

4-7-09

ELKHART ZONING ORDINANCE

ELKHART, ILLINOIS

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## ARTICLE I -- AUTHORITY

1.1 -- Authority -- WHEREAS, the Village Board of Elkhart, Illinois, deems it necessary, in order to conserve the value of property in the Village, and to the end that building development may be directed to the best advantage of the entire village, that adequate light, pure air and safety from fire and other dangers may be secured, and that public health safety, comfort, morals and welfare may otherwise be promoted in accordance with a well-considered plan for the use and development of all property in the village, NOW THEREFORE,

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ELKHART, ILLINOIS, UNDER AUTHORITY OF THE ILLINOIS STATE STATUTES.

## ARTICLE II -- INTENT AND PURPOSE

This Ordinance, providing minimum requirements, is adopted for the promotion and protection of public health, safety, comfort, prosperity and general welfare. The Village Board shall have the authority:

- 2.1 -- To regulate and limit the height and bulk of buildings hereafter to be erected.
- 2.2 -- To establish, regulate and limit the building of set-back lines on or along any street, traffic way, drive, parkway or store or floodwater runoff channel or basin.
- 2.3 -- To regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of open spaces.
- 2.4 -- To classify, regulate and restrict the location of trades and industries, and the location of buildings designed for specified industrial, business, residential, and other uses.
- 2.5 -- To divide the entire Village into districts of such number, shape, area, and of such different classes as may be deemed best suited to carry out the purposes of this Ordinance.
- 2.6 -- To establish reasonable standards to which buildings or structures therein shall conform.
- 2.7 -- To prohibit uses, buildings or structures incompatible with the character of such districts.

- 2.8 -- To prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed under this Ordinance.
- 2.9 -- To classify, to regulate and restrict the use of property on the basis of family relationship.
- 2.10 -- To isolate or control the location of unavoidable nuisance producing uses.
- 2.11 -- To define the powers and duties of the administrative bodies as provided herein.
- 2.12 -- To prescribe penalties for the violation of the provisions of this Ordinance or any amendments thereto.

#### ARTICLE III -- GENERAL PROVISIONS

- 3.1 -- CONTROL OVER USE -- Except as provided herein, no building, structure or land shall hereafter be used and no building or part hereof or structure shall be erected, constructed, reconstructed, occupied, moved, altered or repaired, except in conformity with the regulations herein specified for the class of District in which it is located.
- 3.2 -- CONTINUING EXISTING USES -- Any building, structure, or use lawfully existing at the time of enactment of this Ordinance may be continued except certain non-conforming uses as provided in Article V.
- 3.3 -- CONTROL OVER BULK -- All new buildings shall conform to the bulk regulations established herein for the District in which each building is located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted or relocated in such manner as to conflict or further conflict with the bulk regulations of this Ordinance for the District in which such building shall be located.
- 3.4 -- BUILDING ON LOT -- In every Residence District, every dwelling hereafter erected or structurally altered shall be located on a lot and in no case shall there be more than one principal structure on one lot.
- 3.5 -- STREET FRONTAGE AND ACCESS -- No lot shall contain any structure used as a dwelling unless it abuts and has primary means of access to at least thirty (30) feet of street frontage. No structure, other than the principal structure on the same lot shall be used as a dwelling except for domestic employees of the owners or of the tenants of the principal structure as provided in Section 3.6.



**3.6 -- ACCESSORY BUILDINGS, STRUCTURES AND USES**

- 3.61 -- Accessory buildings, structures and uses shall be compatible with the principal uses and shall not be established prior to the establishment of the principal use.
- 3.62 -- No accessory building, structure, or use excepting therefrom a private garage shall be erected in any yard other than a rear yard, nor shall it occupy more than thirty (30) per cent of a rear yard. An accessory building, structure or use in a rear yard shall not be less than six feet from any property line, except that on a corner lot, a reversed corner lot, or a through lot, such accessory building, structure or use shall be set back from the property line adjoining a street the distance required for a front yard, unless otherwise required herein for a specific permitted or conditional use. A private garage shall not be erected in the front yard and shall be not less than six (6) feet from any property line.
- 3.63 -- No accessory building, structure or use shall encroach upon that side yard or a corner lot which is adjacent to the street, upon that side yard of a reversed corner lot which is adjacent to the street upon that part of a rear yard or of a through lot, which is within thirty-five (35) feet from the street line abutting the rear lot line or upon a front yard, except as permitted herein for specific uses.
- 3.64 -- An accessory building, structure, or use may be erected as an integral part of the principal building, or, if at least six (6) feet therefrom, may be connected thereto by a breezeway or similar structure, provided all yard requirements of this Ordinance for a principal structure are complied with, unless such accessory building in a rear yard, in which case, subsection 3.62 shall be applicable.

**3.7 -- YARDS, GENERAL --**

- 3.71 -- All yards and other open spaces allocated to a building (or group of buildings comprising one principal use) shall be located on the same lot as such building. The maintenance of yards and other open space and minimum lot are legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space or minimum lot area allocated to any building shall by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

3.72 -- No Improved lot shall hereafter be divided into two or more lots and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform with all the applicable bulk regulations of the Zoning District in which the property is located.

3.73 -- No yards, now or hereafter provided for a building existing on the effective date of this Ordinance shall subsequently be reduced below or further reduced if already less than the minimum yard requirements of this Ordinance for equivalent new construction.

3.8 -- PERMITTING OBSTRUCTIONS IN REQUIRED YARDS

3.81 -- In Any Yard(s) -- Marquees and awnings adjoining the principal building; overhanging roof eaves; chimneys, if they do not exceed ten percent (10%) of the required depth of the yard. Ornamental light standards, flag poles, arbors, trellises, trees, shrubs, coin operated telephones, permitted signs and outdoor fuel dispensing equipment.

3.82 -- On Corner Lots -- Obstructions not higher than thirty (30) inches above the curb level, if located within thirty (30) feet of the curb corner, formed by the intersection of two streets.

3.83 -- In Side Yards -- Open and/or enclosed accessory off-street parking spaces, except in a side yard abutting a street.

3.84 -- In Rear Yards -- Balconies, breezeways, and open porches; open off-street parking spaces; enclosed, attached or detached off-street parking spaces; accessory sheds, tool rooms or any similar structures customarily accessory to the principal use.

3.9 -- CONDITIONAL PERMITTED USES

3.91 -- To provide for the location of certain uses with unique characteristics herein specified which are deemed appropriate within a given District or Districts, but which might have an unusual impact or adverse effect upon surrounding properties, the Zoning District, or the entire community, a classification of Conditional Permitted Use is hereby established.

3.92 -- The location, design and conditions of operation of said uses require special administrative review. Conditional Permitted Uses may be developed in the Districts specified if special permits are granted after findings are made by the Zoning Board of Appeals that the special standards and conditions have been met.



- 3.93 -- Where a use exists on the effective date of this Ordinance and it is classified as a conditional use in the District in which it is located by this Ordinance, it shall be considered to be a lawful Conditional Permitted Use.
- 3.10 - ZONING OF ANNEXED TERRITORY -- Any additions to the Village of Elkhart shall be automatically classified among the R-1, Single-Family Residence Districts until otherwise classified by Amendment to this Ordinance.
- 3.11 - APPLICATION OF OVERLAPPING REGULATIONS -- This Ordinance is not intended to abrogate any easement, covenant or other private agreement provided that where the regulations of this Ordinance are more restrictive or impose higher requirements than such easements, covenants or other private agreements, the requirements of this Ordinance shall govern.
- 3.12 - TENTS -- No tents shall be erected, used or maintained for living quarters except as temporary shelter in approved recreation areas.
- 3.13 - EXEMPTIONS
- 3.131 - The following essential public utility uses are exempted by this Ordinance and permitted in any district: Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distributing equipment for telephone or other communications and electric power, gas, water and sewer lines.
- 3.132 - Steeples of churches and other houses of worship are further exempt from the provisions of this Ordinance herein.
- 3.14 - SEPRABILITY -- If any of the provision of this Ordinance, or amendments thereto, or the application thereof to any lot, building or other structure or tract of land are declared by a court of competent jurisdiction to be invalid or ineffective in whole or in part or to be inapplicable to any person or situations, the effect of such decision shall be limited to the provisions or provisions which are expressly stated in the decision to be invalid or ineffective, or to the lot, building or other structure or tract of land immediately involved in the controversy. Such judgement shall not affect the application of the provisions of this Ordinance to any other property, building or structure not specifically included in said judgement.
- 3.15 - EFFECTIVE DATE -- This Ordinance shall be in full force and effect immediately after passage and approval by the Elkhart Village Board of Trustees and publication in Ordinance book form according to law.

ARTICLE IV -- CONSTRUCTION OF LANGUAGE AND DEFINITIONS

- 4.1 -- RULES FOR THE CONSTRUCTION OF LANGUAGE -- The following rules shall apply to the text of this Ordinance:
- 4.11 -- The particular shall control the general.
  - 4.12 -- In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
  - 4.13 -- The word "shall" is always mandatory, whereas the word "may" is permissive.
  - 4.14 -- Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural, the singular, unless the context clearly indicate the contrary.
  - 4.15 -- A "building" or "structure" include all parts thereof.
  - 4.16 -- The phrase "used for" includes "arranged for", "designed for", "maintained for", and/or "occupied for".
  - 4.17 -- The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
  - 4.18 -- The conjunction "and" indicates that all the connected items, conditions, provisions, or events shall apply. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination. "Either. . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
  - 4.19 -- All measured distances shall be to the nearest integral foot; If a fraction is one-half foot more, the integral foot next above shall be taken. If a fraction is one-half foot less, the integral foot next lower shall be taken.
  - 4.110 -- The masculine gender includes the feminine and neuter.
- 4.2 -- DEFINITIONS -- The following words, phrases and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:
- 4.21 -- ACCESSORY USE OR STRUCTURE -- A use or a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.



