in his opinion they are in an unsafe condition.

8. In any of the aforesaid cases, the Building Inspector shall serve notice in writing on the owner, reputed owner or person in charge of such building or premises, setting forth what must be done to make such building or structure safe.

9. The person receiving such notice shall commence within forty-eight (48) hours thereafter to make the changes, repairs, or alterations set out in such notice and diligently proceed with such work or demolish the building. No such building shall be occupied or used for any purpose after the Building Inspector serves written notice of its unsafe and dangerous condition until the instructions of the Building Inspector have been complied with.

10. If at the expiration of the time as set forth in the first notice, the instructions as stated have not been complied with, a second notice shall be served personally upon the owner, his agent or the person in possession, charge or control of such building or structure or part thereof, stating such precautionary measures as may be necessary or advisable to place such building or structure or part thereof in a safe condition or its removal. Should the necessary changes or removal not be made within thirty (30) days after service of such second notice, the Building Inspector shall institute an appropriate action or proceeding at law or in equity, to restrain, correct or remove such violations and compel compliance. In case of emergency or where such second notice has not been complied with, the Building Inspector may proceed with the work specified in such notice, and cause the cost of same to be paid and levied as a lien against the property.

11. The Building Inspector, his authorized representative and/or the contracted Village Police Officer may upon stating their proper credentials enter any building or premises provided

said building or premises is not occupied as a living quarters for the purpose of inspecting or determining whether the building work or improvement is in compliance with zoning permits, including but limited to, Conditional Use Permits, Variances and/or Site Plans. In the event the building or premises is occupied as a living quarters the Building Inspector shall request permission to enter from the owner/or tenant of said living quarters. An inspection to the extent necessary may also be made from outside the improvement or premises without the consent or permission of the owner or tenant.

The Building Inspector shall prepare a written report to the Village Clerk of his/her findings. The report shall state whether the building or improvement is in compliance with the zoning permits and, if not the reasons for the noncompliance.

The clerk shall forward the report on to either the Planning Commission or the Village Board – whichever body oversees the zoning permit, conditional use, site plan or variance. The Board or Planning Commission shall schedule the reported non-compliance for its next scheduled meeting assuming the owner or tenant alleged to be non-compliant may be given 10 days' notice of the date and time for the hearing. If notice cannot be given within the time period the Board shall schedule the item at the next meeting following at least 10 days' notice.

In the notice, the Board or Planning Commission shall set forth the reasons for the non-compliance and invite the owner/tenant, or his representatives to appear and present any arguments or evidence. The Board or Commission may rely upon any report or evidence prepared and submitted by the Village representative and any arguments or evidence set forth by the owner or tenant to be non-compliant.

The Board or Planning Commission shall make a decision as to whether the improvements/project of the owner/tenant is compliant with the zoning permit, conditional use permit, site plan or variance and, in the case on noncompliance, shall set forth the reasons in writing therefore. The Board or Planning Commission shall also include in the notice the penalty/fine imposed.

The Building Inspector or Village Clerk shall deliver the written notice to the premises either by hand or by United States mail.

Penalties:

In the event of a determination by the Village Board and/or Planning Commission that an individual or entity is found to be non-compliant with the building or zoning permit the fine/penalty shall be as follows:

a. First Phase.

i. The individual/entity shall be given an order to take all measures to be found compliant with the applicable permit within 30 days following service of the notice following hearing or such other time period as prescribed by the Board or Planning Commission.

ii. The individual or entity shall be given a citation in the amount of \$350.00 payable within 30 days after service.

b. Second Phase.

i. In the event the individual or entity fails to comply with the order to take all measures to be found compliant with the zoning permit within 30 days or the period fixed by the Board or Planning Commission, the Building Inspector or Village Representative shall issue a stop work order and further order that the premises or structure may not be occupied or utilized and further serve notice that the non-compliance must be corrected within 30 days.

ii. The Building Inspector or Village Clerk shall also serve a citation for non-compliance (2nd violation) upon the owner/tenant with a fine in the amount of \$750.00 for each day the non-compliance continues.

iii. In the event the non-compliance continues for a period in excess of 30 days past the service of the second citation, the Building Inspector or Village Clerk may serve a "raze order" ordering the individual or entity (owner or tenant) to permanently remove the non-compliant improvement or structure. In the event the owner or tenant refuses the Village may take the appropriate steps to remove, raze or demolish the non-compliant improvement or structure and pass the entire cost of the demolition, removal and/or razing process cost to the owner of the property to be placed upon the property tax roll.

(c) Records. The Building Inspector shall keep a record of all permits and fees. The record shall show the amount for which the building permit was taken out, the date of the building permit and the date of the Certificate of Occupancy. The Building Inspector shall report a recommendation of any changes to be made in the Building Code as timely as possible to be presented to the Village Board.

(2) Building Permits and Fees.

(a) Building Permit. No building or structure or any part thereof, shall be constructed, altered, remodeled or demolished; and no plumbing or electrical work shall be performed in the Village of Elmwood Park unless a permit therefor shall be first obtained from the Building Inspector. No permit is required for normal maintenance or for any minor repairs or alterations valued at \$500.00 or less, which does not change the construction, occupancy, area, structural strength, exists, light sanitation and ventilation of the building or structure.

(b) Application. Any person desiring a building permit as required by this Ordinance, shall file an application therefor in writing on blank forms to be furnished by the Building Inspector. Such application shall be made by the owner, his agent, or the architect, engineer or builder employed by the owner, and shall state the name and address of the owner of the land, also the owner of the building, if different, the legal description of the land upon which the building is to be located, with aggregate estimated cost of all proposed improvements, and shall contain such other information as the Building Inspector may require for effective enforcement of this section.

(c) Plans and Specifications.

1. All applications for building permits shall be accompanied by specifications and plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of the lot of the buildings and accessory buildings existing, and the lines within which the buildings or structures shall be erected or altered, the existing and intended use of each building or part of building, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Code. All dimensions shown on those plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and location of the building thereon shall be staked out on the ground before construction is started.

2. Plans shall be drawn to scale upon substantial paper or cloth and the essential parts shall be drawn to a scale of not less than one-eighth (1/8) inch to one foot; such plans and specifications shall be of sufficient clarity to indicate the nature and character of the work proposed and to show that the law will be complied with.

