

TOWN OF CEDARBURG
ORDINANCE NO. 2009-2

An Ordinance to Amend Chapter 320: Zoning, of the Town of Cedarburg Code of Ordinances, Ozaukee County, Wisconsin, Regarding the revision of several zoning districts, specifying permitted and conditional uses, amending §320-137 Definitions and word usage, and §320-58 relating to permitting child care as a home occupation through a conditional use permit and regulating professional offices in the R-3 district, and adopting a set of partial updates to the Zoning chapter, bringing the Zoning Chapter into consistency with the Town of Cedarburg Comprehensive Plan: 2035"

WHEREAS, the Town of Cedarburg is a municipal body corporate and politic within Ozaukee County;

WHEREAS, the Town of Cedarburg possesses village powers under Ch. 61, Wis. Stats; and,

WHEREAS, the Town Board held a public hearing regarding this proposed ordinance, a notice of which was published twice, with the second notice published at least seven days prior to the date of the hearing; and

WHEREAS, the Plan Commission recommended that the Town Board approve the proposed ordinance to the Town of Cedarburg Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, that the following sections of Chapter 320 of the Town of Cedarburg Code of Ordinances are hereby amended to read as follows:

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(The text modified with an underline shall be added).

Chapter 320: ZONING

[HISTORY: Adopted by the Town Board of the Town of Cedarburg 1-2-1991 as Title 10, Ch. 1 of the 1991 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning Board of Appeals — See Ch. 16.
 Building construction — See Ch. 108.
 Land division — See Ch. 184.
 Landmarks preservation — See Ch. 186.
 Nonmetallic mining — See Ch. 206.
 Mobile homes and trailers — See Ch. 214.

ARTICLE I Introduction

§ 320-1. Authority.

This chapter is adopted under the authority granted by §§ 60.61 and 62.23(7), Wis. Stats., and amendments thereto.

§ 320-2. Title.

This chapter shall be known as, referred to and cited as the "Zoning Code, Town of Cedarburg, Wisconsin" and is hereinafter referred to as the "Zoning Code" or "this chapter."

§ 320-3. Purpose.

The purpose of this chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of the people of the Town of Cedarburg, Wisconsin.

§ 320-4. General intent and purposes in view.

The general intent and purposes in view of this chapter are to regulate and restrict the use of all structures, lands and waters and to:

- A. General welfare. Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people.
- B. Zones or districts. Divide the Town into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses.
- C. Character and stability. Protect the character and the stability of the residential, business, manufacturing and other districts within the Town and to promote the orderly and beneficial development thereof.
- D. Lot coverage. Regulate lot coverage, the intensity of use of lot areas and the size and

location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage.

- E. Population density and distribution. Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements.
- F. Parking, loading and access. Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways.
- G. Safety from dangers. Secure safety from fire, panic, flooding, pollution, contamination and other dangers.
- H. Property values. Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Town.
- I. Beauty. Preserve and protect the beauty of the Town of Cedarburg.
- J. Prohibit incompatible uses. Prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts.
- K. Elimination of nonconforming uses. Provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district.
- L. Control erosion. Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters.
- M. Water conditions. Further the maintenance of safe and healthful water conditions.
- N. Flood damage. Prevent flood damage to persons and property and minimize expenditures for flood relief and flood-control projects.
- O. Commercial and industrial sites. Provide for and protect a variety of suitable commercial and industrial sites.
- P. Traffic-carrying capacity. Protect the traffic-carrying capacity of existing and proposed arterial streets and highways.
- Q. Implement comprehensive plans. Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Town of Cedarburg.
- R. Provide for administration, enforcement and penalties. Provide for the administration and enforcement of this chapter and to provide penalties for the violation of this chapter.

§ 320-5. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

§ 320-6. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to minimum requirements and shall be liberally construed in favor of the Town and shall not be construed to be a limitation or repeal of any other power now possessed by the Town of Cedarburg.

§ 320-7. Severability; nonliability; repealer.

- A. Severability. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- B. Not applicable to others. If any application of this chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- C. Nonliability. The Town does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Town Board, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this chapter.
- D. Repeal. All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

ARTICLE II General Provisions

§ 320-8. Jurisdiction and general requirements.

- A. Jurisdiction. The jurisdiction of this chapter shall apply to all structures, lands, water and air within the corporate limits of the Town of Cedarburg.
- B. Compliance. No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this chapter and all other applicable local, county and state regulations.
- C. District regulations to be complied with. Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- D. Yard reduction or joint use.
 - (1) No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use unless otherwise approved by the Town Board.
 - (2) ~~No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building. Editor's Note: Original § 10-1-10(e); One main building per lot, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See § 320-10B.~~
- E. Lots abutting more restrictive district. Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

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§ 320-9. Use regulations.

Only the following uses and their essential services may be allowed in any district:

- A. Permitted uses. Permitted uses, being the principal uses specified for a district.
- B. Accessory uses. Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- C. Conditional uses.
 - (1) Classes of conditional uses. Conditional uses may be denominated either "regular" or "limited."

(2) General conditional use provisions. Provisions applicable to conditional uses generally:

- (a) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Town Board in accordance with Article V of this chapter, excepting those existent at time of adoption of the Zoning Code.
- (b) Those existing uses which are classified as conditional uses for the district(s) in which they are located at the time of adoption of the Zoning Code require no action by the Town Board for them to continue as valid conditional uses, and the same shall be deemed to be regular conditional uses.
- (c) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Town Board in accordance with Article V of this chapter.
- (d) A conditional use(s), when replaced by a permitted use(s), shall terminate. In such case, the reestablishment of any previous conditional use(s) or establishment of a new conditional use shall require review, public hearing and approval by the Town Board in accordance with Article V of this chapter.
- (e) Provisions in this chapter relating generally to conditional uses shall, except when in conflict with specific provisions relating to either regular or limited conditional uses (which specific provisions would then control), be deemed to be applicable to both regular and limited conditional uses.
- (f) Alteration or modification of any condition of an existing permit may be allowed only in accordance with the requirements in Article V of the Zoning Code. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3) Regular conditional use provisions. Provisions applicable specifically to regular conditional uses:

- (a) Regular conditional uses, either allowed by action of the Town Board or existent at time of adoption of the Zoning Code, unless the permit specifically provides otherwise, shall not lapse and shall survive vacancies and/or change of ownership or operator of the property to which the conditional use pertains. However, in order for such change of ownership or operator of a regular conditional use permit to be valid it shall require the permit to be transferred to a new owner or operator upon submittal to the Town Board of a certification in writing by the new permit holder that all conditions of the permit will be complied with. The transfer is not valid until accepted by the Town Board that all conditions of the permit will be complied with by the new permit holder. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (b) See Subsection C(2)(b) above as to conditional uses existent at time of adoption of this Zoning Code being deemed to be regular conditional uses.

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(4) Specific limited conditional use provisions. Provisions applicable specifically to limited conditional uses:

- (a) Limited conditional uses authorized by Town Board resolution shall be established

for a period of time to a time certain or until a future happening or event at which the same shall terminate.

- (b) Limited conditional uses authorized by the Town Board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Board approval and the procedures required in Article V of this chapter.

- D. Uses not specified in Zoning Code. Uses not specified in this Zoning Code which are found by the Town Board, following recommendation from the Plan Commission, to be sufficiently similar to specified principal or conditional uses for a district may be allowed by the Town Board. [Amended 10-4-2006 by Ord. No. 2006-11]
- E. Temporary uses. Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Board of Appeals after the Town Plan Commission has made a review and recommendation.

§ 320-10. Site regulations. Editor's Note: Original § 10-1-12(a), Site suitability; (e), Lots abutting more restrictive districts; and (j), Soil restrictions, which were part of this section, were deleted 10-4-2006 by Ord. No. 2006-11.

- A. Street frontage. All lots shall abut upon a public street ~~and meet the frontage requirements of the zoning district in which it is located,~~ or have other officially approved means of access as provided in § 279-6D, and each lot shall comply with the design standards in Chapter 184, Land Division, of this Code, ~~and with the frontage requirements of the zoning district in which it is located.~~ [Amended 9-5-2007 by Ord. No. 2007-10] ~~Where lots abut a county or state highway or arterial road, greater front yard setbacks shall be encouraged.~~
- B. Principal structures. All principal structures shall be located on one lot. Only one principal structure shall be located, erected or moved onto a lot, except that in the A-1, A-2, B-1, B-2, B-3, M-1 or M-2 Zoning District an additional principal structure may be permitted as either a regular or limited conditional use in accordance with the requirements in Article V of this Zoning Code. [Amended 10-4-2006 by Ord. No. 2006-11]
- C. Dedicated street. No zoning or building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- D. Site suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Town Board and Plan Commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Plan Commission, in applying the provisions of this subsection, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm,

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modify or withdraw its determination of unsuitability when making its recommendation to the Town Board.