- 4.22 -- ADMINISTRATIVE OFFICER -- An official or officials appointed by the Village President with approval of the Village Board of Trustees to administer and enforce the Zoning Ordinance of the Village of Elkhart.
- 4.23 -- AGRICULTURAL USES -- Land, including necessary buildings and structures which shall be used for agriculture including, but not limited to, farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry, as well as the necessary accessory uses shall be secondary to that of the normal agricultural activities.
- 4.24 -- ALLEY -- A public way which affords only secondary means of access to abutting properties.
- 4.25 -- AUTOMOTIVE SERVICE STATIONS -- Any building or portion thereof on premises to which the motoring public is invited for automotive refueling from underground storage tanks through fixed equipment and for replenishment of automotive supplies and where any of the following services to the motoring public is permissive: Replacement, adjustment or repair of lights, tires, batteries, accessories and minor parts; and when rendered wholly within a building, brake adjustment, engine tuning, drainage and replacement of crank and gear case lubricants, chassis lubrication, washing and cleaning (but not automotive laundry); all rendered wholly within lot lines.
- 4.26 -- AUTOMOBILE WRECKING YARD -- Any area of land where two or more motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for the wrecking or storing of such motor vehicles, or parts thereof, not in running condition.
- 4.27 -- BASEMENT -- That portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor is less than the vertical distance from grade to ceiling.
- 4.28 -- BILLBOARD -- A type of sign, having more than fifty (50) square feet in outside dimensions, which is either erected on the ground or attached to or supported by a building or structure.
- 4.29 -- BLOCK -- A tract of land bounded by streets by a combination of one or more streets and public parks, cemeteries, railroad rights-of-way, corporation boundary lines or demarcation.
- 4.210 -- BUILDABLE AREA -- The portion of a lot remaining after the yard requirements (front, rear and side) have been fulfilled.

- 4.211 - BUILDING -- Any structure which is built for the support, shelter, or enclosure of persons, animals, or movable property of any kind which is permanently affixed to the land. Mobile Homes and other items assessed as personal property shall not be construed as a building or structure.
- 4.212 - BUILDING AREA -- The area bounded by the exterior dimensions of the outer walls at the ground line.
- 4.213 - BUILDING, COMPLETELY ENCLOSED -- A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior or party walls, openings to the exterior being only by windows and normal entrance or exit doors.
- 4.214 - BUILDING, DETACHED -- A building surrounded by open space on the same lot.
- 4.215 - BUILDING, TEMPORARY -- Any building not designed to be permanently located in the place where it is, or where it is intended to be placed or affixed.
- 4.216 - BULK -- The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and including the following:
- a. Size and height of buildings;
  - b. Location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
  - c. Cross floor area of buildings in relation to lot area (floor area ratio);
  - d. All open space allocated to buildings;
  - e. Amount of lot area provided per dwelling unit.
- 4.217 - CELLAR -- That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.
- 4.218 - CLINIC -- An establishment where patients for some medical service, who are not lodged overnight, are admitted for examination or treatment by a physician and/or practitioners practicing together.

- 4.219 - CLUB OR LODGE, PRIVATE -- A building or portion thereof, or premise-owned and/or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.
- 4.220 - CURB LEVEL -- The level of the established curb in front of a building or structure measured at the center of such front. Where no curb level has been established, it shall be deemed to be the established level of the center line of the street surface in front of a building or structure measured at the center line of such front.
- 4.221 - DISTRICT, ZONING -- Any portion of the Village for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards. The intensity of uses are uniform within each District.
- 4.222 - DRIVE - IN ESTABLISHMENT -- Any place or premises principally used for the sale, dispensing, or serving of food, refreshment, beverages or other goods in automobiles, including those establishments where customers may serve themselves and may consume the food, refreshments, beverages, or other goods on or off the premises.
- 4.223 - DWELLING -- A building or portion thereof which is designed for or used for residential purposes.
- 4.224 - DWELLINGS, ATTACHED (GROUP, ROW AND TOWN HOUSES) -- A dwelling joined to two other dwellings by party wall.
- 4.225 - DWELLING, DETACHED -- a residential building which is entirely surrounded by open space on the same lot.
- 4.226 - DWELLING, SEMI-DETACHED -- A dwelling joined to one other dwelling by a party wall.
- 4.227 - DWELLING, SINGLE-FAMILY -- A detached residential dwelling unit, other than mobile homes, designed for and occupied by one (1) family only.
- 4.228 - DWELLING, TWO-FAMILY (DUPLEX) -- A residential building containing two dwelling units, including detached, and semi-detached dwellings.
- 4.229 - DWELLING, MULTIPLE-FAMILY (APARTMENT) -- A building or portion thereof containing three or more dwelling units. The number of families in residence shall not exceed the number of dwelling units provided.



- 4.230 - DWELLING, MOBILE HOME -- A detached residential dwelling unit designed for transportation, after fabrication, on street or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking or assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and to the like. A travel trailer is not to be considered as a mobile home.
- 4.231 - DWELLING UNIT -- A room or group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers not so related, and which includes complete kitchen and bathing facilities permanently installed.
- 4.232 - FAMILY -- One or more person related by blood, marriage or legal adoption, or a group of not more than three persons not so related, occupying a dwelling and living as a single housekeeping unit, and doing their own cooking on the premises. Domestic servants employed on the premises may be housed on the premises without being counted as a family or families.
- 4.233 - FLOOR AREA, CROSS -- For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.
- 4.234 - FRONTAGE -- All the property on one side of a street between two (2) intersecting streets, highways, or some other physically evident line of demarcation, measured along the front property lines.
- 4.235 - GARAGE, PRIVATE -- An accessory building or portion thereof, designed or used for the storage of motor driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle exceeding two (2) ton capacity.
- 4.236 - GARAGE, PUBLIC -- A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles, with or without compensation.



- 4.237 - HEIGHT, BUILDING -- "Building height" is the total number of stories in a building, and the vertical distance measured from grade to the highest point of the roof adjacent to the street wall for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, gambrel or pent roof.
- 4.238 - HOME OCCUPATION -- Any occupation or activity incidental to residential use, when carried on in the principal structure by one or more members of the immediate family residing on the premises, in connection with which there is used no sign other than a non-illuminate name plate not more than one (1) square foot in area or no display used that will indicate from the exterior that the building is being used for any purpose other than that of a dwelling. There is no commodity sold on the premises; no more than one person is employed other than a member of the immediate family residing on the premises; and no mechanical or electrical equipment is used except of the type that is similar in character to that normally used for purely domestic or household purposes.
- Home occupation shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman, or other professional person for consultation or emergency treatment but not for the general practice of his profession. However, a home occupation shall not be interpreted to stables and kennels.
- 4.239 - HOTEL -- A building containing lodging rooms, a general kitchen and dining room, a common entrance lobby, halls and stairway; where each lodging room does not have a doorway opening directly to the outdoors, except for emergencies; and where more than 50 per cent of the lodging rooms are for rent to transient guests, with or without meals, for a continuous period of less than 30 days.
- 4.240 - HOTEL, APARTMENT -- An "Apartment Hotel" is a hotel which has more than 50 per cent of the lodging rooms available for permanent guest, without or with meals, for a continuous period of thirty (30) days or more.
- 4.241 - JUNK OR SALVAGE YARD -- An open area or fenced-in enclosure, where used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junk yard includes an auto-wrecking yard, but does not include uses established entirely within enclosed buildings.
- 4.242 - KENNEL -- Any lot or premises on which are kept four (4) or more dogs, more than six (6) months of age.
- 4.243 - LAUNDROMAT -- An establishment providing home-type washing, drying, or ironing machines for hire to be used by customers on the premises.

- 4.244 - LOADING SPACE -- An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.
- 4.245 - LOT -- A parcel of land, whether legally described or subdivided as one or more lots or parts of lots, located within a single block; and which is occupied or intended for occupancy by one principal building or use, together with any accessory buildings and such open spaces and off-street parking and/or loading space as are required by this Ordinance; and having its principal frontage upon a street.
- 4.246 - LOT AREA -- The computed area contained within the lot lines.
- 4.247 - LOT, CORNER -- A lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.
- 4.248 - LOT DEPTH -- The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.
- 4.249 - LOT INTERIOR -- Any lot other than a "corner lot" or a "through Lot".
- 4.250 - LOT LINE -- A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.
- 4.251 - LOT LINE, FRONT -- That boundary of a lot which is along an existing or dedicated street. The owner of a corner lot may select either street lot line as the front lot line. The minimum setback from the side lot line along a street shall be the same as the minimum front yard setback, except the buildable lot width may not be reduced below 30 feet.
- 4.252 - LOT LINE, REAR -- That boundary of a lot which is most distant from and is, or is approximately, parallel to the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line ten feet in length within the lot; parallel to an at the maximum distance from the front lot line.
- 4.253 - LOT LINE, SIDE -- Any boundary of a lot which is not a front or rear lot line.



- 4.254 - LOT, REVERSED-CORNER -- A corner lot, the side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- 4.255 - LOT, THROUGH (DOUBLE FRONTAGE LOT) -- A lot having a pair of lot lines along two public streets which are more or less parallel, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- 4.256 - LOT WIDTH -- the mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.
- 4.257 - LOT OF RECORD -- a lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Deeds of Logan County; or a parcel of land, the deed of which was recorded in the office of the Recorder of Deeds of Logan County prior to the adoption of this Ordinance.
- 4.258 - MOTOR COURT OR MOTEL -- A series of attached, semi-attached or detached sleeping or living units, each with its own bathroom and each unit having a doorway opening directly to the out of doors, designed for the accomodation of automobile transient guests.
- 4.259 - MOTOR FREIGHT TERMINAL -- A building or premises in which freight is received or dispatched by motor vehicle.
- 4.260 - NAME PLACE -- A sign indicating the name and address of a building, or the name of an occupant thereof and/or the practice of a permitted occupation therein.
- 4.261 - NON-CONFORMING BUILDING OR OTHER STRUCTURE -- A "non-conforming" building or other structure is any lawful use of a building or other structure or a tract of land, which does not conform to the applicable use regulations for the District, either on the effective date of this Ordinance or as a result of a subsequent amendment thereto.
- 4.262 - NOXIOUS MATTER -- Material which is capable of causing injury or malaise to living organisms by chemical reaction, or is capable of causing detrimental effects upon the health or the psychological, social, or economic well-being or human beings.
- 4.263 - NURSING HOME -- An establishment for the aged, chronically ill, or incurable person in which three (3) or more persons not of the immediate family are received, kept, or provided with food or shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick, injured, or mentally ill.