3. Computations, strain sheets, stress diagrams and other data necessary to show the correctness of the plans shall accompany the plans and specifications when required by the Building Inspector.

4. All plans shall bear the name of the architect, engineer, or person responsible for their preparation.

5. After plans for any proposed work shall have been approved, one set of such plans shall be filed and kept in the office of the Building Inspector, and another set of such plans with the approval of the Inspector stamped or written thereon, shall at all times be kept on or about the building or other structure to be erected thereunder, while the same is in course of construction.

6. No changes in plans and specifications shall be made without first filing an amendment to the original application, and securing the approval of the same by the Building Inspector. Any variations in work to be completed that requires an exception, (or variance), to the Village Code, Ordinances, or Zoning must be approved by either the Village Board; or Village Plan Commission by confirmation of the Village Board, before permit is to be issued. Variances to the Village Code or Ordinances shall be approved by the Village Board. Variances to the Zoning or Master Plan of the Village shall be approved by the Village Plan Commission. If the desired outcome of any aggrieved person is not achieved by either Board, then a final hearing in front of the Board of Appeals may be held.

7. All plans and specifications shall be signed by the designer and have the approval of the Building Inspector or waiver by the Village Board or the Plan Commission, again, by confirmation by Village Board if variance is requested. Plans for buildings required to comply with the State Building Code shall bear a stamp of approval from the Industrial Commission.

8. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations or repair, provided the cost of such work does not exceed \$1,000. The Building Inspector may demand and view written estimates of the work being done.

(d) . Appeals. The Board of Appeals created pursuant to Chapter 2 of the village's ordinance pursuant to s. 61.354 (4)(b), Wis. Stats.:

(1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by either the Village Board, Planning Commission, or its designee in administering this ordinance.

(2) May authorize, upon appeal, variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will results in unnecessary hardship; and

(3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(4) Those who may appeal to the Board of Appeals are any aggrieved person affecting by the decision of the Village Board or Planning Commission.

(e) Issuance of Permits.

1. After the application, plans and specifications have been filed with the Building Inspector, and if after approval or waiver is required by either the Village Board or by the Plan Commission, the Building Inspector determines that the proposed building will comply in every respect with all Ordinances of the Village and all applicable laws and orders of the State of Wisconsin, he shall officially approve and stamp one set of plans and return it to the owner, and shall issue a building permit therefor which shall be kept and displayed in a conspicuous place at the site of the proposed building.

After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned ordinances, laws and orders, or which involves the safety of the building or occupants, except with the written consent of the Building Inspector and reapproval of the Plan Commission. The issuance of a permit upon specifications and plans shall not prevent the Building Inspector from thereafter requiring the correction of errors in the specifications and plans, or from preventing building operations being carried on thereunder when in violation of this Code or any laws of the State of Wisconsin.

2. The approval of plans and specifications is not to be construed as the assumption of any responsibility for the design.

3. A building, electrical or plumbing permit shall lapse and be void unless operations under the permit are commenced within six (6) months from the date of issuance thereof; and the permit shall lapse one (1) year after the date of issuance if the work for which the permit is issued is not completed.

4. If the Building Inspector shall find at any time that any ordinance, law, order or the plans and specifications are not being complied with, and that the holder of the permit refuses to conform after a written warning or instruction has been issued to him, he shall revoke the building, electrical or

plumbing permit by written notice at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is reissued, excepting such work as the Building Inspector may order to be done as a condition precedent to the reissuance of the permit, or as he may require for the preservation of human life or the preservation of property for public welfare, or to abate a public nuisance. The Building Inspector shall have the power to order such work done forthwith.

5. It shall be the duty of all Village officers, whether elected or appointed, to report at once to the Building Inspector any building, structural, electrical or plumbing work which is being carried on without a permit as required by this Ordinance.

(f) Fees. The fees for permits shall be as follows:

1. Placement of building material or equipment in street fees.

a. Each permit under this section shall be issued for a period not to exceed six months. The permit fee for the temporary blocking of any sidewalk, street or alley and for a temporary enclosure or canopy is \$50.00 per month or fraction thereof.

b. The permit fee for use of any street, alley or other public space for the purpose of depositing material thereon is \$50.00 per month or fraction thereof. The permit fee for the use of both street and sidewalk is \$50.00 per month or fraction thereof.

2. Minor Repairs and Alterations. The Building Inspector may waive any fee for work of an estimated value of less than \$1,000.00.

3. Building Permit Fees.

a. Building Permit Fees. Inspection fees are determined by the discretion of the contracted inspector. The Village of Elmwood Park's Permit Fee shall be 5% of the estimated cost of construction (minimum of \$50/maximum of \$100).

The following construction, new or addition, shall have the following fees in lieu of the 5% cost:

~~a.~~ 1. Residential: New and additions, \$0.40 per square foot or fraction thereof (minimum \$250.00).

~~b.~~ 2. Accessory buildings (garages and sheds): New and additions, \$0.25 per square foot or fraction thereof (minimum \$100.00).

~~c.~~ 3. Business, office, institutional: New and additions, \$0.40 per square foot or fraction thereof (minimum \$300.00).

~~d.~~ 4. Industrial and manufacturing: New and additions, \$0.40 per square foot or fraction thereof (minimum \$300.00).

~~e. Remodeling (repairs and alterations to all buildings where square footage cannot be calculated): \$15.00 per \$1,000.00 of valuation or fraction thereof (minimum \$300.00).~~

f. Heating units (new or replacement units): \$60.00 per unit, 150,000 Btu's or less. Additional \$20.00 for each 50,000 Btu's or fraction thereof (maximum \$750.00 per unit).

g. Air conditioning (other than wall units): \$60.00 per unit.

h. Air conditioning (permanently installed wall units): \$30.00 per unit.

i. **5.** Wrecking (or razing) of structures: \$30.00 for garages and accessory buildings, \$150.00 for primary building 1,000 square feet or less, \$250.00 for primary buildings over 1,000 square feet.

j. Moving of buildings: \$100.00 plus \$0.15 per square foot or fraction thereof for garages and accessory buildings, \$150.00 plus \$0.15 per square foot or fraction thereof for all primary buildings.

k. Curb openings: \$75.00

l. Private swimming pools: \$50.00

m. Signs: \$75.00 for 50 square feet or less; \$125.00 for 51-100 square feet; \$175.00 for over 100 square feet (per sign).

n. Failure to obtain a permit (before commencement of work): Double fee.

o. Street storage: \$50.00 per 10 days, maximum 30 days. Additional \$5.00 each day after 10 days.

p. Vacant building permit: Annual fee of \$200.00 per building for the first year, \$500.00 for the second year, \$750.00 for the third year and \$1,000.00 for the fourth year.