- E. Preservation of topography, views, and wooded slopes. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1 1/2 horizontal to one vertical, within a distance of 20 feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion. The Board shall consider the effects of new development atop hills and ridges in an effort to preserve viewsheds. Homes located within farm fields should be located with the goal of preserving views and productive farmland. Where feasible, existing tree lines, mature trees, hedgerows, barns, silos and other significant historic structures and wooded slopes should be preserved.
- F. Decks. For purposes of this chapter, decks and porches shall be considered a part of a building or structure.
- G. Private sewer and water. In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with the Wisconsin Administrative Code. In any district where public water service or public sewerage service is not available, the lot width and area shall be increased in accordance with Ch. Comm 83, Wis. Adm. Code.
- H. New park facilities and trails. New park facilities and trails shall meet the requirements of the Americans with Disabilities Act (ADA).

§ 320-11. Height and area exceptions. [Amended 6-6-2001 by Ord. No. 2001-9]

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- A. Height limitations. The height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following: [Amended 10-4-2006 by Ord. No. 2006-11]
 - (1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, shall not exceed in height their distance from the nearest lot line but shall not exceed 50 feet.
 - (2) Special structures, such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks, shall not exceed in height their distance from the nearest lot line.
 - (3) Essential services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this chapter. All new and

replacement electric and telecommunications distribution and service lines shall be located underground when economically feasible.

- (4) Communication structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height their distance from the nearest lot line.
 - (5) Agricultural structures, such as barns, silos, tanks and windmills, shall not exceed in height their distance from the nearest lot line.
- B. Lots on two streets. Where a lot abuts on two or more streets having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
- C. Occupation of undersized lots. Where a lot has an area less than the minimum number of square feet required for the district in which it is located and was of record as such at the time of the passage of this Code, such lot may be occupied subject to the requirements of Article VI, Nonconforming Uses, Structures and Land, of this Zoning Code. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- D. Fire facilities. Open or enclosed fire escapes and fire towers may project into a required yard not more than five feet and into a required court not more than 3 1/2 feet, provided that they are so located as not to obstruct light and ventilation. Editor's Note: Original § 10-1-14, Reduction or joint use, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See § 320-8D.

ARTICLE III Zoning Districts

§ 320-12. Establishment of districts.

A. Zoning districts. For the purpose of this chapter, present and future, provision is hereby made for the division of the Town of Cedarburg into the following basic zoning districts: Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- R-1 Single-Family Residential District
- R-2 Single-Family Residential District
- R-3 Single-Family Residential District
- B-1 Neighborhood Business District
- B-2 Planned Business District
- B-3 Business District
- M-1 Industrial District
- M-2 Planned Industrial District
- M-3 Quarrying District
- A-1 Agricultural District
- A-2 Prime Agricultural District
- C-1 Conservancy District
- P-1 Public and Private Park District
- E-1 Estate District
- CR-A Countryside Residential A District
- CR-B Countryside Residential B District
- TR Transitional Residential District
- TR-2 Transitional Residential 2 District
- TCOD Town Center Overlay District

B. Rezoning of lands from agricultural to residential districts. E-1 Estate District, CR-A Countryside Residential A, CR-B Countryside Residential B and TR-2 Transitional Residential 2 are the only residential zoning districts which are allowed when a petition is submitted for the rezoning of lands from an agricultural to a residential zoning district.

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C. In order for prime agricultural land to be rezoned for residential development, the Plan Commission must find that:

- (1) Adequate facilities in accordance with all Town requirements and ordinances exist or will be provided within a reasonable period of time; and

- (2) The land proposed for rezoning is suitable for development, and development will not result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.

§ 320-13. Vacation of streets.

Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts. Editor's Note: Original § 10-1-31(b), Annexations, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 320-14. Zoning Map.

- A. Zoning districts. The Town of Cedarburg is hereby divided into zoning districts as shown upon a map designated as the Official Zoning Map of the Town of Cedarburg and made a part of this chapter. The Official Zoning Map and all the notations, references and other information shown thereon are a part of this chapter and shall have the same force and effect as if the matters and information set forth by said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Regulations in the office of the Town Administrator of the Town of Cedarburg.
- B. District boundaries. The district boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Town Board shall interpret the map according to the reasonable intent of this chapter. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the center lines of streets, highways, railways or alleys.

§ 320-15. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- A. Center lines. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
- B. Lot lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Town boundaries. Boundaries indicated as approximately following Town boundaries shall be construed as following municipal boundaries.
- D. Railroad lines. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Shorelines. Boundaries indicated as following shorelines shall be construed to be 50 feet

from the banks of bodies of water or perennial streams and 50 feet from the banks of intermittent streams.

- F. Feature extensions. Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

§ 320-16. R-1 Single-Family Residential District.

- A. Principal use: one-family dwellings on land that currently exists in this zoning classification. No other lands not already zoned R-1 shall be rezoned to the same. [Amended 10-4-2006 by Ord. No. 2006-11]

| B. Conditional uses: see § 320-56, § 320-57 and § 320-60.

| C. Lot.

- (1) Width: minimum 200 feet.
- (2) Area: minimum 80,000 square feet.
- (3) Frontage. [Amended 1-6-1999 by Ord. No. 1999-2]
 - (a) Lots abutting culs-de-sac: minimum 75 feet.
 - (b) Lots on curve with a maximum center-line radius of 150 feet: minimum 120 feet.
 - (c) Other lots: minimum 200 feet.
 - (d) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

| D. Building area: minimum 1,800 square feet with at least 1,200 square feet on the first floor of two-story residences.

| E. Building height: maximum 35 feet.

| F. Yard setbacks.

- (1) Street: minimum 75 feet.
- (2) Rear: minimum 35 feet.
- (3) Side: minimum 35 feet.

§ 320-17. R-2 Single-Family Residential District.

- A. Principal use: one-family dwellings on land that currently exists in this zoning classification. No other lands not already zoned R-2 shall be rezoned to the same. [Amended 10-4-2006 by Ord. No. 2006-11]

| B. Conditional uses: see § 320-56, § 320-57, § 320-58 and § 320-60.

C. Lot.

- (1) Width: minimum 150 feet.
- (2) Area: minimum 40,000 square feet.
- (3) Frontage. [Amended 1-6-1999 by Ord. No. 1999-2]
 - (a) Lots abutting culs-de-sac: minimum 75 feet.
 - (b) Lots on curve with a maximum center-line radius of 150 feet: minimum 120 feet
 - (c) Other lots: minimum 150 feet.
 - (d) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

D. Building area: minimum 1,500 square feet with at least 1,000 square feet on the first floor of two-story residences.

E. Building height: maximum 35 feet.

F. Yard setbacks.

- (1) Street: minimum 75 feet.
- (2) Rear: minimum 25 feet.
- (3) Side: minimum 25 feet.

§ 320-18. R-3 Single-Family Residential District.

A. Principal uses: one-family dwellings on land that currently exists in this zoning classification. No other lands not already zoned R-3 shall be rezoned to the same. [Amended 10-4-2006 by Ord. No. 2006-11]

| B. Conditional uses: see § 320-56, § 320-57, § 320-58 and § 320-60.

C. Lot.

- (1) Width: minimum 150 feet.
- (2) Area: minimum 40,000 square feet.
- (3) Frontage. [Amended 1-6-1999 by Ord. No. 99-02]
 - (a) Lots abutting culs-de-sac: minimum 75 feet.
 - (b) Lots on curve with a maximum center-line radius of 150 feet: minimum 120 feet.
 - (c) Other lots: minimum 150 feet.
 - (d) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

- D. Building area: minimum 1,200 square feet with at least 1,000 square feet on the first floor of two-story residences.
- E. Building height: maximum 35 feet.
- F. Yard setbacks.
- (1) Street: minimum 75 feet.
 - (2) Rear: minimum 25 feet.
 - (3) Side: minimum 25 feet.

§ 320-19. B-1 Neighborhood Business District. [Amended 12-5-2001 by Ord. No. 2001-21; 11-6-2002 by Ord. No. 2002-11]

A. Statement of Purpose:

The B-1 Neighborhood Business District is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood, and the character, appearance, and operation of which are compatible with the character of the surrounding area. If the business is located within the Five Corners Master Plan area, the building construction and materials shall be consistent with the Five Corners Master Plan.

BA. Principal uses: Drug stores, delicatessens, florists, business and professional offices,

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CB. Conditional uses:

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- (1) Bakeries, barbershops, bars, beauty shops, business offices, clinics, clothing stores, cocktail lounges, confectioneries, delicatessens, drug stores, fish markets, florists, fruit stores, gift stores, grocery stores, hardware stores, hobby shops, home occupations, laundry, lodging, meat markets, optical stores, packaged beverage stores, private athletic clubs, professional offices, Self-service and pickup laundry and dry-cleaning establishments, soda fountains, sporting goods, supermarkets, tobacco stores, vegetable stores, and restaurants,

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Bakeries

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~~Private athletic clubs~~

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~~Professional offices~~

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~~Restaurants~~

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~~Self-service and pickup laundry and dry-cleaning establishments~~

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~~Soda fountains~~

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(2) Existing residences shall comply with all the provisions of the R-3 Residential District.

(3) Residential dwellings may be allowed in this zoning classification, even without having a retail component, with a valid conditional use permit issued by the Town Board [Added 10-6-2004 by Ord. No. 2004-9]

(4) ~~A single residential unit to be used by the owner of the building or by the operator of a business in the same or contiguous building of the business.~~

(5) ~~See § 320-56, § 320-57, § 320-59, § 320-60 and § 320-106.~~

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~~DC. Additional conditional uses:~~

(1)

(2)

~~EC. Lot.~~

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(1) Width: minimum 100 feet.