- 4.264 - OPEN SALES LOT -- Any land used or occupied for the purpose of buying and selling merchandise, passenger cars, trucks, any form of trailers, motor scooters, motorcycles, boats, and monuments, or for the storing of same prior to sale.
- 4.265 - PARK -- Any publicly owned park, playground, parkway or roadway within the jurisdiction of the Village Board of Elkhart or any other park or playgrounds not operated for profit.
- 4.266 - PARKING SPACE -- An on-property permanently surfaced area of not less than 200 square feet, either within a structure or unenclosed, exclusive of driveway or access drives, for the parking of one motor vehicle. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. Required off-street parking space in residential districts shall not be provided in the required front yard or a required side yard abutting a street. The driveway providing access to the required off-street parking shall be a dustless all weather surface. Vehicles parking in the front yard shall be parked on the driveway.
- 4.267 - ROOMING HOUSE -- A building or portion thereof other than a hotel, occupied by a resident family, or resident occupant, and more than three persons, who are not members of the resident family, who pay compensation, for lodging and meals.
- 4.268 - ROW HOUSES -- Three or more single-family dwellings, joined by common side walls having no openings, and facing in the same direction.
- 4.269 - SANITARY LAND FILL -- An operation by which refuse is deposited, compacted, and covered by a layer of earth at the end of each day of operation. Any area under sanitary land operations within the Village of Elkhart shall meet the minimum requirements as specified by the Illinois Department of Public Health as adopted and amended at the time of operation.
- 4.270 - SCREENING -- A structure of densely planted vegetation serving as a screen that shall conceal from view the areas behind it.
- 4.271 - SETBACK -- The minimum horizontal distance permitted between the front, side, or rear line of a building, disregarding steps and unroofed porches, and the nearest street or alley right-of-way line.

NOTE: Lot types are graphically presented in Appendix A.



- 4.272 - SIGN -- A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or place of land; and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public notices nor shall it include a sign located completely within an enclosed building unless the context shall be exposed to view from a street. Each display surface of a sign shall be considered to be a sign.
- 4.273 - SIGN, FLASHING -- Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any moving, illuminated sign shall be considered a flashing sign.
- 4.274 - SIGN, AREA OF -- The total exterior surface computed in square feet on a sign having but one exposed exterior surface. On signs having two or more exposed exterior surfaces, the gross area shall be the total of its component surfaces.
- 4.275 - STORY -- That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story for the purposes of this Ordinance when more than one-half of such basement height is above the established curb level.
- 4.276 - STREET (AVENUE, PLACE, ROAD, TERRACE, PARKWAY, BOULEVARD OR COURT) -- A right-of-way of a required width, which affords a primary means of access to abutting property.
- 4.277 - STREET LINE -- The right-of-way of a street.
- 4.278 - STRUCTURAL ALTERATIONS -- Any change in the structural members of a building, such as walls, columns, beams, or girders.
- 4.279 - STRUCTURE -- Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, billboards, and poster panels, but in no case, trailers.
- 4.280 - TRAVEL TRAILER -- A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

- 4.281 - TRAILER (MOBILE HOME) -- See Section 4.230.
- 4.282 - TRAILER (MOBILE HOME) PARK OR COURT -- Any premises on which are parked two or more trailers or any premises used or held out for the purpose of supplying to the public a parking space for two or more such trailers. Does not include sales lots on which automobiles or unoccupied trailers, new or used, are parked for purposes of inspection and sale (See Article VI).
- 4.283 - USE -- The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.
- 4.284 - VARIANCE -- A relaxation of the terms of this Ordinance as outlined in Section 15.7.
- 4.285 - VILLAGE BOARD -- The Village Board of Trustees of Elkhart, Illinois.
- 4.286 - YARD -- An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the Zoning District in which such lot is located.
- 4.287 - YARD, FRONT -- A yard extending along the full width of the front lot line between side lot lines.
- 4.288 - YARD, REAR -- The portion of the yard on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot.
- 4.289 - YARD, SIDE -- A yard extending along a side lot line between the front and rear yards.

NOTE: For a graphic presentation of the location of yards, see Appendix A.

#### ARTICLE V -- NON-CONFORMING USES

- 5.1 -- STATEMENT OF PURPOSE -- It is the purpose of this Article to provide for the regulation of non-conforming uses, buildings and structures. It is not the purpose of this Article to deprive the owner of any existing property of its use or maintenance for the purpose to which it is lawfully devoted at the time of the adoption of this Ordinance, but to provide for the gradual elimination of uses, buildings and structures which are incompatible with the character of the Districts in which they are located. In accordance with the authority granted by Chapter 24, Section 11-13-1 of the Revised Statutes of the State of Illinois.



- 5.2 -- AUTHORITY TO CONTINUE NON-CONFORMING BUILDINGS, STRUCTURE AND USES -- Any non-conforming building, structure or use which exists lawfully at the time of the adoption of this Ordinance and which remains non-conforming and any such building, structure or use which shall become non-conforming upon the adoption of this Ordinance or of any subsequent amendment thereto may be continued in accordance with the regulations which follow.
- 5.3 -- EXEMPTED BUILDINGS, STRUCTURES AND USES -- A non-conforming building structure of use lawfully established on the effective date of this Ordinance shall not be subject to the provisions of this Article solely by reason of being non-conforming with respect to the standards prescribed in this Ordinance for:
- (1) Yards (front, side or rear)
  - (2) Lot Area per dwelling
  - (3) Lot Width
  - (4) Off-Street Parking and Loading Spaces.
- 5.4 -- GENERAL RESTRICTIONS ON NON-CONFORMING BUILDINGS, STRUCTURES AND USES THEREOF -- Any lawful existing use which does not conform to the regulations of the District in which it is located shall be subject to the following provisions:
- 5.41 -- ADDITIONS AND ENLARGEMENTS -- A non-conforming building, structure or use shall not be enlarged, nor shall it be extended to occupy an area greater than the area occupied by such use on the effective date of this Ordinance.
- 5.42 -- RELOCATION OF BUILDINGS OR STRUCTURES -- A non-conforming building, structure, or use shall not be moved in whole or in part to any other location unless every portion of such building or structure which is moved and the use thereof is made to conform to all the regulation of the District in which it is located.
- 5.43 -- DISCONTINUANCE AND CHANGE -- A non-conforming building, structure, or use which has been discontinued for a period of ninety (90) days or more or which has been changed to a use conforming to the District in which it is located, shall never again be devoted to any non-conforming use. A non-conforming use shall not be changed to any other non-conforming use.
- 5.44 -- RESTORATION OF A DAMAGED NON-CONFORMING BUILDING, STRUCTURE OR USE -- A non-conforming building, structure or use which has been wholly or partially destroyed by fire, explosion, war, riot, or some other calamity or Act of God, to the extent that the cost of restoration to its condition prior to the occurrence will exceed fifty percent (50%) of its actual

cash value as determined by the official county tax assessment and equalization rate, no restoration shall be made unless said building, structure or use shall conform to all the regulation of the District in which it is located, except that a mobile home destroyed by fire or Act of God may be replaced with a new mobile home.

In the event that such restoration cost is less than fifty percent (50%) of its actual cash value, restoration shall be made only if it is begun within ninety (90) days from the date of destruction or damage and is diligently pursued until its completion.

- 5.45 -- REPAIRS AND ALTERATION -- A non-conforming building, structure or use may be repaired or altered, provided that structural alterations which will increase the bulk of the building are not made, unless such repairs and alterations are made in such manner as to make the building, structure or use conform to all regulations of the District in which it is located.

#### ARTICLE VI -- MOBILE HOME PARKS

- 6.1 -- Each park to be constructed under the provisions of this Ordinance shall adhere to the minimum regulations as are required by the Illinois State Department of Health regulating House Trailer Park Sanitation. The Department of Health Regulations establish health sanitation, and safety standards for all parks in Illinois.
- 6.2 -- In order to obtain a zoning permit to construct a new mobile home or trailer coach park, or an addition to an existing trailer coach park, the applicant shall file with the Village Zoning Inspector a written application setting forth:
- (a) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of filing of the application.
  - (b) Location and legal description of the tract of land, certified on a plat of a survey by an Illinois Registered Land Surveyor drawn to scale of 1" = 100', or larger.



- (c) The proposed and existing facilities in the park for water supply, sewage, garbage and waste disposal, fire protection, and for a sanitary community building which will include a description of toilets, urinals, sinks, wash basins, slop sinks, showers, drains and laundry facilities, the proposed alterations therein, and the maintenance thereof.
- (d) The proposed method of lighting the structures and land upon which the park is to be located.
- (e) All corners and points of tangency are to be marked by galvanized or wrought iron pipe or iron or steel bars at least one half (1/2) inch in diameter. The top of the pipe or bar is to be set level with the established grade of the ground.
- (f) The plans of the park drawn on a scale of 100 feet to an inch, building plans and specifications for existing buildings and facilities, or the proposed alterations in existing facilities, all showing compliance with the provisions of this Ordinance. The plot plans shall be drawn on a scale of 100 feet to an inch shall contain, among other things, the following:
  - 1. The date on which such plot plans were prepared.
  - 2. An arrow indicating North.
  - 3. All Trailer Coach sites shall be properly numbered on the plot plans.
  - 4. Complete information regarding storm sewers.
  - 5. Storm water run-off shall be shown on a separate plat.
  - 6. Contour lines with intervals of not more than fifty (50) feet where the slope is greater than 10 percent, and not more than two (2) feet where the slope is less than 10 percent shall be shown on a separate plat and the United States Geological Survey data shall be used for the preparation of such a plat.