4. Plan Review Fees.

a. One and two family residential: \$250.00 (includes \$30.00 to be forwarded to state).

b. All other building plans: \$0.20 per square foot or fraction thereof (minimum \$250.00).

c. Heating, cooling, ventilating, illumination, structural and energy conservation plans (when submitted separately): \$250.00.

d. Erosion control plans: \$150.00 per plan as required.

e. Revisions (to previously examined plans): \$75.00.

5. Other Fees.

a. Special inspections (re-inspections and occupancy inspections): \$75.00 (paid in advance).

b. Request for letter or report: \$100.00 (paid in advance). All charges will be rounded up to the next higher dollar amount.

6. Electrical Permit Fees:

a. Initial permit fee to be \$10.00 and in addition, fees shall be paid as indicated in the following schedule:

b. Outlets \$0.40 each

c. Fixtures \$0.40 each

d. Fluorescent Fixtures per Tube (No. of fixtures) \$0.30 each

e. Furnaces, Dishwasher, Garbage Disposal, Ranges, Water Heater, Clothes Dryer \$5.00 each

f. SERVICES:

1. 0 through 100 Amperes (Size of Service) \$25.00 each

2. 101 through 400 Amperes (Size of Service) \$50.00 each

3. 401 through 1,200 Amperes (Size of Service) \$100.00 each

4. 1,201 and up (each additional 1,000 Amperes) \$200.00 each

g. Temporary Service \$25.00 each

h. Refrigerators, Air Cooling, etc. \$5.00 each

i. Motors per Horsepower or fraction thereof (not to exceed \$20.00 each) \$0.30 each

j. Rectifiers, Capacitors, Transformers, Welders and Generators \$10.00 each

k. Electric heaters (space, baseboard, etc.) per unit \$2.00/unit

l. Electric furnaces, ovens, etc. per K.W. or K.V.A fractions thereof (not to exceed \$20.00 each) \$0.30 each

m. Exhaust or Ventilation Fans \$1.00 each

n. Signs (Neon per transformer) \$5.00 each

o. Plug-in strip, Trol-e-Duct, etc., light track systems, Etc. per foot \$0.30/foot

p. Flood Lights, Mercury Lights, H.P.S. lights \$1.00 each

q. Feeders or Sub Feeders

1. No. 6 to 3/0 \$5.00 each

2. 4/0 and above \$10.00 each

r. Fuel Dispensing Pumps \$10.00 each

s. X-Ray Machines, Motion Picture Machines, Stereopticon, etc. \$5.00 each

t. Dimmers per 1,000 watts \$1.00 each

u. Busways, Under floor runways, Wire ways \$0.50/foot

v. ~~Swimming Pool wiring~~

1. ~~In ground \$25.00~~

2. ~~Above ground \$10.00~~

w. ~~Flat conductor cable system \$0.30/foot~~

x. ~~Smoke detectors and fire alarm stations (over 24 volts— A.C. or D.C.) \$1.00/device~~

y. ~~To change, alter, repair or correct an electric installation where none of the above specific fee schedule applies. \$10.00~~

z. ~~Re-inspection fees (No access) \$50.00~~

aa. ~~Re-inspection fees (Non-compliance) \$50.00~~

bb. ~~Failure to call for final inspection \$75.00~~

cc. ~~Minimum permit fees charge \$20.00 Unless the permits are issued before the job is started, the permit fee will be twice the amount in the foregoing schedule.~~

7. ~~Plumbing Permit Fees.~~

a. ~~Each plumbing inspection fee will be \$50.00.~~

b. ~~If plumbing rough-in installation is started before securing a permit, the fee will be twice the amount in the schedule.~~

c. ~~Re-inspection fees (No access or Non-compliance): \$50.00.~~

(Amended 6-10-2021)

(6) Inspection.

(a) Inspection of Work. The builder shall notify the Building Inspector when ready, and the Building Inspector shall inspect all buildings upon completion of the foundation forms, or before the foundation is laid, and again when ready for lath and plaster, or before paneling is applied. After completion, he shall make a final inspection of all new buildings and alterations. Under no condition will a builder proceed to close a building until inspection certificates or stickers are placed in the building by the Building Inspector, Electrical Inspector and Plumbing Inspector.

(b) Certificate of Occupancy. No building shall be occupied until the Building Inspector shall issue a Certificate therefor.

1. If at final inspection the Building Inspector finds that the building complies with the requirements of this Chapter and Chapter IX, he shall issue a Certificate of Occupancy and record the date thereof in his annual report.

2. A Certificate of Occupancy shall be required each time a building is sold or the occupancy changed. Such certificate shall be issued by the Building Inspector only if he finds that the building complies with the requirements of this Chapter and Chapter IX.

8.03 PLUMBING AND DRAINAGE.

(1) State Code Applies. The construction, reconstruction, installation and alteration of all plumbing, drainage and plumbing ventilation shall conform to the Wisconsin Administrative Code, Chapter H 62 (State Plumbing Code) adopted by the State Board of Health, which is hereby adopted by reference as a part of this Ordinance, and declared to apply to all plumbing work.

(2) Permit. No plumbing or drainage of any kind shall be installed or altered, except that leakage or stoppage repairs may be made, without first securing a permit therefor from the Building Inspector. The application for such permit shall be on a form furnished by the Building Inspector and shall state clearly the work planned, alterations to be made, and equipment and materials to be used. All later deviations from such plan must be submitted to and shall be subject to approval by the Building Inspector. Permit fee shall be as set out in Section 8.02 of this Ordinance.

(3) Licensed Plumber Required. All plumbing work shall be done only by a plumber licensed by the State Board of Health, except that a property owner may make repairs or installations in a single-family building owned and occupied by him as his home, provided that the cost of such repairs and installations does not exceed \$250.00, and provided that a permit is issued and the work and materials are in compliance with the provisions of this Ordinance.