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(2) Area: minimum ~~1/2~~ acre.

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~~F.D.~~ Building height: maximum 35 feet.

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~~G.F.~~ Yard setbacks.

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(1) Street: minimum ~~25~~ feet.

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(2) Rear: minimum 50 feet.

(3) Side: minimum 15 feet.

§ 320-20. B-2 Planned Business District.

A. Statement of Purpose:

The B-2 Planned Business District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices, and service establishments serving the daily needs of the surrounding local community area. The size and location of such districts shall be based upon community need, adequate customer potential, adequate traffic circulation, and other related facilities, and of potential contribution to the economic welfare of the community. If the business is located within the Five Corners Master Plan area, the building construction and materials shall be consistent with the Five Corners Master Plan.

~~BA.~~ Principal uses: Financial institutions, appliance stores, furniture stores,

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~~CB.~~ Conditional uses.

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- (1) ~~Appliance stores, clothing repair shops, department stores, electrical supply, financial institutions, food lockers, furniture stores, hotels, laundry and dry-cleaning establishments employing not over seven persons, liquor stores, music stores, newspaper offices and press rooms, nightclubs, office supplies, pawn shops, personal service establishments, pet shops, photographic supplies, places of entertainment, plumbing supplies, printing, private clubs, private schools, publishing, radio and television broadcasting studios, secondhand stores, variety stores,~~

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~~Appliance stores~~

Deleted: All B-1 Business District uses:

~~Clothing repair shops~~

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~~Crockery stores~~

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~~Department stores~~

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~~Electrical supply~~

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~~Financial institutions~~

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~~Food lockers~~

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~~Furniture stores~~

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~~Hotels~~

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~~Laundry and dry-cleaning establishments employing not over 7 persons~~

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~~Liquor stores~~

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~~Music stores~~

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~~Newspaper offices and press rooms~~

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~~Nightclubs~~

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~~Office supplies~~

Formatted: Strikethrough

~~Pawnshops~~

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~~Personal service establishments~~

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~~Pet shops~~

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~~Photographic supplies~~

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~~Places of entertainment~~

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~~Plumbing supplies~~

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~~Printing~~

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~~Private clubs~~

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~~Private schools~~

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~~Publishing~~

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~~Radio broadcasting studios~~

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~~Secondhand stores~~

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~~Television broadcasting studios~~

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~~Variety stores~~

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(2) See also ~~§ 320-56, § 320-57, § 320-59, § 320-60, § 320-62 and § 320-106.~~

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~~DC. Development.~~

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(1) Frontage: minimum ~~150~~ feet.

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(2) Area: minimum ~~one~~ acre.

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~~ED. Building height: maximum 45 feet.~~

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~~FE. Yard setbacks.~~

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(1) Street: minimum ~~25~~ feet. [Amended 2-7-2001 by Ord. No. 2001-1]

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(2) Rear: minimum 30 feet.

(3) Side: minimum ~~15~~ feet.

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§ 320-21. B-3 Business District.

A. Statement of Purpose. ~~This~~

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The B-3 Business District is intended to provide for commercial or light manufacturing activities of a general retail and wholesale nature, and particularly where it is difficult to separate one phase of an enterprise from another, for example, where sales are made at retail.

but also at wholesale; where storage and warehousing are required by the nature of the business; and where there may be manufacturing of some of the ingredients or parts or perhaps the whole product, so long as they are not. It is also intended for those activities which, though solely manufacturing or industrial on the basis of physical and operational characteristics, are of a type that is not offensive to the surrounding area by virtue of dust, noise, smoke, traffic, physical appearance or other similar facts, generally within the purview of light manufacturing, subject to such regulatory controls as will reasonably ensure compatibility in this respect and as determined from time to time by the Plan Commission of the Town of Cedarburg. If the business is located within the Five Corners Master Plan area, the building construction and materials shall be consistent with the Five Corners Master Plan.

B. Principal uses: ~~none~~ Professional offices, retail shops and stores.

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C. (1) Conditional uses: General merchandising establishments, general wholesaling establishments, automotive body repair, cleaning, commercial greenhouses, ~~retail shops and stores~~, community service facilities, distributors, farm machinery sales and service, food locker plants, general warehousing or warehousing in connection with any permitted use, laboratories, laundry, pressing and dyeing establishments, ~~professional office~~, trade and contractor's offices and yards, printing and publishing, storage and sale of machinery and equipment, studios, tool and die design and production, transportation terminals, upholstery, woodworking shops not requiring outside dust collection equipment, or any other use that is in substantial conformity with the expressed intention of this district may be made a conditional use when recommended by the Plan Commission of the Town of Cedarburg and approved by the Town Board.

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(2) See also § 320-56, § 320-57, § 320-59, § 320-60 and § 320-106.

(1) ~~General merchandising establishments.~~

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(2) ~~General wholesaling establishments.~~

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(3) ~~Printing and publishing.~~

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(4) ~~Community service facilities.~~

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(5) ~~Retail stores and shops.~~

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(6) ~~General warehousing or warehousing in connection with any permitted use.~~

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(7) ~~Studios.~~

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(8) ~~Transportation terminals.~~

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(9) ~~Upholstery.~~

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(10) ~~Laundry.~~

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(11) ~~Cleaning.~~

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(12) ~~Pressing and dyeing establishments.~~

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(13) ~~Distributors.~~

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(14) ~~Food locker plants.~~

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(15) ~~Tool and die design and production; woodworking shops not requiring outside dust collection equipment.~~

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~~(16) Commercial greenhouses.~~

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~~(17) Automotive body repairs.~~

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~~(18) Farm machinery sales and service.~~

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~~(19) Storage and sale of machinery and equipment.~~

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~~(20) Trade and contractors' offices and yards.~~

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~~(21) Laboratories.~~

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~~(22) Any other use that is in substantial conformity with the expressed intention of this district may be made a conditional use when recommended by the Plan Commission of the Town of Cedarburg and approved by the Town Board.~~

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D. Lot.

(1) Frontage: minimum ~~150~~ feet.

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(2) Area: minimum one acre.

E. Building height: maximum 45 feet.

F. Yard setbacks (except as specifically addressed under § 320-57). [Amended 3-1-2000 by Ord. No. 2000-8]

(1) Street: minimum ~~50~~ feet.

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(2) Rear: minimum 30 feet.

(3) Side: minimum ~~15~~ feet.

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§ 320-22. M-1 Industrial District.

A. Principal uses.

(1) Automotive body repairs.

(2) Upholstery.

(3) Cleaning.

(4) Pressing and dyeing establishments.

(5) Commercial bakeries.

(6) Commercial greenhouses.

(7) Distributors.

(8) Farm machinery.

(9) Food locker plants.

(10) Laboratories.

(11) Machine shops.

(12) Manufacture and bottling of nonalcoholic beverages.

- (13) Painting.
- (14) Printing.
- (15) Publishing.
- (16) ~~Storage and sale of machinery and equipment.~~
- (17) Professional offices. [Amended 11-7-2001 by Ord. No. 2001-16]
- (18) Trade and contractors' offices.
- (19) Warehousing and wholesaling.
- (20) Manufacture, fabrication, packing, packaging and assembly of products from:
 - (a) Furs.
 - (b) Glass.
 - (c) Leather.
 - (d) Metals.
 - (e) Paper.
 - (f) Plaster.
 - (g) Plastics.
 - (h) Textiles.
 - (i) Wood.
- (21) Manufacture, fabrication, processing, packaging and packing and assembly of:
 - (a) Confections.
 - (b) Cosmetics.
 - (c) Electrical appliances.
 - (d) Electronic devices.
 - (e) Food, except cabbage, fish and fish products, meat and meat products and peavining.
 - (f) Instruments.
 - (g) Jewelry.
 - (h) Pharmaceuticals.
 - (i) Tobacco.
 - (j) Toiletries.

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B. Conditional uses: see § ~~320-56~~, § 320-57, § 320-60, § ~~320-106~~ and § ~~320-107~~.

C. Lot.

- (1) Frontage: minimum 200 feet.

(2) Area: minimum one acre.

D. Building height: maximum 45 feet.

E. Yard setbacks.

(1) Street: minimum 50 feet.

(2) Rear: minimum 30 feet.

(3) Side: minimum 30 feet.

§ 320-23. M-2 Planned Industrial District.

A. Statement of Purpose:

The M-2 Planned Industrial District is intended to provide for the orderly and attractive grouping at appropriate locations including but not limited to commercial activities of general retail and wholesale, office, and service facilities serving a larger community area. The size and location of such districts shall be based upon relationships to the total community need and economy. If the business is located within the Five Corners Master Plan area, the building construction and materials shall be consistent with the Five Corners Master Plan.