6.3 -- NUISANCES IN PARKS -- All parks shall be maintained free of nuisances such as excessive heat, glare, vibration, smoke, toxic matter, radiation, and fire or explosive hazards.

6.4 -- NON-RESIDENTIAL USES -- No part of any park shall be used for non-residential purposes except such uses that are required for direct servicing and well-being of park residents, and for the management and maintenance of the park. Exception to this will be provisions for a mobile home sales office and display area.

- 6.5 -- REQUIRED RECREATION SPACE -- Not less than eight (8) percent of the gross site area of the mobile home park shall be devoted to recreational facilities. Such facilities shall be centrally located on the site and readily accessible to all mobile home occupants. Recreation areas may include park space, play lots, swimming pools, and community buildings (exclusive of laundry and administrative offices). Recreational areas may be decentralized provided that no single parcel of outdoor recreation space contains less than 6,000 square feet nor has a minimum average width of less than thirty (30) feet.
- 6.6 -- ANCHORAGE -- A mobile home stand or pad shall be provided for each mobile home site of sufficient size to accommodate the mobile home to be located thereon. Mobile home stands shall be concrete slabs or runways constructed so as not to shift or settle unevenly under the weight of a mobile home or other forces due to frost, vibration, wind or water. Provisions shall be made for the use of ground anchors designed to withstand a minimum load of 4,800 pounds each. Four ground anchor connections shall be provided for each mobile home of less than 51 feet in length and six ground anchor connecting shall be provided for mobile homes exceeding 50 feet in length.
- 6.7 -- Each mobile home site shall be provided with an outdoor living space to supplement the interior living space of the mobile home. This outdoor living space must be paved monolithically or constructed of masonry or concrete moveable units placed sufficiently close together to create a single usable surface. The area of the outdoor living space shall be a minimum of 160 square feet with a minimum dimension of eight (8) feet.
- 6.8 -- The space between the mobile homes stand and the floor of the mobile home shall be enclosed with fire-proof skirting and the area thereby enclosed may be used for storage of non-flammable objects and material.
- 6.9 -- PARK STREET SYSTEM
- (a) General Requirements  
All parks shall provide safe, continuous and convenient vehicular access for abutting public streets or roads to each mobile home space. For purpose of this code, all streets shall hereinafter be referred to as "Park Street System" and shall be maintained by the owner/owners, or dedicated to the county, township, or municipality for maintenance.
  - (b) Entrance Road -- The entrance road connecting the Park Street System with a public street or road shall have a minimum road pavement width of 36 feet, where guest



parking is permitted at both sides, or a minimum road pavement width of 30 feet where parking is limited to one side. Where the primary entrance road is more than 100 feet long and does not provide access to abutting property within such distance, the minimum road width may be 25 feet provided parking is prohibited at both sides.

(c) Interior Streets

All interior streets in the Park Street System shall have a minimum pavement width of 25 feet on a 27-foot right-of-way with parking prohibited on both sides. Dead-end streets shall be limited in length to 500 feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 120 feet. One way minor streets shall be acceptable only if less than 25 mobile homes.

6.10 - STREET CONSTRUCTION AND DESIGN STANDARDS

(a) Pavement Materials

Bituminous Surface Course (subclass A-3) over an eight (8) inch base course of compacted gravel; base course, type B.

(b) Pavement Design

Primary entrance road shall have a standard cross section with curbs. Paving on interior streets may have an alley cross section, if it is narrower than 25 feet.

(c) Grades

Grades of all streets shall be sufficient so to insure adequate surface drainage, but shall not be more than 8 percent nor less than .5%. Short runs with a maximum grade of 12 percent may be permitted provided traffic safety is assured by appropriate paving, adequate leveling areas, and avoidance of lateral curves.

(d) Intersections

Within 100 feet of an intersection, streets shall be at approximately right angles. A distance of at least 150 feet shall be maintained between center lines of offset intersection streets. Intersections of more than two streets, at one point shall be avoided.

6.11 - PEDESTRIAN ACCESS

(a) General Requirements

All parks shall provide safe, convenient, 4-inch Portland Cement Concrete Pedestrian access between individual mobile homes (said thickness shall be increased to 5 inches at driveways), the Park Street System and all community facilities provided for park residents.



(b) Individual Walks

All mobile homes shall be connected with the Common Walk System and the Park Street System by one or more individual walks on each mobile homes space. Such individual walks shall have a minimum width of two (2) feet.

(c) Common Walk System

A common walk system, 3 feet wide, shall be provided in every park for pedestrian access between each mobile home space and all required open areas, community structures and facilities.

6.12 - REQUIRED ILLUMINATION OF PARK STREET SYSTEMS

All parks shall be furnished with sufficient electrical systems and lighting units at the owner's expense, so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(a) All parts of the Park Street System:

0.4 foot candle with a minimum of 0.3 foot candle. Exceptions to this will be in those parks selecting to use gas lights.

(b) Potentially hazardous locations such as major street intersection and steps, or stepped ramps: Individual illuminated with a minimum of 0.4 foot candle.

6.13 - WATER SUPPLY

(a) General Requirement

Every park shall have a water supply system capable of providing a sufficient supply of potable water under adequate pressure, to water supply facilities for mobile homes, service buildings, fire hydrants, drinking fountains, and other accessory facilities, as required by this code for the well-being of park residents, and for park maintenance. Such a system shall be designed, constructed and maintained in accordance with the State standards of Illinois Department of Health and/or Standards currently enforced by local Departments.

(b) Water Distribution System

The water distribution system shall be constructed of piping, fixtures, and other equipment of approved materials and shall be so designed and maintained to provide a pressure of not less than 20 pounds per square inch, under normal operating condition, at each mobile home, service building, and other locations requiring potable water supply. Such piping shall not be interconnected or cross-connected with any drainage, venting, or other

system conveying nonpotable water. Nor shall such piping be subject to hazards of back-flow or any back-siphonage.

(c) Individual Water Connections

Individual water service connections shall be provided at each mobile home lot in the mobile home park. All water service connections shall be watertight and located at a minimum distance of ten (10) feet from sanitary sewer connections below ground. The minimum pipe size of connections shall be three-quarter (3/4) inch. Outlets shall be so constructed as to be free of possible contamination from surface drainage and possible damage during installation of a mobile home, and shall be four (4) inches above grade.

- 1) The system shall permit the operation of a minimum of two (2) 1-1/2 inch hose streams on a fire in any mobile home, service building, or other accessory structure in the park.
- 2) Hydrants shall be located within 600 feet of such structures and shall be of a type prescribed by the Village of Elkhart.
- 3) Water supply and associated facilities shall be sufficient to provide a delivery of at least 75 gallons per minute at each of the two nozzles held four (4) feet above the ground, at a flowing pressure of at least 30 pounds per square inch when measured at the highest elevation in the park.

6.14 - SEWAGE DISPOSAL -- All sewage and other water-carried waste shall be disposed of into a common sewage system. All provided sewage systems shall be constructed in conformity with all laws of the State of Illinois, regulation of any department, division or board of the State of Illinois, and any ordinance of the Village of Elkhart.

Each trailer or mobile home site shall be provided with a sewer connection for the combined liquid waste outlet or outlets of each trailer coach. It shall be the duty of the owner or operator of said trailer coach park to provide an approved type of water and door-tight connection from the trailer water drainage to the sewer connection, and it shall be the duty of said owner or operator to make such connection and keep all occupied trailer coaches connected to said sewer while located in a trailer coach park. Sewer connections in unoccupied trailer coach sites shall be so closed that they will emit no odors or cause a breeding place for flies. No water or waste shall be allowed to fall on the ground from a trailer coach.



6.15 - ELECTRICAL DISTRIBUTION SYSTEM -- Every park shall contain an electrical wiring system consisting of approved wiring, fixtures, equipment, and appurtenances, which shall be installed and maintained in accordance with applicable codes and regulations governing such systems. All parts of the Park Electrical Distribution System shall conform with approved standards for safety to life and property and with accepted engineering practices. All electric wires shall be underground.

6.16 - FUEL SUPPLY AND STORAGE

(a) Natural Gas System

Natural Gas piping systems in all parks shall be installed and maintained in conformity with accepted engineering practices and the rules and regulations of the authority having jurisdiction.

(b) Fuel Oil Supply System

All fuel oil supply systems provided for mobile homes, service buildings, and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction. Fuel oil systems underground shall be located at a minimum of ten (10) feet horizontally from water lines, and at necessary crossings shall be placed in substantial pipe sleeves extending ten (10) feet from each side of the water pipe.

6.17 - FIRE PROTECTION

(a) General Requirements

The mobile home park area shall be subject to the rules and regulations of the Fire Protection District in which it is located.

(b) Location of Fire Hydrants

Where a public water system with a water main of six (6) inches or larger is available to the mobile home park, standard fire hydrants shall be located within 600 feet of each mobile home or building.

(c) Fire extinguishers shall be included in each mobile home unit.

6.18 - ALTERATIONS, ADDITIONS, AND OCCUPANCY

(a) General Requirements

All building, plumbing, air-conditioning, and electrical alterations or repairs in mobile home parks and individual mobile homes shall be made in accordance with applicable local regulations.



(b) Permanent Additions

No permanent additions shall be built onto or become a part of any mobile home until first securing a zoning permit and building permit, and unless they are in accordance with requirements established by the Village Zoning Inspector.

6.19 - SIZE

- (a) There shall be at least ten (10) acres in a Mobile Home Park, inclusive of lots, setbacks, and internal roadways.
- (b) The Individual trailer lot size shall contain no less than 3,600 square feet.
- (c) The individual trailer lot shall be at least thirty-six (36) feet in width.