(4) Inspection of Work. Upon completion of the plumbing work on any premises, the person doing such work shall notify the Building Inspector before such work is covered up, and the Building Inspector shall at once inspect or cause to be inspected the work. If he finds that the work conforms to the State Plumbing Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Building Inspector. No person shall use or permit to be used any plumbing or drainage until it has been inspected and approved by the Building Inspector.

(5) Ground and Storm Water Sewer System. No sewage, whether from septic or sanitary systems shall be introduced into the storm sewer system, which includes open ditch used to carry off ground water.

8.04 ELECTRICAL PROVISIONS.

(1) State Code Applies. All electrical work shall conform to the standards of the Wisconsin State Electrical Code and amendments and revisions thereto as shall be adopted by the Industrial Commission of Wisconsin, and to the performance standards as recommended by the American Institute of Electrical Engineers. The Wisconsin State Electrical Code is hereby adopted by reference as part of this Ordinance and declared to apply to all electrical work.

(2) Permit. No electrical wiring or other equipment shall be installed or altered without first securing a permit therefor from the Building Inspector, except that repairs or replacements of broken or defective sockets, switches or base receptacles may be made without a permit. The application for such permit shall be on a form furnished by the Building Inspector and shall state clearly the work planned, alterations to be made, and equipment and materials to be used, and all later deviations from such a

plan must be submitted to and shall be subject to approval by the Building Inspector. Permit fees shall be as set out in Section 8.02 of this Ordinance.

(3) **Inspection of Work.** After roughing in the wiring of any building and before any such work is covered up, or upon completion of any outside wiring construction work, it shall be the duty of the person doing such work to notify the Building Inspector, who shall at once inspect or cause to be inspected the same. Upon completion of such wiring, the Building Inspector shall be notified and shall inspect or cause to be inspected the finished work. If he finds that the work conforms to the State Electrical Code, he shall issue a Certificate of Compliance which shall contain the date and an outline of the result of such inspecting, a duplicate of which shall be filed by location in the office of the Building Inspector. It shall be unlawful to use any such electrical equipment until such Certificate has been issued.

8.05 FLAMMABLE LIQUIDS.

The Wisconsin Administrative Code, Chapter Ind. 8 (Flammable Liquids Code) issued by the Industrial Commission of Wisconsin, is hereby adopted by reference as a part of this Ordinance, and it shall be the duty of the Building Inspector to enforce the provisions thereof.

8.06 VIOLATION AND PENALTY.

Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 15.04 of this Code. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

8.07 PRIVATE SWIMMING POOLS.

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

(2) **Location.** No swimming pool shall be erected to the front of the residence of the owner or occupant of premises connected therewith; in the case of lots bordered on two sides by public streets, no swimming pool may be erected in the area between the setback lines of the main building and the street right-of-way line; and in no case less than five feet from any lot line or building wall.

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

(4) **Protective Devices.** Every person, every member of a partnership and every corporation that owns, directly or indirectly, or operates or uses or has custody or control of or has the right to use any swimming pool located in the Village of Elmwood Park shall erect and maintain a fence or suitable barrier around such swimming pool of not less than five feet, nor more than six feet in height and of

such construction as to safeguard a child of tender years to prevent such child from falling into such swimming pool or shall install and maintain a cover or other protective device over such swimming pool of such design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or other protective device shall be securely fastened at all times when the swimming pool is not in actual use for bathing or swimming purposes.

(5) Drainage. No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank, nor to overflow upon or cause damage to any adjoining property. Provision may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval of the Building and Health Inspector. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval of the State Board of Health shall be necessary before the construction of any such pool may commence.

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

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

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

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

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

(11) Validity. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid, or be repealed, the remainder of this Ordinance shall not by reason thereof be affected thereby.

8.08 ADOPTION OF WISCONSIN UNIFORM DWELLING CODE.

(1) For any buildings built prior to June 1st, 1980 within the boundaries of the Village of Elmwood Park, the Village adopts the Wisconsin Uniform Dwelling Code (UDC) Chapters SPS 320 through 325, and all amendments thereto, are adopted and incorporated in this Code by reference.

For any buildings built after June 1st, 1980 within the boundaries of the Village of Elmwood Park, the Village adopts the current and active Wisconsin Uniform Dwelling Code (UDC), and all amendments thereto, are adopted and incorporated in this Code by reference.

(2) The Building Inspector, as certified by the Department of Industry, Labor and Human Relations, is hereby authorized and directed to administer and enforce all of the provisions of the Wisconsin Uniform Dwelling Code.

(3) Any existing Ordinances pertaining to the construction of new dwellings that conflict with the Uniform Dwelling Code are hereby repealed.

(4) Building Permit Required. No person shall build or cause to be built any one or two family dwelling without first obtaining a State Uniform Building Permit for such dwelling. Such building permit shall be furnished by the Village of Elmwood Park. A copy of such permit issued shall be filed with the Village Building Department. No addition, alternation or repair to any existing one or two family dwelling not deemed minor repair by the Building Inspector, shall be undertaken unless a building permit for this work shall first be obtained by the owner or his agent, from the Building Inspector.

(5) Building Permit Fee. The building permit fee shall be determined by the Village Board.

(6) Penalties. The Board shall provide for the enforcement of the section and all other laws and Ordinances relating to buildings by means of the withholding of building permits, imposition of forfeitures and in juncture action, pursuant to Wis. Stat. 62.23(9).

(7) Severability. If any section, clause, provision or portion of this Ordinance or Wisconsin Administrative Code Chapters Ind. 20, 21, 22, 23, 24 and 25 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby.

8.09 RESIDENTIAL DISCHARGE OF GROUND WATERS.

(1) All footing tile sump pump discharge and/or down spout pipes which discharge above finished grade toward a street shall be a minimum of five (5) feet from the nearest edge of the traveled portion of the roadway and if such down spout and/or discharge pipes are more than twelve (12) feet from the residence, the pipes shall be buried.

(2) Upon violation of 8.14(1), the Village Building Inspector shall issue a written notice to the affected landowners giving the latter fifteen (15) days to correct the violation.

