

## SECTION 1 - TITLE, PURPOSE AND EFFECTIVE DATE

### 1.01 Title

This ordinance shall be known, referred to and cited as the "Zoning Ordinance of the Village of Elwood."

### 1.02 Purpose and Intent

It is the intent that this section be adopted for the following purposes:

- A. To support the goals, objectives and policies of the Village or Elwood Comprehensive Plan.
- B. To provide that the public health, safety, comfort, morals, and welfare may otherwise be promoted.
- C. To provide that adequate light, pure air, and safety from fire and other dangers may be secured.
- D. To provide that the taxable value of land and buildings throughout the municipality may be conserved.
- E. To provide that congestion in the public streets may be lessened or avoided.
- F. To provide that the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters may be lessened or avoided.
- G. Preventing the overcrowding of land, through regulating and limiting the height and bulk of buildings hereafter erected as related to land area.
- H. Establishing, regulating and limiting the building or setback lines on or along streets or other property lines.
- I. Regulating and limiting the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding such building.
- J. Establishing standards to which buildings or structures therein shall conform.
- K. Prohibiting uses, buildings or structures incompatible with the character of their zoning district.
- L. Preventing additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder.
- M. Defining and limiting the powers and duties of the administration and bodies as provided hereinafter.
- N. Prescribing penalties for the violation of the provisions of this Ordinance or any amendment thereto.
- O. To prescribe rules and regulations for obtaining permits and certificates.
- P. To provide for the elimination of nonconforming uses of land, buildings and structures, which are incompatible and adversely affecting the character and value of desirable

development in each district.

- Q. To ensure adequate provision of public transportation, streets, highways, sewers, water mains, schools, recreation areas, and other public facilities.
- R. To protect against noise, vibrations, noxious fumes, explosion hazards, and other undesirable industrial and commercial hazards.

### **1.03 Effective Date**

The provisions of this Ordinance were originally adopted and became effective on \_\_\_\_\_, 2001.

### **1.04 Scope and Regulations**

- A. **New Uses:** No building or structure or part thereof shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered, and no building, structure or land shall hereafter be used, occupied, or arranged or designed for use or occupancy, nor shall any excavating or grading be commenced in connection with any of the above matters, except as permitted by the regulations of this ordinance for the zoning district in which such building, structure or land is located.
- B. **Existing Uses:** Except as may otherwise be provided, all building occurring hereafter to existing uses shall be subject to all regulations herein which are applicable to the zoning districts in which such building, uses or land shall be located.
- C. **Nonconforming Uses:** Any lawful building, structure or use existing at the time of the enactment of this Zoning ordinance may be continued. If a nonconforming use of land is discontinued for a period of six months it shall not be renewed, and any future use shall conform to the use regulations of the district in which the premises are located. No nonconforming use shall be expanded or changed to another nonconforming use. No building or structure devoted to a nonconforming use which has been lawfully condemned, damaged by fire or otherwise to the extent of more than fifty percent of its full cash value at time of loss shall be repaired or rebuilt.  
  
Nonconforming Mobile Homes: Mobile homes shall not be replaced.
- D. **Number of buildings on a zoning lot:** Except in the case of planned unit developments or through special use approval, not more than 1 principal building shall be located on a zoning lot.
- E. If a parcel is or has not been put to use consistent with zoning classifications under Ordinance 506, then those uses shall be terminated.

## **SECTION 2 - ADMINISTRATION AND ENFORCEMENT**

- 2.01 Plan Commission** - A Plan Commission is hereby authorized to be re-established. The members have been previously appointed by the Village President and Board of Trustees, and whose terms shall not be affected by the passage of this ordinance. The creation, membership, staffing and organization shall be in accord with the provisions of the statutes of the State of Illinois.
- 2.02 Membership and Appointment** - The Plan Commission shall consist of a total of seven members, including the Chairman of the Plan Commission, appointed by the President with the advice and consent of the Board of Trustees. Each member shall reside within

the Village of Elwood municipal limits. The President with the advice and consent of the Board of Trustees may remove any member of the Plan Commission after notice to the member. The term of the Chairman shall be 7 years.