~~B.A. Principal uses: Professional offices, trade and contractor's offices, storage and sale of machinery equipment.~~

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~~C.B. Conditional uses:~~

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(1) All M-1 Industrial District principal uses (automotive body repairs, upholstery, cleaning, pressing and dyeing establishments, commercial bakeries, commercial greenhouses, distributors, farm machinery, food locker plants, laboratories, machine shops, manufacture and bottling of nonalcoholic beverages, painting, printing, publishing, storage and sale of machinery and equipment, professional offices, trade and contractors' offices, warehousing and wholesaling; Manufacture, fabrication, packing, packaging and assembly of products from: furs, glass, leather, metals, paper, plaster, plastics, textile, wood; Manufacture, fabrication, processing, packaging and packing and assembly of: confections, cosmetics, electrical appliances, electrical devices, food (except cabbage, fish and fish products, meat and meat products and pea vining); instruments, jewelry, pharmaceuticals, tobacco, toiletries); as well as conditional uses unique to this district which include freight yards, freight terminals and transshipment depots, breweries and crematories, and existing nonmetallic mining operations.

(2) Existing residences shall comply with all the provisions of the R-3 Residential District.

(3) See § 320-56, § 320-57, § 320-60, § 320-61, § 320-106 and § 320-107.

~~D.C. Development.~~

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(1) Area: minimum 10 acres

(2) Lot frontage: minimum 200 feet.

- (3) Rights-of-way. The industrial collector roads as determined by the Plan Commission should have at least 80 feet of right-of-way, and all other vehicular rights-of-way shall be at least 66 feet wide.

~~ED.~~ Building height: maximum 45 feet.

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~~FE.~~ Yard setbacks.

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- (1) Street: minimum 50 feet.
- (2) Rear: minimum 50 feet.
- (3) Side: minimum 30 feet.

§ 320-24. M-3 Quarrying District.

A. Principal uses: mineral extraction operations and concrete and concrete products manufacturing that are presently in existence.

B. Conditional uses:

~~(1) Extension of legally existing mineral extraction operations and manufacture of concrete and concrete products or the creation of new such extraction or manufacturing operations; utilities.~~

~~(2) See § 320-56, § 320-57, § 320-60, § 320-61 and § 320-106.~~

C. Building height: maximum 45 feet.

D. Yard setbacks.

- (1) Minimum 200 feet from any right-of-way or property line.
- (2) Minimum 100 feet for accessory uses, such as offices, parking areas and stockpiles.

§ 320-25. A-1 Agricultural District.

A. Principal uses.

Apiculture
Dairying
Floriculture
Forestry
General farming
Grazing
Greenhouses
Hatcheries
Horticulture
Livestock raising

Nurseries
 Orchards
 Paddocks
 Pasturage
 Poultry raising
 Stables
 Truck farming
 Viticulture

- B. Farm dwellings for those resident owners are accessory uses and shall comply with all the provisions of the R-3 Residential District, except that farm dwellings shall be permitted to have a maximum building height of 42 feet. [Amended 3-1-2000 by Ord. No. 2000-7]
- C. Conditional uses. [Amended 10-9-2002 by Ord. No. 2002-10; 8-6-2003 by Ord. No. 2003-10]
- (1) Agricultural buildings and high-density animal enclosures within 500 feet of any residential district. "High density" shall be defined as such concentrations of animals which will not allow usual plant (sod) growth in fenced area.
 - (2) Existing nonmetallic mining operations.
 - (3) Landscaping business of a nonretail nature.
 - (4) Septic transportation business. [Added 2-4-2004 by Ord. No. 2004-2]
 - (5) See § 320-56, § 320-57, § 320-58, § 320-60, § 320-61, § 320-106 and § 320-107. [Amended 3-7-2007 by Ord. No. 2007-3]
- D. Farm.
- (1) Frontage: minimum 300 feet.
 - (2) Area: minimum five acres.
- E. Building height: maximum 50 feet.
- F. Yard setbacks.
- (1) Street: minimum 100 feet.
 - (2) Rear: minimum 100 feet.
 - (3) Side: minimum 100 feet.
- G. Building size restrictions for nonresidential buildings. [Added 2-6-2008 by Ord. No. 2008-4]
- (1) New buildings other than dwellings in this zoning district on lots less than eight acres in size shall not exceed a total of 1,500 square feet on the first floor per building, with a total of no more than 2,500 square feet for all new and existing nonresidential buildings. There shall be no limit on the square footage allowed for nonresidential buildings on lots eight acres or greater.

(2) Any individual building, being newly constructed, that is greater than 1,500 square feet shall be subject to architectural design approval and site plan approval by the Plan Commission and the Town Board. The site plan and architectural review is utilized for the purpose of promoting compatible development, stability of property values, fostering the attractiveness and functional utility of the town as a place to live and work, preserving the character and quality of the built environment by maintaining the integrity of those areas which have a discernible character, and raising the level of community expectations for the quality of its environment. Seventeen copies of the building permit application, including a plat of survey (or scaled site plan) showing the proposed location of the building in relation to other buildings on the property and proposed building materials and colors with a scaled elevation, shall be submitted for Plan Commission and Town Board review. Existing and proposed landscaping shall also be included on the plat or scaled site plan. To this end, the following standards for site plan and architectural review are set forth below.

(a) Site plan review principles and standards. The Plan Commission and Town Board shall review the site, existing and proposed structures, neighboring uses, landscaping, and the proposed use. The Town will approve said site plans only after determining that:

- [1] The proposed use(s) conform(s) to the uses permitted.
- [2] The dimensional arrangement of buildings and structures conform to the required area, yard, setback, and height restrictions of this chapter.
- [3] The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, stormwater drainage, erosion, grading, lighting, and parking, as specified by this chapter or any other codes or laws.
- [4] Consideration should be given to preserving the natural features of the landscape where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.
- [5] Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping, as provided or required in this chapter.

(b) Architectural review principles and standards. To assist the Plan Commission and Town Board in the architectural review of new buildings, the following review principles, criteria and procedures are established:

- [1] Building scale and mass. The relative proportion of a building to its neighboring existing buildings, to pedestrians or observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.

- [2] Building rooflines and roof shapes. Building rooflines and roof shapes shall be complementary to the existing or surrounding buildings.
- [3] Materials. No building shall be permitted where any exposed facade is constructed or faced with a finished material which is not aesthetically ~~complementary~~ to other surrounding buildings.
- [4] Building location. Consideration shall be given to siting a building in a manner which would unnecessarily destroy or substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

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§ 320-26. A-2 Prime Agricultural District.

A. Principal uses.

Apiculture
 Dairying
 Floriculture
 Forestry
 General farming
 Grazing
 Greenhouses
 Hatcheries
 Horticulture
 Livestock raising
 Nurseries
 Orchards
 Paddocks
 Pasturage
 Poultry raising
 Stables
 Truck farming
 Viticulture

- B. Farm dwellings for those resident owners are accessory uses and shall comply with all the provisions of the R-3 Residential District, except that farm dwellings shall be permitted to have a maximum building height of 42 feet. [Amended 3-1-2000 by Ord. No. 2000-7]

C. Conditional uses. [Amended 10-9-2002 by Ord. No. 2002-10]

- (1) Agricultural buildings and high-density animal enclosures within 500 feet of any residential district. "High density" shall be defined as such concentrations of animals which will not allow usual plant (sod) growth in fenced area.
- (2) Existing nonmetallic mining operations.
- (3) See ~~§ 320-56~~, § 320-57, § 320-58, § 320-60, § 320-61, § 320-106 and § 320-107.
[Amended 3-7-2007 by Ord. No. 2007-3]

D. Farm.

- (1) Frontage: minimum 300 feet.
- (2) Area: minimum 35 acres.

E. Building height: maximum 50 feet.

F. Yard setbacks.

- (1) Street: minimum 100 feet.
- (2) Rear: minimum 100 feet.
- (3) Side: minimum 100 feet.

§ 320-27. C-1 Conservancy District.

A. Principal uses.

- (1) Drainageways.
- (2) Floodways.
- (3) Floodplains.
- (4) Fishing.
- (5) Hunting.
- (6) Preservation of scenic, historic and scientific areas.
- (7) Public fish hatcheries.
- (8) Soil and water conservation.
- (9) Stream bank and lake shore protection.
- (10) Sustained yield forestry.
- (11) Water retention.
- (12) Wildlife habitat or preserves.

B. Conditional uses. The following uses shall not involve dumping, filling, cultivation, mineral, soil or peat removal or any other use that would disturb the natural fauna, flora, watercourses, water regimen or topography.

- (1) Water measurement and water control facilities.

- (2) Grazing.
- (3) Accessory structures. [Amended 11-7-2001 by Ord. No. 2001-18]
- (4) Orchards.
- (5) Truck farming.
- (6) Utilities.
- (7) Wild crop harvesting.
- (8) See § 320-57 and § 320-106.

C. Structures: none permitted, except accessory to the principal or conditional uses.

§ 320-28. P-1 Public and Private Park District.

A. Principal uses.

- (1) Parks.
- (2) Arboretums.
- (3) Playgrounds.
- (4) Fishing.
- (5) Wading.
- (6) Swimming.
- (7) Beaches.
- (8) Skating.
- (9) Sledding.
- (10) Sustained-yield forestry.
- (11) Wildlife habitat or preserves.
- (12) Soil and water conservation.
- (13) Water measurement and water control facilities.

B. Conditional uses: all structures. See § 320-56, § 320-57, § 320-60, § 320-62, § 320-106 and § 320-107.

§ 320-29. E-1 Estate District.