(3) Any person who shall violate the provisions of 8.14 shall be subject to a penalty as provided in Section 15.04 of this Code. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

8.10 FILLING OF LANDS.

Definitions: The following words, terms, and phrases, when used in this section, shall have meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- (a) *Fill*. Topsoil, sand, gravel, or other material excluding asphalt, wood, hazardous waste, which is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by man to a new location.

- (b) *Topdressing*. The placement, of not more than four-inches, of topsoil for the purpose of filling depressed areas, preventing soil erosion, making lands more useable or establishing vegetation cover.
- (c) *Permit required*. For residential properties, a permit would be required whenever an addition or new structure results in the addition of 1000 sq. ft. of new impervious surface or when 1000 sq. ft. of topsoil is placed on the property raising the existing grade by 4-inches or more. Any new construction, additions, or new impervious surface for nonresidential properties (properties in the B-1, and PR-1 districts) adding 2000 sq. ft. or more of new impervious surface should require a permit with a grading plan prepared by a state licensed civil engineer.
- (d) *Permit Applications*. The building inspector shall provide application forms for fill permits, which shall contain the following information:
 - (1) Name and address of the applicant.
 - (2) A site plan showing the location in sq. ft. and depth of fill.
 - (3) Existing and proposed elevation of the area to be filled, at a distance of not more than a 1-foot interval.
 - (4) Existing elevation of adjacent lands within 50 feet of the land to be filled, at a distance of not more than a 1-foot interval.
 - (5) The elevation should be tied to the elevation of the adjacent property owner(s) to determine where the water will drain. If a structure is present, (i.e. storm sewer), the elevation of the invert (opening of the pipe in the manhole should be specified).
 - (6) A sketch showing the information set forth in subsections (c) 1-4 of this section and the route to be traveled to the fill site.
 - (7) Approximate quantity of fill.
 - (8) Time required for filling.
 - (9) Party responsible for leveling, seeding, or sodding.
 - (10) Method for erosion control during filling
- (e) *Fee*. Before issuance of the fill permit, the building inspector shall collect the fee set from time to time by resolution of the Village Board, and shall deliver such fee to the Clerk/Treasurer. Failure to obtain a fill permit shall result in the imposition of double fees. Such permit shall be posted on the site where the fill is to be deposited so as to be visible from the public roadway.
- (f) *Leveling*. All fill, deposited pursuant to a fill permit, shall be leveled within 30 days of the last deposit.
- (g) *Violations*. Any person violating any of the provisions of this section shall be subject to a forfeiture of not less than \$25.00 but not more than \$500.00 plus the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense. The Village may also maintain any appropriate action to prevent or remove a violation of this section.

8.11 EROSION CONTROL.

- (1) Authority. This article is adopted pursuant to the authority granted by Wis. Stat. 61.354.

(2) Findings and purpose.

(a) *Findings.* Village board finds that runoff from potential and current land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state and the village, and to adjacent properties.

(b) *Purpose.* It is the purpose of this article to preserve the natural resources, to protect the quality of the waters of the state and village, and to protect and promote the health, safety and welfare of the people, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharge from land disturbing construction activity to waters of the state, and to adjacent properties.

(3) Applicability and jurisdiction. This article applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the village.

(4) Exemptions. This ordinance does not apply to the following:

(a) Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Safety and Professional Services in chs. SPS 320 and 325 or 361 to 366, Wis. Adm. Code.

(b) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122 for land disturbing construction activity.

(c) Nonpoint discharges from agricultural facilities and practices.

(d) Nonpoint discharges from silviculture activities.

(e) Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(5) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural facilities and practices has the meaning in Wis. Stat. 281.16 (1).

Best management practice or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Construction site means an area upon which one or more lands disturbing construction activities occur, including areas that are part of a larger Common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

Final stabilization means all land disturbing construction activities at the construction site have been completed and a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

Land disturbing construction activity means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, but does not include agricultural land uses, silviculture activities or routine maintenance for project sites that is performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

Maximum extent practicable (MEP) means a level of implementing best management practices in order to achieve a performance standard specified in this article which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. The term “maximum extent practicable” allows flexibility in how performance standards are met and may vary based on the performance standard and site conditions.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the building inspector to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pollutant has the meaning given in 283.01(13), Wis. Stat.

Pollution has the meaning given in 283.01(13), Wis. Stat.

Responsible party means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

Runoff means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff;
- (2) Is not part of a combined sewer system;

- (3) Is not draining to a storm water treatment device or system; and
- (4) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Waters of the state has the meaning given in 281.01(18), Wis. Stat.

(6) Design criteria, standards, and specifications. All best management practices required to comply with this article shall meet the design criteria, standards and specifications based on any of the following unless otherwise approved by the Village Board:

- (a) Applicable design criteria, standards and specifications identified in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222 November 1993 Revision.
- (b) Other design guidance and technical standards identified, developed or disseminated by the state department of natural resources under subchapter V of Wis. Admin. Code ch. NR 151.
- (c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(7) Maintenance. The responsible party throughout the duration of the construction activities shall maintain all best management practices necessary to meet the requirements of this article.

(8) Control of erosion and pollutants during land disturbing construction activity.

(a) Responsible party. The responsible party shall be responsible for complying with this section.

(b) Erosion and other pollutant control requirements. A written plan to reduce sediment and the pollutants identified in subsection (c) of this section from entering waters of the state, or separate storm sewers connecting to waters of the state, shall be developed in accordance with section 10 and implemented at each construction site. The plan should include the following:

1. BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit towards meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.
2. Notwithstanding par. 1., if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and

site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

3. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

- a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
- b. Prevent the discharge of sediment as part of site de-watering.
- c. Protect the separate storm drain inlet structure from receiving sediment.

4. Where appropriate, the use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed to prevent their entrance into waters of the state or into a separate storm sewer connecting to water of the state. However, this subsection does not prohibit projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations.

(c) Location. The best management practices required to comply with this article may be located on or off the construction site but shall be installed before runoff enters waters of the state or a separate storm sewer connecting to waters of the state.

(d) Regional treatment exclusion. Runoff within an unnavigable drainage-way that flows into a best management practice is not required to meet the performance standards of this article. The discharge of runoff from such a best management practice or after a series of such best management practices is subject to this article.

(9) Permit application, control plan, and permit issuance.

(a) Permit required. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the village board or its designee.