- 2.03** Compensation - Members of the Plan Commission may receive compensation if so determined from time to time by the Board of Trustees for any regular, special, reconvened or adjourned meeting of the Plan Commission. Approved expenses of the Plan Commission or its members will be reimbursed by the Village upon presentation of a receipt showing payment.
- 2.04** Rules and Procedures - All meetings of the Plan Commission shall be convened at the call of the Chairman and at such other times as the acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Plan Commission shall be open to the public. The Plan Commission shall keep minutes of its proceedings, showing the vote of each member upon every question. No hearing shall be conducted without a quorum of the Plan Commission being present, which shall consist of a majority of all the members. The concurring vote of the simple majority of the Plan Commission members present shall be necessary on any matter brought before the Plan Commission. The Plan Commission shall adopt such other rules and procedures not in conflict with state statutes governing and regulating its business as it from time to time deems proper and necessary.
- 2.05** The powers and duties of the Plan Commission shall include the following:
- (1) Prepare and recommend to the Village Board a comprehensive plan for the present and future development of the Village.
  - (2) Recommend to the Village Board ordinances to implement the comprehensive plan.
  - (3) Recommend to the Village Board from time to time changes in the official comprehensive plan.
  - (4) Prepare and recommend to the Village Board from time to time plans for specific improvements in accord with the official comprehensive plan.
  - (5) Give aid to the Village officials charged with the direction of projects for improvements embraced within the comprehensive plan, to further the making of these projects, and generally, to promote the realization of the official comprehensive plan.
  - (6) Establish reasonable requirements governing the location, width, course and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment.
  - (7) Hold hearings on petitions for reclassification of zoning districts and for amendments to the zoning ordinance and to make recommendations on such petitions and amendments to the Village Board.
  - (8) Make recommendations to the Village Board for the subdivision and site plans for development and make recommendations to the Village Board on such plans and site plans.

- (9) Review all annexation and disconnection proposals and submit recommendations to the Village Board with such proposals and recommend a zoning classification for such land upon annexation.
- (10) Hear, consider and make recommendations to the Village Board on applications and petitions for all special use permits and variances.
- (11) Hear, consider and make recommendations to the Village Board on revocation of special use permits, variances and planned unit developments.
- (12) Review all reclassifications of zoning districts, special use permits, variances, and plats of subdivisions within our 1½ mile jurisdiction boundaries; as required by the Will County Land Use Department.

## 2.06 VARIATION

Purpose - It is the intent of this Section to provide for exceptions in the application of this Ordinance in order to provide for a flexible method for providing relief from the rigid requirements of this Ordinance.

Authorized Variations - Variations from the dimensional and/or quantitative requirements of the Ordinance may be considered and shall be granted only upon findings in compliance with this Ordinance.

- A. Standing - A request for a variation from this Ordinance may be made by a property owner, a contract purchaser, or anyone having a proprietary interest in the subject property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- D. Standards for Variations - The Plan Commission shall recommend the granting of a variation when and only when it has determined from evidence presented to them and placed on the record, that all the following standards have been met:
  1. That the requested variation does not permit a use otherwise excluded from that particular zoning district;
  2. That the relief sought cannot be accomplished except by the granting of the requested variation and that said variation is the minimum relief necessary to accomplish the relief sought;
  3. That the proposed variation will not impair an adequate supply of light or air to any other properties or uses, nor will it substantially increase the potential spread of fire or in any way endanger the public health or safety; and
  4. That the proposed variation will not adversely impact the value of other properties in the vicinity, nor will the granting of the variation adversely impact upon the ability of surrounding properties to be used and enjoyed for the purposes for which they have been planned and zoned, nor will it endanger the public health or safety.
  5. Adequate evidence was presented to establish an undue hardship so that a variance should be permitted because of evidence of the following conditions:

- a. Strict enforcement of the code would involve practical difficulties or impose exceptional hardship.
  - b. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the particular zoning district.
  - c. The plight of the owner is due to unique circumstances.
  - d. The variation, if granted, will not alter the essential character of the locality.
- E. Conditions of Variations - The Plan Commission may recommend and the Village Board may require such conditions and restrictions upon the subject property as may be necessary to guarantee that the implementation of the variation will further the standards set forth in this Ordinance.
- F. Expiration - No variation shall be valid for a period greater than twelve months (one year) from the date of the final vote by the Village Board of Trustees.