A. Principal uses: single-family dwellings and the following noncommercial accessory uses by members of the family residing on the property:

- (1) Agriculture.
- (2) Stables.
- (3) Grazing.

- (4) Pasturage.
- (5) Forestry.
- (6) Orchards.
- (7) Greenhouses.
- (8) Man-made recreation or wildlife ponds with special permit.

B. Lot.

- (1) Width: minimum 200 feet.
- (2) Area: four acres.
- (3) Frontage. [Amended 1-6-1999 by Ord. No. 1999-2]
 - (a) Lots abutting culs-de-sac: minimum 75 feet.
 - (b) Lots on curve with a maximum center-line radius of 150 feet: minimum 120 feet.
 - (c) Other lots: minimum 200 feet.
 - (d) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

C. Building area.

- (1) Residence: minimum 1,800 square feet with at least 1,000 square feet on the first floor of two-story residences.
- (2) Outbuildings: outbuildings less than 2,000 square feet in size are subject to standard building permit procedures; outbuildings greater than 2,000 square feet in size may be constructed subject to architectural design and site plan approval.

D. Building height.

- (1) Residence: maximum 42 feet. [Amended 3-1-2000 by Ord. No. 2000-7]
- (2) Outbuildings: maximum 35 feet.

E. Yard setbacks.

- (1) Residence.
 - (a) Street: minimum 75 feet.
 - (b) Rear: minimum 40 feet.
 - (c) Side: minimum 40 feet.
- (2) Outbuildings.
 - (a) Street: minimum 125 feet.
 - (b) Rear: minimum 40 feet.
 - (c) Side: minimum 40 feet.

F. Architectural design and site plan approval.

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Any proposed construction of an outbuilding in this zoning district that is greater than 2,000 square feet shall be subject to architectural design and site plan approval by the Town Board, upon the review and recommendation by the Plan Commission, prior to any issuance of a building permit. The architectural design and site plan review is utilized for the purpose of promoting compatible development, stability of property values, fostering the attractiveness and functional utility of the Town as a place to live and work, preserving the character and quality of the built environment by maintaining the integrity of those areas which have a discernible character, and raising the level of community expectations for the quality of its environment. Seventeen copies of the building permit application including a plat of survey (or scaled site plan) showing the proposed location of the outbuilding in relation to other buildings on the property and proposed outbuilding materials and colors with a scaled elevation shall be submitted for Plan Commission and Town Board review. Existing and proposed landscaping shall also be included on the plat or scaled site plan. To this end, the following notice procedures and standards for site plan and architectural review are set forth below.

(1) Notice.

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The owners of record in whole or in part as listed in the office of the Ozaukee County Register of Deeds and who are situated within 1,000 feet of the boundaries of the properties affected shall be sent a notice postmarked at least 10 days prior to the date of consideration by the Plan Commission. The applicant requesting the architectural and site plan review shall be responsible for mailing and paying the postage of the notices to meet the above timeline. In the event that the property situated within the one-thousand-foot area is owned entirely by a single property owner, then notice shall be given to the next adjacent property owner so that at least two property owners in each cardinal direction are provided notice of the hearing.

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(2) Site Plan Review Principles and Standards.

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The Plan Commission and Town Board shall review the site, existing and proposed structures, neighboring uses, landscaping, and the proposed use. The Town Board may approve said site plans only after determining that:

(a) The proposed use(s) conform(s) to the uses permitted.

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(b) The dimensional arrangement of buildings and structures conform to the required area, yard, setback, and height restrictions of this Chapter.

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(c) The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, stormwater drainage, erosion, grading, lighting, and parking, as specified by this Chapter or any other codes or laws.

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(d) Consideration should be given to preserving the natural features of the landscape where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and

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appearance of the neighborhood.

- (e) Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping, as provided or required in this Chapter.

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(3) Architectural Review Principles and Standards.

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To assist the Plan Commission and Town Board in the architectural review of outbuildings under this Section, the following review principles, criteria and procedures are established:

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- (a) Building Scale and Mass. The relative proportion of a building to its neighboring existing buildings, to pedestrians or observers, or to other existing buildings shall be maintained or enhanced when new outbuildings are built or when existing outbuildings are remodeled or altered.

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- (b) Building Rooflines and Roof Shapes. Building roof lines and roof shapes shall be complementary to the existing or surrounding buildings.

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- (c) Materials. No building shall be permitted where any exposed facade is constructed or faced with a finished material, which is not aesthetically complementary to other surrounding buildings.

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- (d) Building Location. Consideration shall be given to siting a building in a manner, which would unnecessarily destroy or substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

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G. Conditional uses. [Added 3-7-2007 by Ord. No. 2007-3]

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- ~~(1) Second single family dwelling unit pursuant to § 320-58~~

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- ~~(1) See § 320-56, § 320-57, § 320-58, and § 320-60.~~

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§ 320-30. CR-A Countryside Residential A District.

A. Purpose.

- (1) This zoning district is intended to provide single-family, low-density residential development incorporating permanently protected open space areas. Individual lots eight acres or greater in size are exempt from the clustering requirement of ~~this district the Countryside Residential A (CR-A) and Countryside Residential B (CR-B) zoning classifications~~ when in a subdivision development. Individual lots in nonsubdivision developments ~~in Countryside Residential A (CR-A) or Countryside Residential B (CR-B)~~ shall be a minimum of four acres.

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- (2) ~~In order for prime agricultural land to be rezoned for residential development, the Plan Commission must find that:~~

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- (a) ~~Adequate facilities in accordance with all Town requirements and ordinances exist or will be provided within a reasonable period of time; and~~
- (b) ~~The land proposed for rezoning is suitable for development, and development will not result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.~~

(2) Definition. Conservation development is a development design technique that provides a concentration of houses to aid in the preservation of contiguous open space. Open space shall be designed to preserve, enhance, or create environmentally sensitive areas. These may include recreational opportunities (for example, hiking/cross-country ski trails) but may not include other mowed areas such as for soccer or baseball fields, or neighborhood parks, without the approval of the Plan Commission and Town Board. The examples provided of conservation development to preserve open space are for illustrative purposes only. Conservation development proposals should reflect the basic principles illustrated but should show originality and creative use of the parcel proposed for development. [Amended 5-2-2001 by Ord. No. 2001-5]

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B. ~~Permitted~~ Principal use: single-family detached dwellings.

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C. ~~Permitted~~ Accessory uses. No accessory structures shall be permitted prior to the construction of the principal structure. Accessory structures in this zoning district shall not exceed a total of 600 square feet for the first acre plus 100 square feet for each additional 1/4 acre up to 1,000 square feet total, except that existing agricultural buildings exceeding 1,000 square feet may be permitted by a conditional use permit only. Man-made recreational or wildlife ponds with a pond permit are allowed. [Amended 10-7-1998 by Ord. No. 1998-5]

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D. Conditional uses.

- (1) Public or private park.
- (2) Public or private schools, day care (100 feet off lot lines).
- (3) Churches (100 feet off lot lines).
- (4) Home occupations and home professional offices of owner-occupant only.
- (5) Clubs and meeting places of a noncommercial nature (100 feet off lot lines).
- (6) Bed-and-breakfast establishments pursuant to § 320-56.
- (7) Public administration offices and service buildings.
- (8) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercommunity transmission facility, it shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission and before actual construction shall file with the Plan Commission a mapped description of the route of such transmission line.

(9) ~~Planned unit development (PUD) pursuant to Article IV, § 320-35A of this chapter.~~

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(10) Agricultural buildings which exceed 1,000 square feet and exist at the time a lot is platted may be retained by obtaining a conditional use permit contingent upon the proposed buildings being found structurally sound by the Town Building Inspector or

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a State of Wisconsin licensed structural engineer, at the property owner's expense. No pole barns or steel or metal buildings shall be granted conditional use permits. [Amended 10-7-1998 by Ord. No. 98-5]

(10) Second single-family dwelling unit pursuant to § 320-58. [Added 3-7-2007 by Ord. No. 2007-3]

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(11) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

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(12) See § 320-57, and § 320-60.

E. Density. Maximum development density shall be one dwelling unit for a minimum of every 4 1/2 acres of contiguous land owned and a part of the development. [Amended 12-1-2004 by Ord. No. 2004-13]

F. Open space. A minimum open space ratio of 50% is required of the initial development, exclusive of roads and road rights-of-way. Thus, a maximum of 50% of a development, inclusive of roads and road rights-of-way, may be covered with structures, driveway pavements and maintained lawns and personal, noncommercial gardens. The 50% of open space shall be denoted on the certified survey map or preliminary and final plat for the development.

G. Lot size. The minimum lot size shall be one acre.

H. Building area: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.

I. Building height: maximum 42 feet. [Amended 3-1-2000 by Ord. No. 2000-7]

J. Minimum frontage for individual lots. [Amended 1-6-1999 by Ord. No. 1998-2]

(1) Lots abutting culs-de-sac: minimum 75 feet.

(2) Lots on curve with a maximum center-line radius of 150 feet: 120 feet.

(3) Other lots: minimum 150 feet; however, based upon the presence of natural features along the roadway the Plan Commission and Town Board may allow a minimum lot frontage of 130 feet, but for no more than 10% of the lots.