6.20 - YARDS AND SETBACKS - The following minimum setback regulations shall apply:

- (a) No building, structure, of trailer shall be located closer than forty (40) feet to any property line of the Mobile Home Park, nor closer than fifty (50) feet to any county, township, village, state or federal highway, road, or street right-of-way.
- (b) Trailers shall be set back at least fifteen (15) feet from the pavement of streets of roadways of the park.
- (c) No trailer or appurtenances thereto shall be placed within twenty (20) feet of any other trailer, addition, or appurtenance thereto, nor within fifty (50) feet of any accessory or service building or structure.

6.21 - PARKING - There shall be at least two off-street parking spaces available to each individual trailer lot and located within 100 feet of such lot.

6.22 - LANDSCAPING - Along each property line of a Mobile Home Park in the R-2 District there shall be provided within the 40 foot setback area, screening or landscape planting which shall be so designed and/or planted as to be at least 50 percent opaque when viewed horizontally between two feet and eight feet above the average ground level.

ARTICLE VII - OFF-STREET PARKING

7.1 - GENERAL PURPOSES - To reduce or prevent traffic congestion resulting from the use of public streets as places for storage of private vehicles.

7.2 - DEFINITIONS - See section 4.266

7.3 - SURFACING AND BUMPER GUARDS - All open off-street parking except parking spaces accessory to a single or two family dwelling shall be improved with asphalt concrete surface, concrete, or some comparable all-weather dustless material, and shall have appropriate bumper guards where needed.

7.4 - PARKING OF JUNK MOTOR VEHICLES OR EQUIPMENT PROHIBITED ON RESIDENTIAL PREMISES - All contractors' equipment or tools or junk motor vehicles shall be parked or stored in a completely enclosed structure on any residential premises except when making a delivery or rendering a service at such premises. Contractor's equipment shall not be construed to include panel or pickup trucks.

7.5 - REQUIRED OFF-STREET PARKING

<u>USE</u>	<u>NUMBER OF PARKING SPACES WHICH SHALL BE PROVIDED</u>
a. Single-family and 2 family	two (2) per dwelling unit
b. 3 or more	one and one-half per dwelling unit
c. motels, hotels, rooming houses	one per lodging unit plus one stall for each 100 sq. ft. of retail sales or dining area
d. commercial (except as specifically provided below)	one per 200 sq. ft. of gross floor area
e. furniture, appliance stores, machinery sales, wholesale storage	one per 400 sq. ft. of gross floor area
f. manufacturing, warehousing	one for each employee on maximum working shift plus one for each vehicle used to conduct the enterprise

ARTICLE VIII - ZONING DISTRICTS

8.1 - ESTABLISHMENT OF DISTRICTS - In order to carry out the purpose and provisions of this Ordinance, the Village of Elkhart is hereby divided into the following Districts:

8.101 - RESIDENCE DISTRICTS

R-1 Single-Family Residence District

R-2 General Residence District

8.102 - COMMERCIAL DISTRICTS

C-1 General Commercial District

C-2 Highway Service District

8.2 - ZONING DISTRICT MAP - The location and boundaries of the Districts established by this Ordinance are set forth on the Zoning District Map, which is hereby incorporated as a part of this Ordinance.

8.3 - BOUNDARIES OF DISTRICTS - Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning District Map, the following rules shall apply:

8.301 - District boundary lines are either the center lines of the railroads, highways, streets, alleys or easements; and lot lines and tract lines or such lines extended unless otherwise indicated.

8.302 - When a district boundary line divides a platted lot, or unplatted or unsubdivided property into distinct parts, the District boundary lines shown on the map shall be determined by the scale appearing on the map.

8.303 - Where a District boundary line divides a lot in single ownership upon the effective date, the regulations for either portion of the lot may, in the owner's discretion, extend to the entire lot, but not more than 25 feet beyond the boundary line of the district.

8.304 - Questions regarding the location of District boundaries which cannot otherwise be determined, shall, upon the request of the property owner, be determined by the Board of Zoning Appeals.

#### ARTICLE IX -- R-1 SINGLE-FAMILY RESIDENCE DISTRICT

9.1 -- GENERAL CHARACTER OF DISTRICT -- This, the most restrictive Residential District is designed to provide a suitable open-character for single-family dwelling and certain compatible non-residential uses thereof, which are intended to serve the residents of the District who are benefited by its open, residential character.

9.2 -- PERMITTED USES -- The following uses are permitted in the R-1, Single-Family Residence District:

9.201 - Accessory Buildings, Structures & Uses, excluding mobile homes

9.202 - Agricultural Uses

9.203 - Cemeteries

9.204 - Churches and Synagogues

9.205 - Fire Stations

9.206 - Home Occupations



9.207 - Parks, Playgrounds and other non-commercial Public open space

9.208 - Schools, public, private or parochial

9.209 - Single-Family Residences, Detached.

9.3 -- CONDITIONAL PERMITTED USES - The following uses may be permitted, upon review by the Zoning Board of Appeals in accordance with the provisions contained herein:

9.301 - Accessory Uses

9.302 - Clubs and Lodges

9.303 - Funeral Homes and Mortuaries

9.304 - Single- Family Dwellings, Semi-Detached

9.4 -- HEIGHT REGULATIONS -- No principal structure shall exceed three (3) stories or thirty-five (35) feet in height. No accessory structure shall exceed one (1) story of fifteen (15) feet in height.

9.5 -- LOT AREA, FRONTAGE, AND YARD REQUIREMENTS - The following minimum requirements shall be observed:

<u>BUILDING TYPE</u>	<u>LOT AREA (SQ. FEET)</u>	<u>LOT AREA PER DWELLING UNIT (SQ. FT.)</u>	<u>LOT WIDTH</u>	<u>FRONT YARD DEPTH*</u>	<u>REAR YARD DEPTH</u>	<u>SIDE YARD WIDTH</u>
Detached	7,200	7,200	60 feet	30 feet	20 feet	5 feet
Semi-Detached	10,000	5,000	60 feet	30 feet	20 feet	5 feet

\* Front yard depth on lots recorded prior to the adoption of this ordinance shall be no less than twenty-five (25) feet.

9.6 -- SIGN REGULATIONS - Illuminated and non-illuminated name places or signs shall be permitted subject to the following:

<u>USE</u>	<u>MAXIMUM NUMBER</u>	<u>CONTENT</u>	<u>PROJECTION</u>	<u>MAXIMUM AREA</u>	<u>MAXIMUM HEIGHT</u>
RESIDENTIAL	One, (two on a corner lot, one facing each street	Name, address	To property line	One Sq. feet	Ten Feet above curb line
NON-RESIDENTIAL	One, (two on a corner lot, one facing each street	Name, address, phone # and other salient information concerning the permitted activity	to property line	Six sq. ft.	Ten feet above curb line

# ARTICLE X -- R-2 GENERAL RESIDENCE DISTRICT

10.1 - GENERAL CHARACTER OF DISTRICT -- This Residential District is established to provide for higher population densities and for certain uses which are more compatible with intensive residential uses than with commercial uses. The provisions contained in this Article are intended to provide a pleasing residential environment with adequate light, open space, air and related facilities.

10.2 - PERMITTED USES -- The following uses are permitted in the R-2, General Residence District:

10.201 - Those uses permitted in Section 9.2 and 9.3 of this Chapter

10.202 - Single-Family attached dwellings, Row houses.

10.203 - Two-Family Dwellings.

10.204 - Multiple-Family Dwellings.

10.205 - Accessory buildings, Structures or Uses.

10.3 - CONDITIONAL PERMITTED USES -- The following uses may be permitted upon review by the Zoning Board of Appeals in accordance with the provisions contained herein:

10.301 - Apartment Hotels

10.302 - Rooming Houses

10.303 - Nursing Homes

10.304 - Nursery Schools

10.305 - Mobile home parks

10.4 - HEIGHT REGULATIONS -- No principal structure for one or two-family dwellings shall exceed three (3) stories or thirty-five (35) feet in height. All other principal structures shall not exceed four (4) stories or forty-five (45) feet in height. No accessory structure shall exceed one (1) story or fifteen (15) feet in height.

10.5 - LOT AREA, FRONTAGE, AND YARD REQUIREMENTS -- The following minimum requirements shall be observed:

<u>USE/TYPE OF STRUCTURE</u>	<u>LOT AREA (SQ. FEET)</u>	<u>LOT AREA PER DWELLING UNIT (SQ. FEET)</u>	<u>FRONT YD. DEPTH*</u>	<u>REAR YD. DEPTH</u>	<u>SIDE YD. DEPTH</u>	<u>LOT WIDTH</u>
One&Two family uses:						
Detached - 6,000	6,000	30 Ft.	20 Ft.	5 Ft.	40 Ft.	
Semi-Detached-10,000	5,000	30 Ft.	20 Ft.	5 Ft.	60 Ft.	
Attached 2,000	2,000	30 Ft.	20 Ft.	20 Ft.**	20 Ft.	
Multiple Family 7,200	2,000	30 Ft.	30 Ft.	10Ft.***	60 Ft.	



\* Front yard depth shall not be less than thirty (30) feet unless forty (40) percent or more of the frontage on the block is improved with buildings that have observed a greater or lesser depth of front yard in which instance no new building or portion thereof shall project beyond a straight line drawn between the point closest to the front property line of the residence upon either side of the proposed structure, or if there are residences upon only one side, then a straight line projected from the front of the two nearest residences, but this regulation shall not be interpreted to require a front yard of more than fifty (50) feet, not permit a front yard of lesser depth than that of the nearest building. Where a street is curved, the line shall follow the curve of the street rather than to be a straight line.

\*\* No side yard shall be required along any side lot line which is common to two attached Row-Houses.

\*\*\*Plus one foot for each two feet by which the building exceeds thirty (30) feet in height.