## **2.07 APPEALS**

Scope of Appeals - An appeal of a decision of the zoning officer to the Plan Commission and Village Board may be taken by an aggrieved party.

### Application

- A. Standing - An appeal shall be filed within forty-five (45) days after the decision of the officer.
- B. Filing - The appeal shall be filed in writing with 10 copies to the Village Clerk, Village Attorney, and the Plan Commission. Said appeal shall contain at a minimum the disputed section of the Zoning Ordinance and the applicant's interpretation of the disputed section.

Transmittal of Record - The Village Clerk, at the time of the filing of an appeal, transmit to the Plan Commission all the records, plans and other documents in his possession which constitute a record upon which the appeal was made.

Effort of Appeal - An appeal shall stay all proceedings in furtherance of the action appealed. If, however, the applicant certifies in writing that such a stay would cause eminent peril to life, and/or property, the proceedings would not be stayed.

## **2.08 AMENDMENTS**

Authority - The regulations imposed and the districts created under the authority of this Ordinance may be amended by Ordinance from time to time in the manner provided by the Illinois State Statutes and this Ordinance.

### **(1) Text Amendments**

- A. Standing - An application for an amendment to the text of this Ordinance may be filed by any interested party including the Village Board, the Plan Commission, any resident of Elwood, any owner of land within the corporate limits or any individual who is the contract purchaser of land either within the corporate limits or contiguous to the corporate limits.

- B. Filing - An application for text amendment shall be filed with the office of the Village Clerk. Said application shall include at a minimum the relevant portion of the text for which the amendment is proposed and the exact wording of the proposed new text.
- C. Standards - Within thirty (30) days of the close of the public hearing the Plan Commission shall make a recommendation accompanied by such findings as supported by the evidence with respect to the following matters:
  - 1. That said amendment(s) is consistent with the purpose and intent of the Ordinance;
  - 2. That said amendment(s) is consistent with Village policy;
  - 3. That said amendment(s) does not unnecessarily create a hardship on property owners such as created by numerous non-conformities;
  - 4. That said amendment(s) are not in conflict with this Ordinance or other Village Ordinances.

(2) Map Amendments

- A. Standing - An application for an amendment to the official zoning map may be filed by the Board of Trustees, the Plan Commission, the owner of the subject property or anyone having a proprietary interest in the property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. Standards – The Plan Commission shall make recommendations based upon the evidence presented to it in each specific case with respect to the following matters:
  - 1. Existing uses of property within the general area of the property in question.
  - 2. The zoning classification of property within the general area of the property in question.
  - 3. The suitability of the property in question for the uses permitted under the existing zoning classification.
  - 4. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was placed in its present zoning classification.
  - 5. The length of time the property has been vacant as zoned considered in the context of land development in the area surrounding the subject property.
  - 6. The extent to which property values are diminished by particular zoning restrictions.
  - 7. The extent to which the proposed rezoning conforms with the comprehensive plan; or conditions or trends of development have

changed in the area to warrant the need for a different type of land use or density.

8. Adequate public facilities and services exist or can be provided.
- G. Effect of Denial of a Map Amendment – No application for an amendment which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of said order of denial, except on grounds of new evidence or proof of changed conditions found to be valid by the Board.
- H. Reversion of Zoning – If a lot or parcel for which a map amendment has been issued has not been put to a bona fide use or uses permitted in the amended district within two (2) years after the ordinance or order making the amendment, the Village may revert the zoning classification of the property to the zoning district present before the amendment.

Initiation of Reversion – Reversions may be proposed by the Village Board, Plan Commission, or by any person aggrieved by the map amendment.