(4) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

K. Minimum average lot width: 150 feet minimum where house is placed.

L. Yard setbacks.

(1) Residence:

(a) Street: 75 feet.

(b) Rear: 75 feet; 25 feet may be permitted when the entire rear lot line borders commonly held open space (with a depth of at least 75 feet) which is a part of the subdivision.

(c) Side: 25 feet.

- M. Building setbacks where lot is adjacent to a section line road: a minimum of 100 feet from planned rights-of-way, as depicted on the Town Transportation Plan Map for section line roads, with a requirement that the first 100 feet from the right-of-way be a planting strip. [Amended 3-3-1999 by Ord. No. 1999-3; 12-1-2004 by Ord. No. 2004-13]
- (1) No fences or other structures are permitted in the planting strip without the approval of the Plan Commission and Town Board.
 - (2) The planting strip will be designed in accordance with the planting strip guidelines document, as most recently approved by the Town Plan Commission and Town Board.
- N. Cisterns. Cisterns shall be required in each new residential development containing eight or more lots as a part of the development. The Town Board may allow a cistern to be located in another area of the Town in lieu of being placed in the proposed subdivision should the Town Board determine that a cistern located outside of the proposed subdivision would better serve the residents of the Town. Cisterns are required to meet Town specifications and must be outfitted with a dry hydrant that meets the standards for the Town of Cedarburg. The location of the cistern may require the placement of up to 12 feet of paved shoulders and appropriate drainage facilities adjacent to the cistern to allow for safe off-road parking for emergency equipment. In exceptional cases, the Town Board may allow a pond not designed for stormwater retention/detention purposes to be used for a dry hydrant provided that it meets Town design standards. [Amended 5-2-2001 by Ord. No. 2001-5; 8-6-2003 by Ord. No. 2003-13]
- O. Bonus lots: The Plan Commission and the Town Board are authorized to grant bonus lots if in their judgment they determine the additional lots are warranted based upon the layout and design of the proposed development. To qualify for bonus lot consideration, all open space must be contiguous and held in common. The maximum number of bonus lots the Plan Commission and Town Board may award is one lot per 25 acres of development area (gross contiguous land owned and a part of the development), with a maximum of four bonus lots for any development. The following criteria may be used when evaluating whether or not bonus lots shall be awarded (other items may be considered): [Amended 5-2-2001 by Ord. No. 2001-5; 8-6-2003 by Ord. No. 2003-14]
- (1) Preserving, rehabilitating and/or reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin.
 - (2) The inclusion of fire protection beyond the minimum requirements required for new developments.
 - (3) Inclusion of bicycle, multi-modal and/or connection paths consistent with the Town's Master Bicycle and Pedestrian Route Plan and AASHTO standards within the proposed development that would connect to existing or proposed bike routes to neighboring or future subdivisions that benefit the Town as a whole.
 - (4) Reforestation.
 - (5) Other creative uses of the land.

- P. Design guidelines and open space. The Southeastern Wisconsin Regional Planning Guide No. 7, Rural Cluster Development, December 1996, as amended, provides design guidelines to aid in achieving good design of cluster groups and the proper distribution of open space. The open space should be connected. A copy of the Planning Guide is on file and available for inspection at the office of the Plan Commission. Editor's Note: Original § 10-1-48(q), Connected open space, which immediately followed this subsection, was deleted 10-4-2006 by Ord. No. 2006-11. [Amended 10-4-2006 by Ord. No. 2006-11]

§ 320-31. CR-B Countryside Residential B District. [Added 10-4-1995 by Ord. No. 1995-6]

A. Purpose.

- (1) This zoning district is intended to provide single-family, low-density residential development incorporating permanently protected open space areas. Individual lots eight acres or greater in size are exempt from the clustering requirement of ~~this district the Countryside Residential A (CR-A) and Countryside Residential B (CR-B) zoning classifications~~ when in a subdivision development. Individual lots in nonsubdivision developments ~~in Countryside Residential A (CR-A) or Countryside Residential B (CR-B)~~ shall be a minimum of four acres.
- (2) ~~In order for prime agricultural land to be rezoned for residential development, the Plan Commission must find that:~~
 - (a) ~~Adequate facilities in accordance with all Town requirements and ordinances exist or will be provided within a reasonable period of time; and~~
 - (b) ~~The land proposed for rezoning is suitable for development, and development will not result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.~~
- (2) Definition. Conservation development is a development design technique that provides a concentration of houses to aid in the preservation of contiguous open space. Open space shall be designed to preserve, enhance, or create environmentally sensitive areas. These may include recreational opportunities (for example, hiking/cross-country ski trails) but may not include other mowed areas such as for soccer or baseball fields, or neighborhood parks, without the approval of the Plan Commission and Town Board. The examples provided of conservation development to preserve open space are for illustrative purposes only. Conservation development proposals should reflect the basic principals illustrated but should show originality and creative use of the parcel proposed for development.

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B. ~~Permitted~~ Principal use: single-family detached dwellings.

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C. ~~Permitted~~ Accessory uses.

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- (a) ~~No accessory structures shall be permitted prior to the construction of the principal structure.~~

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- (a) Accessory structures in this zoning district on lots less than 10 acres in size shall

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not exceed a total of 1,500 square feet on the first floor and shall not exceed 25 feet in height, except that existing agricultural buildings with a total square footage exceeding 1,500 square feet may be permitted by a conditional use permit only. [Amended 10-7-1998 by Ord. No. 1998-5]

- (b) Accessory structures in this zoning district on lots 10 acres in size or greater shall not exceed a maximum total of 1,000 square feet per acre and shall not exceed 25 feet in height.
 - (c) Any individual structure, being newly constructed, that is greater than 1,500 square feet shall be subject to architectural design approval (including approval of building materials to be used) and site plan approval by the Plan Commission and the Town Board.
- (2) The following noncommercial accessory uses by members of the family residing on the property: stables, grazing, pasturage, man-made recreation or wildlife ponds with permit.
 - (3) Horses are allowed in this district with a limitation of one horse per acre on a lot.
 - (4) Outbuildings that house animals cannot be located in the front yard and shall be set back 40 feet from rear and side lot lines.

D. Conditional uses.

- (1) Public or private park.
- (2) Public or private schools, day care (100 feet off lot lines).
- (3) Churches (100 feet off lot lines).
- (4) Home occupations and home professional offices of owner-occupant only.
- (5) Clubs and meeting places of a noncommercial nature (100 feet off lot lines).
- (6) Bed-and-breakfast establishments pursuant to § 320-56.
- (7) Public administration offices and service buildings.
- (8) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercommunity transmission facility, it shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission and before actual construction shall file with the Plan Commission a mapped description of the route of such transmission line.
- (9) ~~Planned unit development (PUD) pursuant to Article IV, § 320-35A of this chapter.~~
- (9) Nondomesticated animals other than horses, and facilities for such animals.
- (10) Agricultural buildings which exceed 1,500 square feet on lots less than 10 acres in size and exist at the time the lot is platted may be retained by obtaining a conditional use permit contingent upon the proposed building(s) being found structurally sound by the Town Building Inspector or State of Wisconsin licensed structural engineer, at the property owner's expense. No pole barns or steel or metal buildings shall be granted conditional use permits. [Added 10-7-1998 by Ord. No. 1998-5]

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(11) Second single-family dwelling unit pursuant to § 320-58. [Added 3-7-2007 by Ord. No. 2007-3]

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(12) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

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(13) See § 320-57 and § 320-60.

- E. Density. Maximum development density shall be one dwelling unit for a minimum of every 4 1/2 acres of contiguous land owned and a part of the development. [Amended 12-1-2004 by Ord. No. 2004-13]
- F. Open space. A minimum open space ratio of 50% is required of the initial development, exclusive of roads and road rights-of-way. Thus, a maximum of 50% of a development, inclusive of roads and road rights-of-way, may be covered with structures, driveway pavements and maintained lawns and personal, noncommercial gardens. The 50% of open space shall be denoted on the certified survey map or preliminary and final plat for the development.
- G. Lot size. The minimum lot size shall be one acre.
- H. Building area: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.
- I. Building height: maximum 42 feet. [Amended 3-1-2000 by Ord. No. 2000-07]
- J. Minimum frontage for individual lots. [Amended 1-6-1999 by Ord. No. 99-02]
 - (1) Lots abutting culs-de-sac: minimum 75 feet.
 - (2) Lots on curve with a maximum center-line radius of 150 feet: 75 feet.
 - (3) Other lots: minimum 150 feet; however, based upon the presence of natural features along the roadway the Plan Commission and Town Board may allow a minimum lot frontage of 130 feet, but for no more than 10% of the lots.
 - (4) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]
- K. Minimum average lot width: 150 feet minimum where house is placed.
- L. Yard setbacks.
 - (1) Residence:
 - (a) Street: 75 feet.
 - (b) Rear: 75 feet; 25 feet may be permitted when the entire rear lot line borders commonly held open space (with a depth of at least 75 feet) which is a part of the subdivision.
 - (c) Side: 25 feet.
- M. Building setbacks where lot is adjacent to a section line road. A minimum of 100 feet from planned rights-of-way, as depicted on the Town Transportation Plan Map for section line

roads, with a requirement that the first 100 feet from the right-of-way be a planting strip.
[Amended 3-3-1999 by Ord. No. 1999-3; 12-1-2004 by Ord. No. 2004-13]

- (1) No fences or other structures are permitted in the planting strip without the approval of the Plan Commission and Town Board.
- (2) The planting strip will be designed in accordance with the planting strip guidelines document, as most recently approved by the Town Plan Commission and Town Board.