10.6 - SIGN REGULATIONS -- Illuminated and non-illuminated name plates or signs shall be permitted subject to the same provisions set forth in Section 9.6.

#### ARTICLE XI -- C-1 GENERAL COMMERCIAL DISTRICT

11.1 - GENERAL CHARACTER OF DISTRICT -- This Commercial District is for personal and business services and general wholesale and retail trade. The nature of this District is one of relatively high traffic generation, and uses which are not necessarily compatible with residential development. This District is to provide areas where there can be a concentration of general commercial activities.

11.2 - PERMITTED USES -- The following uses are permitted in the C-1 General Commercial District:

11.201 - Those uses permitted as conditional uses in Sections 10.301 through 10.304, inclusive.

11.202 - Automobile sales, new and used; Barber and Beauty Shop; Bank; Camera Shop; Churches; Cleaning, Pressing, Laundry Collection Station; Clubs or Lodges; Depot or Rail Freight Terminal; Dry Goods Store; Drug Store; Dairy Products or Ice Cream Store; Dress Shop; Dwellings, above the first floor only; Fire Station; Florist Shop; Food Market; Frozen Food Locker; Funeral Home or Mortuary; Gift Shop; Government Offices; Hardware Store; Jewelry or Notions Store; Laundromat; Library; Offices, Business and Professional; Painting Plumbing or Electrical Shop; Parking Lot; Photographer's Studio; Restaurant, except the Drive-In Type; Shoe Repair; Tire Sales and Service, not including vulcanizing or recapping operations; Toy Store; Upholstery Shop; Variety Store; Other uses of the same general character as those listed above.



11.3 - CONDITIONAL PERMITTED USES -- The following conditional uses may be permitted upon review by the Board of Appeals in accordance with the provisions contained herein;

- 11.301 - Government Service Buildings and Facilities.
- 11.302 - Theatre, except Drive-In Movies
- 11.303 - Hotel
- 11.304 - Other commercial uses of a similar nature which are compatible with those of this Section, 11.3.

11.4 - HEIGHT REGULATIONS - No building or structure shall exceed four (40) stories or forty-five (45) feet in height except as herein provided.

11.5 - YARD REQUIREMENTS OF LOT AREA AND FRONTAGE

<u>USE</u>	<u>LOT AREA</u>	<u>LOT AREA PER FAMILY</u>	<u>LOT WIDTH</u>	<u>FRONT YARD DEPTH</u>	<u>REAR YARD DEPTH</u>	<u>SIDE YARD WIDTH</u>
PERMITTED USES	No Minimum	N/A	No Minimum	No Minimum	10 Feet	No Minimum*

\*Except where adjoining a Residence District, then the Same as that Residence District.

11.6 - SIGN REGULATIONS -- Business signs and advertising devices are permitted subject to the following conditions:

11.601 - GENERAL APPLICATION

- (a) No Sign Shall be permitted within 20 feet of any Residential District boundary line.
- (b) No free standing business or advertising sign shall be erected or relocated within 15 feet of any street or highway, within 3 feet of any driveway or parking area, or within 25 feet of the intersection of two or more streets.
- (c) Signs or awnings shall be exempted from the limitations imposed by this Ordinance on the projection of signs from the face of the wall or any building or structure, provided that any sign located on an awning shall be affixed flat to the surface thereof, and shall indicate only the name of the establishment.

11.602 - ILLUMINATION -- Signs may have constant or flashing illumination, provided that any signs that are located in direct line of vision of any traffic control signal shall not have contrasting or flashing intermittent illumination of red, green, or amber color. Where a sign is illuminated by light reflected upon it, direct rays of light shall not beam upon any part of any building, not into a Residential District.

11.603 - AREA -- The gross surface area in square feet of all signs on a lot shall not exceed five (5) times the lineal feet of frontage on such lot. Each side of the lot that abuts upon a street may be included as separate frontage.

11.604 - PROJECTION -- No sign shall project more than four (4) feet from the face of the wall of any building or structure, nor higher than the building height.

#### ARTICLE XII -- C-2 HIGHWAY SERVICE DISTRICT

12.1 - GENERAL CHARACTER OF THE DISTRICT - The C-2 Highway Service District is established to provide highway service facilities for the residents of Elkhart and its environs and for those traveling on U.S. 66 and Interstate 55.

12.2 - PERMITTED USES - The following uses are permitted in the C-2 District:

12.201 - Automobile Service Stations and allied facilities, normally associated with this type of activity; Automatic Car Washes; Bowling Alleys; Building Material Sales without outdoor storage; Drive-In Establishments; Fuel and Ice Sales-Retail Only; Garages, Public, Servicing Automobile Vehicles, but not including Body Repair or Painting; Gift and Souvenir Shops; Hotels and Motels; Motor Vehicle and Motor Vehicle Equipment Sales; Parking Lots and Garages; Recreational and Amusement Activities, Commercial; Restaurants; Theatres, other than Drive-Ins; Truck Stops, with or without lodging units; Veterinarian Offices or Animal Hospitals; Accessory Buildings, Structures (uses).

12.202 - Other uses of the same general character as those listed above.

12.3 - CONDITIONAL PERMITTED USES - The following conditional uses may be permitted upon review by the Board of Appeals in accordance with the provisions contained herein:

12.301 - Drive-In Theatres

12.302 - Travel Trailer Parks

12.303 - Bus Stations, Terminals, Garages and Lots.

12.304 - Other highway-oriented commercial uses of similar nature which are compatible with those of this Section, 12.3.

12.4 - HEIGHT REGULATIONS - Same as those enumerated in Section 11.4.

12.5- LOT AREA, FRONTAGE AND YARD REQUIREMENTS-

USES	LOT AREA	LOT AREA PER FAMILY	LOT WIDTH	FRONT YARD DEPTH	REAR YARD DEPTH	SIDE YARD DEPTH
PERMITTED USES No Minimum	N/A	No Minimum	60 Feet from Center of right-of-way or 30 feet, whichever is greater	20 feet	10 feet	

CONDITIONAL PERMITTED USES- As determined by the Board of Appeals

Prepared by and return to:

Donald A. Behle  
121 N. Main  
3rd Floor  
Bloomington, IL 61701

VILLAGE OF ELKHART

ORDINANCE NO. 200~~36~~<sup>37</sup>

ADOPTED BY THE  
BOARD OF TRUSTEES  
OF THE  
VILLAGE OF ELKHART

THIS 8 DAY OF December, 2008

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AN ORDINANCE AMENDING THE ZONING ORDINANCE OF  
THE VILLAGE OF ELKHART, LOGAN COUNTY, ILLINOIS

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Published in pamphlet form by the authority of the Board of Trustees of the  
Village of Elkhart, Logan County, Illinois, this 8 day of December, 2008.



ORDINANCE NO. 2008-06

ORDINANCE AMENDING THE ZONING ORDINANCE OF  
THE VILLAGE OF ELKHART, LOGAN COUNTY, ILLINOIS

WHEREAS, Division 13 of Article 11 of the Illinois Municipal Code (65 ILCS 5/11-13-1 et. Seq.) authorizes municipalities to adopt Zoning Ordinances to regulate land use within the Corporate limits of the Village; and,

WHEREAS, the Village has heretofore adopted a Zoning Ordinance which is applicable to all real property within the Corporate limits of the Village; and,

WHEREAS, Section 14 of the foregoing Division authorizes amendments of Zoning Regulations in Districts following a hearing by a committee designated by the Mayor and Board of Trustees, acting jointly; and,

WHEREAS, on November 12, 2008 a committee appointed by the Mayor and consented to by the Board of Trustees, conducted a public hearing for the purpose of obtaining public comment on proposed revisions to the Zoning Ordinance; and,

WHEREAS, the Committee has reported to the Board of Trustees the comments received from members of the public and others pertaining to said proposed Amendment;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Elkhart, Logan County, Illinois, as follows:

Section 1: That the Preambles hereto are true and correct and are incorporated herein by references as if fully set forth at this point.

Section 2: That Article XI - C-1 General Commercial District paragraph 11.2 shall be amended by deleting as permitted uses in the C-1 District the following paragraphs or uses:

11.201 - Automobile Sales, New and Used

- 11.203 - Bank
- 11.207 - Clubs or Lodges
- 11.208 - Depot or Rail Freight Terminal
- 11.217 - Frozen Food Locker
- 11.225 - Painting, Plumbing or Electrical Shop
- 11.230 - Tire Sales and Service, not including vulcanizing or recapping operations

Section 3: That Article XII - C-2 Highway Service District 12.2 shall be deleted in its entirety and the following paragraph inserted in its place:

12.2 - PERMITTED USES - The following uses are permitted in the C-2 District:

- 12.201 - Accessory Buildings, Structures (uses)
- 12.202 - Automobile Sales, New and Used
- 12.203 - Automobile Service Stations and allied facilities, normally associated with this type of activity
- 12.204 - Automatic Car Washes
- 12.205 - Bank
- 12.206 - Bowling Alleys
- 12.207 - Building Material Sales without outdoor storage
- 12.208 - Clubs or Lodges
- 12.209 - Depot or Rail Freight Terminal
- 12.210 - Drive-in Establishments
- 12.211 - Frozen Food Locker
- 12.212 - Fuel and Ice Sales (retail only)
- 12.213 - Garages, Public, servicing automobile vehicles, but not including Body Repair or Painting
- 12.214 - Gift and Souvenir Shops

12.215 - Hotels and Motels

12.216 - Motor Vehicle and Motor Vehicle Equipment Sales

12.217 - Painting, Plumbing or Electrical Shop

12.218 - Parking Lots and Garages

12.219 - Primary and Secondary Local Government Offices

12.220 - Recreational and Amusement Activities, Commerical

12.221 - Restaurants

12.222 - Theaters, other than drive-ins

12.223 - Tire Sales and Service, not including vulcanizing or recapping operations

12.224 - Truck Stops, with or without lodging units

12.225 - Veterinarian Offices or Animal Hospitals

12.226 - Other uses of the same general character as those listed above

Section 4: That all Ordinances, Resolutions and other enactments of the Mayor and Board of Trustees of the Village of Elkhart in conflict herewith are hereby expressly repealed to the extent of said conflict.