## **2.09 SPECIAL USES**

Purpose – In order to accomplish the general purpose and intent of this Ordinance, certain uses in each zoning district are classified as Special Uses. Because of their unique characteristics, such uses often require larger land areas or need specific regulations to achieve compatibility with existing development. The effects of such uses cannot normally be foreseen until a specific site is proposed. These uses then must be given careful consideration relative to the existing and proposed development in the area.

- A. Standing – Application for a Special Use may be made by the Village, the owner of the subject property or anyone having proprietary interest in the subject property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. Standards – A Special Use other than a Planned Unit Development shall be authorized only when the Plan Commission shall find all of the following:
  1. Compatible with Existing Development – The nature and intensity of the activities involved and the size and placement of any structures proposed will be so planned that the Special Use will be compatible with the existing development and will not impede the normal and orderly development and improvement of surrounding property.
  2. Lot of Sufficient Size – The size of the lot will be sufficient for the use proposed.
  3. Traffic – The location of the Special Use within the Village will be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the Special Use.
  4. Parking and Access – Parking areas will be of adequate size for the particular use and properly located, and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.

5. Effect on Neighborhood – In all respects, the special use will not be significantly or materially detrimental to the health, safety and welfare of the public or injurious to the other property or improvements in the neighborhood, nor will it diminish or impair property values in the surrounding area.
  6. Adequate Facilities – That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided.
  7. Adequate Buffering – Adequate fencing and/or screening shall be provided to ensure the enjoyment of surrounding properties, to provide for the public safety or to screen parking areas and other visually incompatible uses.
- C. Standard – The Plan Commission recommendation shall be consistent with the Objectives and Intent of this Ordinance and shall refer to specific zoning district standards as a guide to the establishment of requirements for each special use.
- D. Conditions – The Plan Commission shall recommend such conditions or restrictions upon the location, construction, design and operation of a Special Use as they shall find necessary and appropriate to assure compliance with the requirements set forth in this Ordinance and the Objectives and Intent of this Ordinance. These conditions may include, but are not limited to, regulations regarding landscaping, signage, adequate drainage of storm water, exterior lighting, fence height and the duration of the Special Use.
- E. Effect of Denial of a Special Use - No application for a Special Use which has been denied wholly or in part by the Board of Trustees shall be re-submitted for a period of one (1) year from the date of the decision, except on the grounds of new evidence or proof of changed conditions found to be valid by the Plan Commission and the Board of Trustees.
- F. Time Limits - A Special Use shall become null and void if not established or actively pursued within one (1) year of the date of approval except for a Planned Unit Development as provided in Section 7, Planned Unit Development.

## **2.10 PROCEDURE FOR VARIANCES, AMENDMENTS, REVERSION, AND SPECIAL USES.**

- A. Filing - Application shall be filed in writing with the Village Clerk and shall be accompanied by such documents and information as the Plan Commission requires. A specific list of direction or requirements are available from the Village Clerk.
- B. Public Hearing
1. Timing - The Plan Commission shall hold a public hearing within sixty (60) days of approval of a completed application.
  2. Public Notice - The petitioner shall provide a list to the Village Clerk of every owner of property within two hundred fifty feet (250'), exclusive of right-of-way, of the subject property. These owners shall be notified of the hearing by certified mail not more than thirty (30) days nor less than fifteen (15) days before the date of the hearings. A list of the owners shall be provided to the Village Clerk not less than thirty (30) days before the



date of the public hearing. The notification shall be made by the Village Clerk at the expense of the applicant.

Text Amendments, Appeals and Zoning Reversions are subject to a public hearing, however, said applications are not subject to notification of adjacent property owners.

The Village Clerk shall publish the notice of said hearing in a newspaper of general local circulation. Such notice shall be mailed and published not more than thirty (30) days nor less than fifteen (15) days before the date of the hearings. The notice shall be mailed to the list of property owners as provided by the applicant.