N. Cisterns. Cisterns shall be required in each new residential development containing eight or more lots as a part of the development. The Town Board may allow a cistern to be located in another area of the Town in lieu of being placed in the proposed subdivision should the Town Board determine that a cistern located outside of the proposed subdivision would better serve the residents of the Town. Cisterns are required to meet Town specifications and must be outfitted with a dry hydrant that meets the standards for the Town of Cedarburg. The location of the cistern may require the placement of up to 12 feet of paved shoulders and appropriate drainage facilities adjacent to the cistern to allow for safe off-road parking for emergency equipment. In exceptional cases, the Town Board may allow a pond not designed for stormwater retention/detention purposes to be used for a dry hydrant provided that it meets Town design standards. [Amended 5-2-2001 by Ord. No. 2001-5; 8-6-2003 by Ord. No. 2003-13]

O. Bonus lots. The Plan Commission and the Town Board are authorized to grant bonus lots if in their judgment they determine the additional lots are warranted based upon the layout and design of the proposed development. To qualify for bonus lot consideration, all open space must be contiguous and held in common. The maximum number of bonus lots the Plan Commission and Town Board may award is one lot per 25 acres of development area (gross contiguous land owned and a part of the development), with a maximum of four bonus lots for any development. The following criteria may be used when evaluating whether or not bonus lots shall be awarded (other items may be considered): [Amended 5-2-2001 by Ord. No. 2001-5; 8-6-2003 by Ord. No. 2003-14]

- (1) Preserving, rehabilitating and/or reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin.
- (2) The inclusion of fire protection beyond the minimum requirements required for new developments.
- (3) Inclusion of bicycle, multi-modal and/or connection paths consistent with the Town's Master Bicycle and Pedestrian Route Plan and AASHTO standards within the proposed development that would connect to existing or proposed bike routes to neighboring or future subdivisions that benefit the Town as a whole.
- (4) Reforestation.
- (5) Other creative uses of the land.

P. Design guidelines and open space. The Southeastern Wisconsin Regional Planning Guide No. 7, Rural Cluster Development, December 1996, as amended, provides design guidelines to aid in achieving good design of cluster groups and the proper distribution of open space. The open space should be connected. A copy of the Planning Guide is on file and available for inspection at the office of the Plan Commission. Editor's Note: Original § 10-1-49(q),

Connected open space, which immediately followed this subsection, was deleted 10-4-2006 by Ord. No. 2006-11. [Amended 10-4-2006 by Ord. No. 2006-11]

§ 320-32. TR Transitional Residential District. [Added 10-4-1995 by Ord. No. 1995-6]

A. Purpose.

- (1) The TR Transitional Residential Zoning District is intended to provide single-family, low-density residential development incorporating permanently protected open space areas. The clustering of home sites is encouraged. This zoning district shall only be available to areas currently zoned R-2 residential which did not have preliminary plat or certified survey map approval prior to May 1994 and are not a part of an existing, substantially developed subdivision.
- (2) Definition. Conservation development is a development design technique that provides a concentration of houses to aid in the preservation of contiguous open space. Open space shall work to preserve environmentally sensitive areas, may include recreation opportunities (for example, hiking/cross-country ski trails) but may not include other mowed areas such as for soccer or baseball fields), may be used for continued agricultural activity (farming), or may be left in a natural state or may be a combination of the above. [Amended 10-4-2006 by Ord. No. 2006-11]

B. ~~Permitted~~ Principal use: single-family detached dwellings.

C. ~~Permitted~~ Accessory uses.

- (1) ~~No accessory structures shall be permitted prior to the construction of the principal structure.~~ Detached accessory structures in this zoning district shall not exceed a total of 600 square feet, except that existing agricultural buildings exceeding 600 square feet may be permitted by a conditional use permit only. See § 320-108 for further detail. [Amended 10-7-1998 by Ord. No. 1998-5]
- (2) Private man-made recreational or wildlife ponds normally accessory to a residential use are allowed with a pond permit.

D. Conditional uses.

- (1) Public or private park.
- (2) Public or private schools, day care (100 feet off lot lines).
- (3) Churches (100 feet off lot lines).
- (4) Home occupations and home professional offices of owner-occupant only.
- (5) Clubs and meeting places of a noncommercial nature (100 feet off lot lines).
- (6) Bed-and-breakfast establishments ~~pursuant to § 320-56.~~
- (7) Public administration offices and service buildings.
- (8) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercommunity transmission facility, it shall give notice to the Plan Commission of such intention and of the date of hearing before the

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Public Service Commission and before actual construction shall file with the Plan Commission a mapped description of the route of such transmission line.

(9) ~~Planned unit development (PUD) pursuant to Article IV, § 320-35A of this chapter.~~

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(9) Agricultural buildings which exceed 600 square feet and exist at the time a lot is platted may be retained by obtaining a conditional use permit contingent upon the proposed building(s) being found structurally sound by the Town Building Inspector or a State of Wisconsin licensed structural engineer, at the property owner's expense. No pole barns or steel or metal buildings shall be granted conditional use permits. [Amended 10-7-1998 by Ord. No. 1998-5]

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(10) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]

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(11) See § 320-57, and § 320-60.

- E. Density. Maximum development density shall be one dwelling unit for a minimum of every 2.25 gross acres of contiguous land owned and a part of the development.
- F. Open space. A minimum open space ratio of 20% is required of the initial development, exclusive of roads and road rights-of-way, in the TR Zoning District. Thus, a maximum of 80% of a subdivision, or lot, may be covered with structures, pavements and maintained lawns and personal, noncommercial gardens. [Amended 9-5-2007 by Ord. No. 2007-10]
- G. Lot size. The minimum lot size shall have a net area of not less than 1.5 acres.
- H. Building area: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.
- I. Building height: maximum 42 feet. The height of accessory structures shall not exceed 15 feet. [Amended 3-1-2000 by Ord. No. 2000-7]
- J. Minimum frontage for individual lots. [Amended 1-7-1999 by Ord. No. 1999-2]
 - (1) Lots abutting culs-de-sac: minimum 75 feet.
 - (2) Lots on curve with a center-line radius of 150 feet: minimum 120 feet.
 - (3) Other lots: minimum 150 feet.
 - (4) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]
- K. Minimum average lot width: 150 feet minimum where house is placed.
- L. Yard setbacks.
 - (1) Residence:
 - (a) Street: 75 feet.
 - (b) Rear: 75 feet.
 - (c) Side: 75 feet.

M. Building setbacks where lot is adjacent to section line road: minimum of 100 feet from planned right-of-way, as depicted on the Town Transportation Plan Map, along section line roads, with a requirement that the first 50 feet off the right-of-way be a planting strip. No building or structure hereinafter erected shall be placed closer than 50 feet to a Town or subdivision road, upon which the subject property abuts.

- (1) No fences or other structures are permitted in the planting strip.
- (2) The planting strip will be designed in accordance with the planting strip guidelines document, as approved by the Town Plan Commission and the Town Board, in effect at the time of platting. [Amended 3-3-1999 by Ord. No. 1999-3]

§ 320-33. TR-2 Transitional Residential 2 District. [Added 7-7-2004 by Ord. No. 2004-7]

A. Purpose. The TR-2 Transitional Residential 2 Zoning District is intended to provide single-family, low-density residential development incorporating permanently protected open space areas and to provide a buffer to adjacent incorporated areas. The clustering of home sites is encouraged. This zoning district shall only be available to areas adjacent to incorporated areas.

B. ~~Permitted~~ Principal use: single-family detached dwellings.

C. ~~Permitted~~ Accessory dwellings.

- (1) ~~No accessory structures shall be permitted prior to the construction of the principal structure.~~ Detached accessory structures in this zoning district shall not exceed a total of 600 square feet, except that existing agricultural buildings exceeding 600 square feet may be permitted by a conditional use permit only. Reference § 320-108 for further detail.

- (2) Private man-made recreational or wildlife ponds normally accessory to a residential use are allowed with a pond permit.

D. Conditional uses.

- (1) Public or private parks.
- (2) Churches.
- (3) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercommunity transmission facility, it shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission and before actual construction shall file with the Plan Commission a mapped description of the route of such transmission line.
- (4) Lots that do not have frontage upon a public street may be permitted if the Town Board has officially approved other means of access to the lot by a shared driveway agreement as provided in § 279-6D. [Added 9-5-2007 by Ord. No. 2007-10]
- (5) ~~Bed and breakfast establishments pursuant to § 320-56.~~
- (6) ~~See § 320-57 and § 320-60.~~

E. Density. Maximum development density shall be one dwelling unit for a minimum of every

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two gross acres of contiguous land owned and a part of the development.