Section 5: That this Ordinance shall be effective upon its passage, execution and publication as required by law.

Passed by the Board of Trustees of the Village of Elkhart, Logan County, Illinois, approved by the Mayor, and deposited in the Office of the Village Clerk, this 8 day of December, 2008.

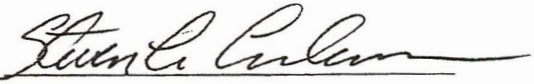
Those voting aye: Lyle Fout, James Gleason, Tim Gleason,  
Brian Hinds, Nancy Moore

Those voting nay: none



Those absent: Warren Rogers

APPROVED:

By:   
Mayor

ATTEST:

  
Village of Elkhart, Village Clerk

\*Except adjoining a Residence District, then the same as that Residence District.

12.6 - SIGN REGULATIONS - Same as those enumerated in Section 11.6.

12.7 - PARKING - See Section 7.32.

#### ARTICLE XIII -- I INDUSTRIAL DISTRICT

13.1 - GENERAL PURPOSE OF THE DISTRICT - The Regulations of the Industrial District are intended to provide for the establishment of a full range of industrial activities and to govern their operations in a manner that will not have a deleterious effect on residential and business areas. It is essential that the needs of industry, both today and in the foreseeable future be adequately provided for and a proper balance be maintained with other uses.

13.2 - PERMITTED USES- The following uses are permitted in the I District:

13.201 - Those uses permitted under Sections 12.2 and 12.3; Body and Fender Repairing; Building Material Sales with or without outdoor storage; Bulk Storage and Distribution Plants; Cannery; Cartage and Express Facilities; Concrete Products Manufacturing; Contractors Office, Shops or Yards; Dairy Products Processing; Fertilizer and Food Sales and Storage; Food Products Manufacturing; Fuel and Ice Sales; Garages for Storage, Repair and Servicing of Motor Vehicles; Grain Storage Elevators; Highway Maintenance Shops and Yards; Implement Sales, Service and Storage; Kennel; Linen or Towel Service; Machine Shop; Metal Products Manufacturing; Motor Freight Terminals; Printing or Publishing Establishments; Public Utility and Service Uses; Repair Shops; Warehousing Operations; Wood Products Manufacturing.

13.202 - Other uses of the same general character as those listed above.

13.3 - CONDITIONAL PERMITTED USES - Upon review by the Board of Appeals, in accordance with the provisions contained herein, other manufacturing uses free from any objectionable odors, fumes, dirt, vibration, or noise detectable at the lot line may be permitted.

13.4 - HEIGHT REGULATIONS - No building shall exceed four (4) stories or forty-five (45) feet in Height.

13.5 - LOT AREA, FRONTAGE AND YARD REQUIREMENTS-

USE	LOT AREA	LOT AREA PER FAMILY	LOT WIDTH	FRONT YARD DEPTH	REAR YARD DEPTH	SIDE YARD DEPTH
PERMITTED USES	NO Minimum	N/A	No Minimum	60 Feet from center of right- of-way or 36 feet whichever is greater	20 Feet	20 Feet

CONDITIONAL PERMITTED USES - As determined by the Board of Appeals

13.6 - SIGN REGULATIONS - Same as those enumerated in Section 11.6.

#### ARTICLE XIV -- PERFORMANCE STANDARDS

No land use or building established after the adoption of this ordinance shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition. To insure this, the following performance standards must be observed:

- 14.1 - FIRE HAZARDS - Any activity involving the use of flammable or explosive materials shall be privately protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- 14.2 - RADIOACTIVITY OR ELECTRICAL DISTURBANCE - No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of the creator of such disturbance.
- 14.3 - NOISE - Noise which is objectionable, as determined by the Board of Appeals, due to volume, frequency of beat shall be muffled or otherwise controlled, except during construction operations. Fire and civil defence sirens and related apparatus used solely for public purposes are exempt from this requirement.
- 14.4 - VIBRATION - No vibration shall be permitted which is discernable without instruments on any adjoining lot of property.
- 14.5 - ODORS - No melodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
- 14.6 - AIR POLLUTION - No pollution of air by flyash, dust, vapors or other substance shall be permitted which is harmful to health, animals, vegetation or property.
- 14.7 - GLARE - No direct glare or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.
- 14.8 - EROSION - No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.
- 14.9 - WATER POLLUTION - No liquid or solid wastes or any other material considered to be a pollutant shall be emptied into any natural or man-made water course.

#### ARTICLE XV -- ADMINISTRATION AND ENFORCEMENT

15.1 - ORGANIZATION - It shall be the duty of the Zoning Board of Appeals and



of the Administrative officer to administer and enforce the provisions of this Ordinance.

15.2 - BOARD OF ZONING APPEALS

15.201 - CREATION -- A Zoning Board of Appeals is hereby created for the Village of Elkhart, Illinois. The Board of Appeals, shall consist of seven (7) members who shall serve for a term of five (5) years, provided that the member first appointed after the enactment of this Ordinance shall serve terms as follows: one shall serve a term of one year; one for two years; one for three years; one for four years; one for five years; one for six years; and one for seven years and the successor to each member so appointed shall be named as Chairman at the time of his appointment. The terms of the members shall commence on the date of their appointment. All of the members of said Board shall serve without compensation and they shall be subject to removal by the President and Board of Trustees of the Village for good cause after public hearing. Members of the Zoning Board of Appeals shall have the powers and duties assigned to the Zoning Board of Appeals by Statute and Ordinance.

15.202 - PROCEDURE -- In accordance with Illinois Revised Statutes, 1967; Chapter 24, Section 11, Division 13, the rules as follow apply:

- (a) All appointments to the Zoning Board of Appeals shall be made by the Village President subject to approval of the Village Board. One of the members so appointed shall be named as Chairman at the time of his appointment. Vacancies shall be filled as soon as possible for the unexpired term of any member whose place has become vacant. In the event that the office of Chairman is vacated for any reason, the Village Board shall immediately appoint at its option either one of the remaining members on the Board, or any member who is appointed to fill such vacancy on the Board as the New Chairman.
- (b) All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. All testimony by witnesses at any hearing provided for in this Ordinance shall be given under oath. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examination and other official actions. No hearing shall be conducted without a quorum of the board being present, which shall

consist of a majority of all members. Any absent member who certifies that he has read the transcript of the proceedings before the board may vote upon any question before the board. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Village Clerk and shall be of public record.

15.203 - JURISDICTION -- The Board of Zoning Appeals is hereby vested with the powers as granted by the Statutes of the State of Illinois and this Ordinance as follows:

- (a) to hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Officer pertaining to conformance with requirements of this Ordinance, but not including the Building Code;
- (b) to hear and decide variation from the terms provided in this Ordinance in the manner and subject to the standards set forth in this Section;
- (c) to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance;
- (d) to post or publish notices of public hearings, and to hold such hearings as required by the applicable Statutes of the State of Illinois, pertaining to proposed amendments to the regulations imposed and the Districts created by this Ordinance and to proposed conditional uses as established in this Ordinance;
- (e) to make a written report and recommendation to the Village Board on any such proposed amendments or proposed conditional uses; and
- (f) to initiate, direct, and review, from time to time, studies of the provisions of this Ordinance and to make reports of its recommendations to the Village Board not less frequently than once a year.

15.3 - ADMINISTRATIVE OFFICER -- The Village President, with the approval of the Village Board of trustees, may appoint or designate an Administrative Officer or other officials who shall have the authority to:

15.301 - Issue all certificate of occupancy and make and maintain records thereof.

15.302 - Conduct inspections of building, structures, and uses of land to determine compliance with the terms of this Ordinance.



- 15.303 - Maintain permanent and current records of the Ordinance, including but not limited to, all maps, amendments and conditional uses, variations, appeals, and application therefore.
- 15.304 - Receive, file, and forward to the Zoning Board of Appeals all applications for appeals, variations, and other matters on which the Zoning Board of Appeals is required to decide under this Ordinance. The Zoning Board of Appeals shall hold a hearing when so required by this ordinance no later than 30 days after written application is made for said hearing.
- 15.305 - Provide such clerical and technical assistance as may be required by the Zoning Board of Appeals in the exercise of its duties.
- 15.4 - ZONING CERTIFICATE -- Application for a Zoning Certificate shall be made prior to the construction of any building or structure. No permit pertaining to the use of land or buildings shall be issued unless the Administrative Officer has certified, after examination, that it complies with all provision of this Ordinance. A fee of \$1.00 for this Ordinance shall be charged.
- 15.5 - OCCUPANCY CERTIFICATE -- No land shall be occupied or used and no building hereafter erected or substantially altered, as determined by the Administrative Officer, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Administrative Officer stating that the building complies with all the building and health laws and ordinances and with the provisions of these regulations. No change of a principal use, as set forth in this Ordinance, shall be made in any building or part thereof now or hereafter erected or altered without a permit having been issued to make such change unless it is in conformity with the provisions of this Ordinance and amendments thereto.

Nothing in this section shall prevent the continuance of the present occupancy or use of any existing building, except as may be necessary for safety of life and property.

Certificates for occupancy shall be applied for and shall be issued within ten days after the erection or alteration of such building has been completed. A record of all certificates shall be kept on file in the office of the Administrative Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. A fee of \$1.00 shall be charged for each occupancy permit and .50 for each additional copy thereof.