The Public notice shall contain, at a minimum, the following information:

1. Date, Time, and Place of hearing;
2. Legal description of subject property;
3. Common address of subject property; and purpose of hearing.

(If a specific property is not the subject of approval (ex. Text amendment, Appeal), the notice must include a description of the amendment or appeal.

3. Posting of Property – For Map Amendments, the applicant shall have the subject property posted at least fifteen (15) days prior to the public hearing. Signs must be conspicuously posted with at least one sign being visible from each public thoroughfare that abuts the property.

C. Decisions - The concurring vote of a simple majority of the Plan Commission members present shall be required to affirmatively recommend the granting of any case. The Plan Commission shall decide the case exclusively based upon the evidence and sworn testimony presented and made part of the public record. The Plan Commission Chairman shall provide to the Village Board within thirty (30) days of the vote of the Plan Commission a report and findings-of-fact showing the time and place of the meeting, the action taken by the Plan Commission, the members present, the applicants present, any objectors, all petitions, papers, plans, and maps regarding the case, the publication notice, the vote of the Plan Commission, its recommendations and any other information pertinent to the subject request. These documents should be filed with the Village Clerk and placed in the file made by the Village Clerk at the time of the original petition by the applicant.

G. Action by the Board of Trustees - Upon receipt of the recommendation and findings of the Plan Commission, the Village Board of Trustees may approve the request, with or without change, may reject the request or may refer it back to the Plan Commission for further consideration. Where the Plan Commission has recommended denial of the request, said request may only be passed by a three-fourths vote of the Village Board of Trustees voting on the matter. The Board shall make a decision and file its findings within sixty (60) days of the Plan Commission recommendation.

If an application for a request is not acted upon finally by the Board within sixty (60) days of the time of receipt of the recommendation, it shall be deemed to have been denied unless an additional and specific period of time is granted by the Board.

The decision reached by the Board shall take into account findings of the Plan Commission. A copy of the findings of the Board shall be provided to the Plan Commission.

Conditions of Approval:

1. **Conditions** - The Board of Trustees shall stipulate, upon the recommendation of the Plan Commission, such conditions and restrictions as deemed necessary for the protection of public interest and to secure compliance with the standards enumerated above.
  2. **Guarantees** - The Board of Trustees may require such evidence and guarantees as it may deem necessary to insure compliance with the stipulated conditions.
  3. **Review** - The Board of Trustees may stipulate that all such conditions and restrictions may be modified or revised from time to time by the Board of Trustees following notice and hearing.
- H. **Effect of a Denial** - No application which has been denied wholly or in part by the Board of Trustees shall be resubmitted for a period of one year from the date of said order of denial except on the showing of new evidence or proof of substantially changed circumstances or conditions which relate directly to the reasons for denial. Such a new hearing may be ordered only by the Village Board of Trustees.
- 2.11 ACTIONS AND DECISIONS** - All actions and decisions of the Plan Commission are recommendatory and advisory only. The Village Board shall make all final decisions regarding matters brought before the Plan Commission.
- 2.12 FEES** - The Village Board shall establish from time to time the fees necessary to appear and conduct business before the Plan Commission, including fees for reproduction of any public records of the Plan Commission.
- Fees Required** - Any application for Variations, Appeals, Amendments, Special Use/Planned Unit Developments and Annexations shall be accompanied by the requisite fee set forth in the fee schedule adopted by March of each year concurrently with the official zoning map.
- 2.13 RECORDS** - Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Plan Commission shall be filed in the office of the Village Clerk and shall be available for inspection by the public during office hours in accordance with state statutes and ordinances of the Village.
- 2.14 SITE PLAN APPROVAL** - Under separate cover
- 2.15 PENALTIES** - Violation of any provision of this chapter or any amendment or supplement thereto, or failure to comply with any of the requirements of this chapter shall constitute a misdemeanor. Any person, firm or corporation that violates any provisions of this chapter, or any amendment or supplement thereto, shall, upon conviction, be fined not less than \$25.00, nor more than \$500.00 for each offense. Each day a violation exists after notification thereof shall constitute a separate offense.