(b) Application and fees. At least one responsible party controlling or using the site and desiring to undertake a land disturbing construction activity subject to this article shall submit an application for a permit and an erosion and sediment control plan and pay an application fee as set forth in the schedule of fees on file in the village clerk's office, which may be revised by village board resolution. By submitting an application, the applicant is authorizing the village board or its designee to enter the site to obtain information required for the review of the erosion and sediment control plan. The village reserves the right to require an additional fee to reimburse the village for any expense incurred, related costs, including costs of inspection, not covered by the application fee.

(c) Permit duration. Permits issued under this article shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The village board may extend the period one or more times for up to an additional 180 days. The village board may require additional best management practices as a condition of the extension if they are necessary to meet the requirements of this article.

(d) Surety bond. As a condition of approval and issuance of the permit, the village board shall require the applicant to deposit a surety bond or irrevocable letter of credit, for \$10,000.00 (ten thousand dollars) to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(e) Permit conditions. All permits shall require the responsible party to:

- (1) Notify the clerk-treasurer within 48 hours of commencing any land disturbing construction activity.
- (2) Notify the clerk-treasurer of completion of any best management practices within 14 days after their installation.
- (3) Obtain permission in writing from the village board prior to modifying the erosion and sediment control plan.
- (4) Install all best management practices as identified in the approved erosion and sediment control plan.
- (5) Maintain all road drainage systems, storm water drainage systems, best management practices and other facilities identified in the erosion and sediment control plan.
- (6) Repair any siltation or erosion damage to adjoining surfaces and drainage-ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
- (7) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
- (8) Allow the village board, or its designee, to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan.
- (9) Keep a copy of the erosion and sediment control plan at the construction site.

(10) Erosion and sediment control plan, statement and review.

(a) *Erosion and sediment control plan.*

- (1) An erosion and sediment control plan shall be prepared and submitted to the clerk-treasurer, with a copy to the building inspector.
- (2) The erosion and sediment control plan shall be designed to meet the performance standards, technical standards and other requirements of this article.

(3) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

(a) The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

(b) Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

(c) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment or permanent vegetation.

(d) Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

(e) Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

(f) Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

(g) Existing data describing the surface soil as well as sub soils.

(h) Depth to groundwater, as indicated by natural resources conservation service soil information where available.

(i) Name of the immediate receiving water named on the appropriate United States Geological Service 7.5 minute series topographic map.

4. If permanent infiltration systems are used, the erosion and sediment control plan shall require appropriate on-site testing to be conducted to determine if seasonal high water is within five feet of the bottom of the proposed practice. If permanent infiltration structures are used and there is a municipal well within 400 feet, or a nonpublic well within 100 feet, the groundwater flow shall be identified in accordance with the provisions specified in either Wis. Admin. Code chs. NR 110 or 214.

5. The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.

(a) Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches

and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year floodplains, flood fringes and floodways shall also be shown.

(b) Boundaries of the construction site.

(c) Drainage patterns and approximate slopes anticipated after major grading activities.

(d) Areas of soil disturbance.

(e) Location of major structural and nonstructural controls identified in the plan.

(f) Location of areas where stabilization practices will be employed.

(g) Areas which will be vegetated following construction.

(h) Wetlands, area extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.

(i) Locations of all surface waters and wetlands within one mile of the construction site.

(j) Alphanumeric or equivalent grid overlying the entire construction site map.

(6) Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall be at the same scale as the site map under subscription (a)(5) of this section and shall clearly show the site changes. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

(a) Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

(b) Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the village board, structural measures shall be installed on upland soils.

(c) Management of overland flow at all sites, unless otherwise controlled by outfall controls.

(d) Trapping of sediment in channelized flow.

(e) Staging construction to limit bare areas subject to erosion.

- (f) Protection of down slope drainage inlets where they occur.
- (g) Minimization of tracking at all sites.
- (h) Clean up of off-site sediment deposits.
- (i) Proper disposal of building and waste materials at all sites.
- (j) Stabilization of drainage ways.
- (k) Control of soil erosion from dirt stockpiles.
- (l) Installation of permanent stabilization practices as soon as possible after final grading.
- (m) Minimization of dust to the maximum extent practicable.

(7) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a nonerosive flow from the structure to a watercourse so that the natural physical and biological characteristics and functions are maintained and protected.

(8) If best management practices cannot be designed to reduce the average annual sediment load by 80 percent, the plan shall include written and site-specific explanation as to why the 80 percent reduction goal is not attained.

(b) Erosion and sediment control plan statement. An erosion and sediment control plan statement shall be prepared for each construction site unless exempted under section 4. This statement shall be submitted to the clerk-treasurer. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the section, including the site development schedule.

(c) Review of the erosion and sediment control plan. Within 45 days of receipt of the permit application, erosion and sediment control plan or plan statement and application fee, the village board, with the assistance of the building inspector or the village's designee, shall review the application and the control plan or plan statement to determine if the requirements of this article are met. The village board may request comments from other departments or agencies. If the requirements of this article are met, the village board shall approve the plan or plan statement, inform the applicant and issue a permit. If the conditions are not met, the village board shall inform the applicant in writing and may either require needed information or disapprove the plan or plan statement. Within 30 days of receipt of needed information, the village board shall again determine if the plan or plan statement meets the requirements of this article. If the plan or plan statement is disapproved, the village board shall inform the applicant in writing of the reasons for the disapproval.

(d) Amendments. The applicant shall amend the plan if any of the following occur:

(1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.

(2) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(3) The village board or its designee notifies the applicant of changes needed in the plan.

(11) Inspection. If land disturbing construction activities are being carried out without a permit required by this article, village personnel may enter the land pursuant to the provisions of Wis. Stat. 66.0119(1), (2) and (3).

(12) Enforcement.

(a) The village board, or Village Clerk, may post a stop work order if any of the following occurs:

(1) Any land disturbing construction activity regulated under this article is being undertaken without a permit.

(2) The erosion and sediment control plan is not being implemented in a good faith manner.

(3) The conditions of the permit are not being met.

(b) If the responsible party does not cease activity as required in a stop work order posted under this article or fails to comply with the erosion and sediment control plan or permit conditions within ten days of being notified by the village board, or its designee, the village board may revoke the permit.