## 15.6 - APPEALS

- 15.601 - AUTHORITY -- the Zoning Board of Appeals shall hear and decide appeals from an administrative order, requirement, decision, or determination made by the Administrative Officer or other authorized officials of the Village of Elkhart relating to the regulations of this Ordinance.
- 15.602 - INITIATION -- An appeal may be taken to the Zoning Board of Appeals by any person, firm, or corporation or by an office, department, board, bureau, or commission, aggrieved by an administrative order, requirement, decision, or determination under this Ordinance by the Administrative Officer or other authorized official of the village of Elkhart.
- 15.603 - PROCEDURE -- An appeal shall be filed with the Village Clerk shall forward such appeal to the Zoning Board of Appeals for processing in accordance with the applicable Statutes of the State of Illinois.
- 15.604 - DECISIONS -- All decisions, after hearing before the Zoning Board of Appeals on appeals from an administrative order, requirement, decisions, or determination relating to this Ordinance, of the Administrative Officer or other authorized official of the Village of Elkhart shall, in all instances, be final administrative determinations and shall be subject to judicial review only in accordance with applicable Statutes of the State of Illinois.

## 15.7 - VARIATIONS

- 15.701 - AUTHORITY -- The Zoning Board of Appeals shall decide variations of the provisions of this Ordinance in harmony with its general purpose and intent, and shall vary them only in the specific instances hereinafter set forth where the Zoning Board of Appeals shall have made a finding of fact based upon the standards hereinafter prescribed that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Ordinance.
- 15.702 - INITIATION -- An application for a variation may be made by any person, firm, or corporation or by any office, department, board, bureau, or commission, requesting or intending to request application for a Zoning certificate.
- 15.703 - PROCEDURE -- An application for a variation shall be filed with the Village Clerk. The Village Clerk shall forward such application to the Zoning Board of Appeals for processing in accordance with applicable Statutes of the

State of Illinois. No variation shall be made by the Zoning Board of Appeals except after a public hearing before the Zoning Board of Appeals, of which there shall be a notice of time and place of the hearing published at least once--not more than 30 nor less than 15 days before the hearing--in one or more newspapers with a general circulation within the Village of Elkhart and a written notice is served at least 15 days before the hearing on the owners of the properties located within 200 feet of the location for which the variation is requested.

- 15.704 - DECISIONS -- All decisions of the Zoning Board of Appeals on variations arrived at after the hearing shall require a majority vote of all its members, and such decisions shall be final, subject only to judicial review in accordance with applicable Statutes of the State of Illinois.
- 15.705 - STANDARDS -- The Zoning Board of Appeals shall not vary the provisions of this Ordinance as authorized in this section unless it shall have made findings based upon the evidence presented to it in the following specific cases:
- (a) that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the District in which it is located;
  - (b) that the plight of the owner is due to unique circumstance; or
  - (c) that the variation, if granted, will not detract from the essential character of the locality.

For the purpose of supplementing the above standards, the Zoning Board of Appeals, in making this determination whenever there are practical difficulties or particular hardship, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

- (a) that the particular physical surroundings, shape, or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a more inconvenience if the strict letter of the regulation were to be carried out;
- (b) that the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification;



- (d) that the alleged difficulty or hardship has not been created by any person presently having an interest in the property;
- (e) that the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or
- (f) that the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Zoning Board of Appeals shall require such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards set forth in this section to reduce or minimize the injurious effect of such variation upon other property in the neighborhood, and to implement the general purpose and intent of this Ordinance.

#### 15.8 - AMENDMENTS

- 15.801 - AUTHORITY -- The regulations imposed and the Districts created under the authority of this Ordinance may be amended from time to time by Ordinance in accordance with the applicable Statutes of the State of Illinois. An amendment shall be granted or denied by the Village Board only after a public hearing before the Board of Zoning Appeals and a report of its findings and recommendations has been submitted to the Village Board.
- 15.802 - INITIATIONS -- Amendments may be proposed by the Village Board, by the Board of Appeals, or by a resident of or owner of property in the Village of Elkhart.
- 15.803 - PROCEDURE -- An application for an amendment shall be filed with the Village Clerk. Such application shall be forwarded from the Board of Appeals, by the Village Clerk with a request to hold a public hearing in accordance with applicable Statutes of the State of Illinois, and thereafter to submit a report of its findings and recommendations to the Village Board.
- 15.804 - DECISIONS -- The Village Board, after receiving the report of the Board of Appeals, and without further public hearings, may grant or deny any proposed amendment in accordance with applicable Statutes of the State of Illinois, or may refer it back to the Board of Appeals for further consideration.



**15.9 - CONDITIONAL PERMITTED USES**

**15.901 - AUTHORITY --** Conditional permitted uses shall be authorized or denied by the Village Board in accordance with the regulations and conditions set forth in this Ordinance for conditional permitted uses. No application for a conditional permitted use shall be acted upon by the Village Board until after:

- (a) a written report is prepared and forwarded to the Village Board by the Board of Appeals in a manner prescribed herein for amendments to this Ordinance; and
- (b) a public hearing has been held by the Board of Appeals after due notice by publication as provided by the applicable Statutes of the State of Illinois for amendments, and the findings and recommendations of the Board of Appeals have been reported to the Village Board.

**15.902 - INITIATION --** an application for a conditional permitted use may be made by any person, firm, or corporation or by any office, department, board, bureau, or commission, requesting or intending to request a Zoning Certificate.

**15.903 - PROCEDURE --** An application for a conditional permitted use, in such form and accompanied by such information as shall be established from time to time by the Board of Appeals, shall be filed with the Village Clerk and thereafter processed in the manner prescribed heretofore for applications for amendment.

**15.904 - DECISIONS --** the Village Board, upon report of the Board of Appeals and without further hearing, may authorize or deny an application for a conditional use in accordance with the Statutes of the State of Illinois applicable to amendments, or may refer it back to the Board for further consideration.

No conditional permitted use shall be authorized by the Village Board unless the conditional permitted use:

- (a) is deemed necessary for the public convenience at that location;
- (b) is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected; and,
- (c) would not cause substantial injury to the value of other property in the neighborhood in which it is located.

- 15.10 - FEES -- Any application for an amendment, conditional permitted use, or variation, filed by or on behalf of the owner or owners of the property affected shall be accompanied by a fee of \$10.00.
- 15.11 - VIOLATIONS & PENALTY -- Any person, firm, or corporation, who violates, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, be fined not less than \$50.00 nor more than \$200.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

EFFECTIVE DATE

- 16.0 This Ordinance shall be in force and effect from and after its due passage, approval, recording and publication as provided by law.

Approved and Ordained by the Board of Trustees of the Village of Elkhart, Illinois this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
President  
Elkhart Board of Trustees

ATTEST

\_\_\_\_\_  
Village Clerk

ORDINANCE NO. 2007-\_\_\_\_

ORDINANCE AMENDING THE ZONING ORDINANCE OF  
THE VILLAGE OF ELKHART, LOGAN COUNTY, ILLINOIS

**WHEREAS**, Division 13 of Article 11 of the Illinois Municipal Code (65 ILCS 5/11-13-1 et. Seq.) authorizes municipalities to adopt Zoning Ordinances to regulate land use within the Corporate limits of the Village; and,

**WHEREAS**, the Village has hereto fore adopted a Zoning Ordinance which is applicable to all real property within the Corporate limits of the Village; and,

**WHEREAS**, Section 14 of the foregoing Division authorizes amendments of Zoning Regulations in Districts following a hearing by a committee designated by the Mayor and Board of Trustees, acting jointly; and,

**WHEREAS**, on \_\_\_\_\_, a committee appointed by the Mayor and consented to by the Board of Trustees, conducted a public hearing for the purpose of obtaining public comment on proposed revisions to the Zoning Ordinance; and,

**WHEREAS**, the Committee has reported to the Board of Trustees the comments received from members of the public and others pertaining to said proposed Amendment;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Board of Trustees of the Village of Elkhart, Logan County, Illinois, as follows:

**Section 1:** That the Preambles hereto are true and correct and are incorporated herein by references as if fully set forth at this point.

**Section 2:** That Section 15.10 of the Zoning Ordinance of the Village of Elkhart is hereby amended by deleting section 15.10 and inserting the following section as 15.10:

"15.10 fees--any application for an amendment, \$750  
conditional permitted use, or variance filed by \$250  
or on behalf of the owner or owners of the  
property affected shall be accompanied by fee  
of no less than \$750.00. If at the end of any  
hearing or hearings the costs to the city is in



excess of \$750.00 the owner or owners so applying for an amendment, conditional permitted use, or variance or other action by the city shall reimburse the city for any additional expenses that it has incurred."

*money not used  
will be refunded*

**Section 3:** That all Ordinances, Resolutions and other enactments of the Mayor and Board of Trustees of the Village of Elkhart in conflict herewith are hereby expressly repealed to the extent of said conflict.

**Section 4:** That this Ordinance shall be effective upon its passage, execution and publication as required by law.

Passed by the Board of Trustees of the Village of Elkhart, Logan County, Illinois, approved by the Mayor, and deposited in the Office of the Village Clerk, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Those voting aye: \_\_\_\_\_

\_\_\_\_\_

Those voting nay: \_\_\_\_\_

\_\_\_\_\_

Those absent: \_\_\_\_\_

APPROVED:

By: \_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_  
Village of Elkhart, Village Clerk

VILLAGE OF ELKHART

ORDINANCE NO. 2005-1

ADOPTED BY THE  
BOARD OF TRUSTEES  
OF THE  
VILLAGE OF ELKHART

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2007

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**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF  
THE VILLAGE OF ELKHART, LOGAN COUNTY, ILLINOIS**

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Published in pamphlet form by the authority of the Board of Trustees of the  
Village of Elkhart, Logan County, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2007.

Aug 21 2007

To ZBA members,

Following is a copy of the ordinance we're proposing.

In the past 2 yrs. the Village has incurred over \$2000 in expenses for zoning changes. We can no longer do this. Thus the reason for the change to \$750.00. ON normal requests our Attorney will spend 3-4 hrs in research and paperwork. This is something we can't change.

This change is strictly to insure our costs are covered. It does not spell it out, which we can change or add, If we do not spend the \$750 the balance will be returned.

I hope this answers any questions. I will be at your meeting.

Thanks

Steve Anderson