(c) If the responsible party where no permit has been issued does not cease the activity after being notified by the village board, or Village Clerk, or if a responsible party violates a stop work order posted under subsection (a) of this section, the village board may request the village attorney to obtain a cease and desist order in any court with jurisdiction.

(d) The village board, or Village Clerk, may retract the stop work order issued under subsection (a) of this section of the permit revocation under subsection (b) of this section.

(e) Ten days after posting a stop work order under subsection (a) of this section, the village board, may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this article. The village may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the village, plus interest at the rate authorized by the village shall be billed to the responsible party. If the responsible party fails to pay the amount due, the clerk-treasurer shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Wis. Stat. 66.0627.

(f) Any person violating any of the provisions of this article shall be subject to a fine of \$350.00 for 1st Offense and \$750.00 for 2nd Offence per the Village of Elmwood Park Ordinance fine schedule and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(g) Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction.

8.12 ACCESSORY STRUCTURES

(1) General Standards for Accessory Structures

- a. No person shall erect or construct an accessory structure on any lot within the Village of Elmwood Park without having secured the proper permits for construction from the Village.
- b. Nonconforming accessory structures that were constructed prior to the adoption of this Ordinance and fail to comply with the terms and requirements of this Ordinance may continue to exist subject to the following conditions:
 - i. Normal maintenance practices shall be permitted when such practices will keep the accessory structure in a safe, structurally sound, and in an aesthetically appealing condition.
 - ii. Except as otherwise provided by this ordinance, upon the destruction, removal or deterioration of a nonconforming accessory structure beyond 50% of its replacement cost, said structure shall not be constructed or reconstructed unless it complies with the provisions of this Ordinance.

(2) Limitation on Number of Accessory Buildings. With the exception of a permanent pool, there shall be no more than one detached garage and one shed permitted on any zoning lot.

(3) Shed Standards.

- a. Area: Sheds shall not exceed 120 square feet in area.
- b. Location: Sheds shall be located in the rear yard of the principal structure, and shall be located in a manner that they are not visible from a street. On corner or double-frontage lots, the structure may be visible from one of the streets, however, landscaping shall be incorporated in the site plan to buffer the structure from the street.
- c. Setbacks: The minimum setback requirements for sheds shall be as follows:
 - Front Lot Line: 35 feet; 60 feet along Taylor Avenue
 - Side Lot Line: 10 feet
 - Rear Lot Line: 10 feet
- d. Material and Design Standards: All applications for sheds shall not be approved unless the applicant can demonstrate that the following material and design standards have been met.
 - i. Foundation: All sheds shall be constructed on a concrete slab foundation or a concrete footing approved by the building inspector. If footings are used, the floor shall consist of landscape brick pavers on a base that has been prepared in

accordance with landscape industry standards. Patio blocks or similar cement-based products shall not be permitted unless approved by the village building inspector. No shed shall be constructed on a wood, dirt or aggregate floor.

ii. Architectural Design and Surface Materials: Sheds shall be constructed of wood frame construction and shall closely match the color, exterior surface, roof material and roof pitch of the principal structure. If the principal structure is made of brick, the shed may be constructed of beveled cedar siding, cement board installed so that it closely approximates beveled siding, aluminum or vinyl siding. Pre-constructed plastic resin, steel, aluminum and/or tin frame sheds shall not be permitted.

iii. Wall Height and Door Width: The side wall height of a shed shall not exceed 6.5 feet. The width of the entry door shall not exceed 6 feet.

iv. Electrical Connection: A shed may be served by electricity provided permits have been obtained and the connection approved by the electrical inspector.

e. All applications for sheds shall elude landscape plans for all sides that may be visible to adjacent properties and rights-of-way, instances where existing plant material exists on the property for which approval is sought, the existing plant material may be used to meet the landscape requirement provided that the quantity or condition of the material will not be negatively impacted by the construction of the shed.

(5) Detached Garages. Applications for detached garages that were legally established but fail to comply with the standards of this Ordinance may be considered for reconstruction if destroyed over 50% of their replacement value provided the following standards are met.

a. The detached garage does not exceed the limitation on the number of accessory buildings stated in Section 8.12 (2) of this Ordinance

b. Area: The garage shall not exceed 576 square feet in area. When there exists a shed on the property for which an application is to be considered, the total area of all accessory structures shall not exceed 700 square feet.

c. Location: detached garages may be constructed in the previous location with the approval of the Plan Commission provided the applicant can demonstrate that the previous location is the optimal location on the property and relocation of the garage to meet the standards of this section would create unusual conditions, an unnecessary hardship, or would impact their use of their property if the applicant was required to comply with the setback requirements of this Ordinance. When in the opinion of the Village Building Inspector, these conditions are not created; the following minimum setback requirements shall be met.

Setbacks:

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

Side Lot Line: 10 feet

Rear Lot Line: 25 feet

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

i. Foundation: All detached garages shall be constructed on a concrete slab foundation approved by the building inspector.

ii. Architectural Design and Surface Materials: Detached garages shall be constructed of wood frame construction and shall closely match the exterior surface, roof material and roof pitch of the principal structure. If the principal structure is made of brick, the garage shall be constructed of beveled cedar siding, cement board installed so that it closely approximates beveled siding, or aluminum or vinyl siding.

iii. Electrical Connection: A detached garage may be served by electricity provided permits have been obtained and the connection approved by the electrical inspector.

8.13 FENCES AND WALLS

(1) Materials. Fences shall be constructed of high-quality materials that resist weathering and deterioration. All wood fences shall be either cedar or pressure treated material. All steel, galvanized or aluminum fences shall be coated with an acrylic enamel paint or powdered finish to resist rust and corrosion. Walls shall be constructed of brick, masonry, architectural stone or similar materials, and must conform to the same height requirements as fences.

Chain link style fences are prohibited but may be permitted in the side or rear yards when the fence is consistent with an existing fence on an adjacent property. In the B-1 and P-1 Districts, chain link style fences may be permitted in all yards.

Temporary construction and/or erosion control fences require a permit.

All fences, unless further mentioned in this Ordinance to state otherwise, may not be less than 50% open to light.

(2) Prohibited Fences. No person shall construct or cause to be constructed, in whole or part, a fence with barbed wire, razor wire, agricultural fences, electrified wire, vinyl, snow fences, privacy slats, wood privacy, chain link fences, or any wire fabric within the Village. No fence shall have sharp edges or pointed pickets that could be dangerous to personal safety. No fence, wall or hedge shall be constructed or installed in the vision triangle specified in Section 9.09(1) of this Code.

a. Drainage. No fence shall be constructed so as to allow water to drain into any sanitary sewer nor to overflow upon or cause damage to any adjoining property.

(3) Exempt Fences. The following fences may be constructed in all districts and do not require a building permit or approval from the Village Board.

- a. Underground fences for confinement of domestic animals.
- b. Ornamental fences when less than 2.5 feet in height.

(4) Location.

a. Unless otherwise restricted in this Ordinance, fences or walls may be located on a lot line provided the owner has knowledge of the location and extent of their property line where the fence or wall will be constructed. By approving a fence or wall application, the Village assumes no responsibility for knowing the location of the owner's lot dimensions or knowledge of the property boundaries. This responsibility is placed solely on the owner of the property.

b. Within all zoning districts, fence posts, supporting framework and walls shall be located on the interior side of the lot facing the property being enclosed. The "finished" side of a fence shall face, the neighboring or adjacent property.

c. Street Yards.

i. In the R-1 Single Family Residential District, on an interior lot, no fence or wall shall extend from the rear of the existing residence toward the street right-of-way line.

ii. On corner lots, a fence shall not extend beyond the exterior limits of the principal structure toward the street right-of-way line unless approved by the Village Board as part of the application for site plan approval. On corner lots, any fence that is approved to extend into a street yard shall not be less than 75% open to light and shall incorporate landscaping on the side of the fence facing the street. Walls shall not be permitted to extend into any street yard on corner lots in the R-1 District.

iii. In the B-1 and P-1 Districts, fences may extend into a street yard provided the fence is over 75% open to light and landscaping is incorporated on the side of the fence facing the street. Walls shall not be permitted within a street yard of a B-1 or P-1 Districts unless the wall is to serve as a buffer against a residential use or district. In this instance, an adequate landscape buffer placed adjacent to the residential property shall be incorporated in the design of the wall to soften the impact on the neighboring property. Unless approved by the Plan Commission, a fence or wall shall not be constructed parallel with the front lot line adjacent to a street.

d. Side and Rear Yards. In all districts, fences or walls may extend into the side or rear yard provided all other locational requirements of this Ordinance are met.

e. Alleys. For lots adjacent to an alley, fences or walls may be constructed not closer than 2 feet from the right-of-way of an alley to permit the ease of snow removal and maneuvering of vehicles.

f. Any fence located in an easement area that must be removed so as to facilitate utility access or repair shall be removed at the fence owner's expense, without recourse to the Village or Utility.

g. When an existing fence of an adjacent property owner is built prior to the construction of a new fence by the permit-applicant, new fence shall not be constructed within 3 feet of adjoining property owners' fence. Property owners must maintain the annular space on their property, with fence being constructed to allow access to said space via a gate unless access is available via a side yard.

(5) Height.

a. In the R-1 District, fences or walls shall not exceed the height of 4 feet within the side and rear yards unless adjacent to a nonresidential use or district (commercial, industrial, or institutional properties), or adjacent to the City of Racine boundaries (only applies for properties on Green Meadows Ln). Raising the finished grade by placing fill solely for the purpose of adding additional height to a Fence is prohibited.

b. In the B-1 and P-1 Districts, fences shall not exceed the height of 6 feet in any yard unless associated with a recreational use or for security purposes and 75% open to the air. In these instances, the fences shall not exceed the height of 10 feet. Walls shall not exceed the height of 6 feet in any yard.

c. When approved by the Village Board, on corner lots, fences located in the street yard shall not exceed the height of 4 feet and shall incorporate landscaping on the side of the fence adjacent to the street right-of-way.

d. Decorative fence post caps shall not extend more than eight (8) inches above the maximum allowed fence height.

(6) Permit Issuance.

a. All fences require a permit issued by the Village of Elmwood Park before construction except those exemptions made in 8.13(3) of this Ordinance.

b. As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold harmless the Village of Elmwood Park from and against all claims, including without limitation boundary disputes, for injury or damage received or sustained by any person or entity in connection with the installation or construction of a permitted fence.

c. Any permit applicant requesting a variance from the Village of Elmwood Park Code of Ordinances, shall make a request through the Building Inspector to be placed for consideration of a variance by the Village Clerk to appear before the Village Board of Trustees.

d. The Building Permit Fee shall be \$12 per \$1,000 of construction cost, with a minimum of \$60. Plus, Village processing fee.

e. Failure to obtain a permit before construction shall result in the cost of double the Building Permit Fee. If after 7 days from notification by the Village Clerk, a permit has still not been applied for – this shall constitute the 1st Offense and be subject to a fine of \$200.50. If after 14 days, this shall constitute the 2nd Offense and be subject to a fine of \$389.50. The Building Inspector and any member of the Village Board of Trustees have the authority to recommend citations to the Village Clerk and contracted police service, and/or recommend removal of the fence in question with the contracted cost to be applied on the next year's property tax bill.

(7) Repair and Replacement.

a. Fences existing in any residential district prior to the effective date of this Ordinance are permitted to be:

i. Repaired for ordinary maintenance, including painting, staining, and cleaning. A fence shall be maintained in a structurally adequate condition as determined by the Building Inspector. Posts, supports, rails, boards, panels, etc. shall be repaired and replaced as reasonably required toward that purpose. No permit shall be required for such work.

ii. Replaced; provided, however, that a permit is obtained for the construction of the replacement fence.

b. A direct Replacement of a Fence may be processed by obtaining a permit so long as the same height or lower is kept and as is or better materials are used as determined by the Building Inspector.

(8) Penalty.

a. Any person or persons violating the provisions of this Ordinance shall upon conviction thereof, be assessed a fine of \$200.50 for the 1st Offense, \$389.50 for 2nd Offense, and \$641.50 for 3rd Offense with the cost of prosecution.

b. The Village Building Inspector, or by a majority vote of the Village Board of Trustees, shall have the power to order the emergency removal of a fence, or a portion thereof, where there is immediate danger to persons or property, or a significant maintenance concern by filing a notice with the Village Clerk.

Passed and Approved the November 14th, 2019

Section 8.13(7)(b) Amended June 18th, 2020