- F. Open space. A minimum open space ratio of ~~30~~³⁰% is required of the initial development, exclusive of roads and road rights-of-way, in the TR-2 Zoning District. Thus, a maximum of 70% of a subdivision, or lot, may be covered with structures, pavements and maintained lawns and personal, noncommercial gardens. [Amended 10-4-2006 by Ord. No. 2006-11]
- G. The minimum lot size shall have a net area of not less than one acre.
- H. Building area: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.
- I. Building height: maximum 42 feet. The height of accessory structures shall not exceed 15 feet.
- J. Minimum frontage for individual lots.
 - (1) Lots abutting culs-de-sac must have a minimum of 75 feet.
 - (2) Lots on curve with a center-line radius of 150 feet must have a minimum of 120 feet.
 - (3) Other lots: minimum 150 feet.
- K. Minimum average lot width: 150 feet minimum where house is placed.
- L. Yard setbacks.
 - (1) Residential setbacks.
 - (a) Street: 75 feet.
 - (b) Rear: 75 feet, or the rear yard setback may be less if the distance between the rear yard setback line and the exterior subdivision line is a minimum of 100 feet and when the entire rear lot line borders commonly held open space which is a part of that subdivision. Furthermore, the rear yard setback cannot ever be less than 25 feet. [Amended 12-1-2004 by Ord. No. 2004-11]
 - (c) Side: 25 feet.
- M. Planting strips. A forty-five-foot planting strip will be required and must be designed in accordance with the planting strip guidelines document, as approved by the Town Plan Commission and the Town Board, in effect at the time of platting. Editor's Note: Original § 10-1-42, 5 Corners Town Center District, which immediately followed this section, as added 12-1-2004 by Ord. No. 2004-10, was deleted 4-12-2006 by Ord. No. 2006-2.

§ 320-34. TCOD Town Center Overlay District. [Added 4-12-2006 by Ord. No. 2006-2]

- A. Purpose of the Town Center Overlay District (TCOD).
 - (1) The TCOD is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicular traffic; to create more active social places; to provide an opportunity for developers to create economic activities that serve the needs of Town residents; to provide attractive recreation, green spaces, town squares

and plazas, and public activity spaces as integral parts of the development; to enable economical design of utilities and community facilities; and to ensure adequate standards of construction and planning. The TCOD under this section will allow for flexibility of overall development design, with benefits from such flexibility intended to be derived by both the developer and the community, while at the same time maintaining, where judged appropriate by the Town Board, other standards or use requirements as set forth in the underlying base zoning district. The TCOD shall be applicable only within the district as depicted in the accompanying map and legal description within the Town Center Plan (TCP). Editor's Note: The map and legal description are on file in the Town Clerk's office.

- (2) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Ch. 703, Wis. Stats. (condominiums), may be permitted by the Town upon specific petition, with such development encompassing one or more principal uses or structures and related accessory uses or structures, when all regulations and standards as set forth in this section have been met.

B. Area requirements for a TCOD project. Areas designated as a TCOD project shall be under single or corporate ownership or control and shall contain a minimum development area of either one acre or the size of the lots and parcels existing as of the adoption date of this TCOD.

C. Uses, structures, lot area and dimensions, density, parking, landscaping, heights, setback, yards and other requirements. Uses, structures, individual lot sizes, densities, setbacks, yards, dimensional requirements, landscaping requirements, parking requirements, height requirements, and other requirements required by the underlying base use district may be modified and shall be considered as permitted uses if, in the judgment of the Town Plan Commission and Town Board, the proposed project is compatible with the site design, illustrations, guidelines, and related features as shown in the TCP and the accompanying Design Guideline Document.

D. Procedure.

- (1) Pre-petition conference. Prior to official submittal of the petition for approval of a proposed project or development for the TCOD, the owner or his agent making such petition shall meet with the Town staff to discuss the scope and proposed nature of the contemplated development. Subsequent to such meeting, all costs for Town staff and consultants associated with the proposed project shall be borne by the owner or his agent by agreement with the Town.

(2) Site plan review. Following the pre-petition conference, the owner or his agent should meet with the Plan Commission or its staff to present a site analysis of existing features. The review may involve a site visit, and should include a discussion of project goals and possible design solutions.

- (3) The petition. Following the pre-petition conference or site plan review, the owner or his agent shall file a petition with the Town Plan Commission for an approval of a TCOD proposal thereby permitting the application of the provisions of this section to the designated area.

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(4) Such petition shall be accompanied by the appropriate fee as well as a statement which sets forth the relationship of the proposed project to the TCOD, the TCP, and any other plans or studies deemed relevant by the Town and the general character and use of all structures and site changes to be included in the proposed project, including but not limited to the following items:

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- (a) Total area to be included in the project, area of open space, commercial area computations, parking and traffic estimates, density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
- (b) A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
- (c) A general outline of the organizational structure of a property owner or management association, which may be proposed to be established for the purpose of providing any necessary private services.
- (d) Any proposed departures from the standards of development as set forth in the Town zoning regulations, land division ordinance, sign ordinance, other Town regulations or administrative rules or other guidelines.
- (e) The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

(5) Subsequent to or in conjunction with the petition (as determined by Town staff), the applicant shall submit a general development plan (GDP) which shall include, in addition to other site plan and architectural review requirements, the following:

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- (a) A preliminary plat or certified survey map, if required, depicting the plan of the development.
- (b) A legal description of the boundaries of lands included in the proposed project.
- (c) A description of the relationship between the proposed project and the surrounding areas, including all other areas within the boundary of the TCP, as requested by Town staff.
- (d) The location of roads, driveways, parking facilities, sidewalks, trails, bicycle facilities, and related circulation components.
- (e) The size, arrangement and location of any individual building sites and proposed building groups on each individual lot.
- (f) The location of recreational and open space areas and areas reserved or dedicated for parks, town squares or town plazas, and drainageways.
- (g) The type, size and location of all structures.
- (h) Specific landscaping treatment, including detailed street cross sections showing roadside landscaping standards.
- (i) Architectural plans, elevations and perspective drawings and sketches illustrating

the design and character of proposed structures.

- (j) The existing and proposed location of sanitary sewer, water supply facilities and stormwater drainage facilities.
- (k) The existing and proposed location of all private utilities or other easements.
- (l) Characteristics of soils related to contemplated specific uses.
- (m) Existing topography on site with contours at no greater than two-foot intervals.
- (n) Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
- (o) If the development is to be staged, a staging plan.

E. Referral to Plan Commission. The petition and GDP for a TCOD project shall be referred to the Plan Commission for its review and recommendation. The Plan Commission may add any additional conditions or restrictions which it may deem necessary or appropriate to promote the spirit and intent of this section and the purpose of this section or may reject or recommend denial of the application as inconsistent with the goals, intentions, or details of the TCP.

F. Public hearing. Upon receipt of the Plan Commission's recommendation, the Town Board shall, before determining the disposition of the petition, hold a public hearing pursuant to the provisions of this section. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested project.

G. Basis for approval.

- (1) The Town Plan Commission in making its recommendations and the Town Board in making its determinations shall consider:
 - (a) Whether the petitions for the proposed TCOD project have indicated that they intend to begin the physical development of the designated project within 12 months following the approval of the petition for a TCOD project and that the development will be carried out according to a reasonable construction schedule satisfactory to the Town.
 - (b) Whether the proposed TCOD project is consistent in all respects with the purpose of this section and with the spirit and intent of this section; is in conformity with the TCP and other Town plans and studies that are relevant to this area; that such development would not be contrary to the general welfare and economic prosperity of the Town or of the immediate neighborhood; and that the benefits and improved design of the resultant development justify the establishment of a TCOD project.
- (2) The Plan Commission and the Common Council shall not give their respective recommendations or approvals unless it is found that:
 - (a) The proposed site shall be provided with adequate drainage facilities for surface and storm waters.
 - (b) The proposed project shall be accessible from roads that are adequate to carry the

traffic that can be expected to be generated by the proposed development.

- (c) No undue constraint or burden will be imposed on Town services and facilities.
- (d) Adequate utilities shall be provided.
- (e) Adequate guarantee is provided for permanent preservation of open space areas, town squares and plazas, green spaces, and other open spaces as shown on the approved site plan either by private reservations and maintenance or by dedication to the public.

- H. Changes or additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Town Plan Commission, and if in the opinion of the Town Plan Commission such change or addition constitutes a substantial alteration of the original plan, a public hearing before the Town Board shall be required and notice thereof shall be given pursuant to the provisions of this section.
- I. Developer's agreement and restrictive covenants. The terms and conditions of the TCOD shall be set forth in a developer's agreement and restrictive covenants as deemed necessary by the Town.

ARTICLE V Conditional Uses

§ 320-45. Statement of purpose. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

The development and execution of this article are based upon the division of the Town of Cedarburg into districts, within which districts the use of land, buildings, bulk zoning requirements and location of buildings and structures in relation to the land are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts without consideration. Any nonpermitted use may be listed as a conditional use within a given zoning classification.

§ 320-46. Administration; compliance with other regulations.

- A. Town Board may authorize. The Town Board may, by resolution, authorize the Building Inspector to issue a conditional use permit for either regular or limited conditional use after review, public hearing and advisory recommendation from the Plan Commission, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of limited conditional use, the Town Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Board resolution, and the resulting conditional use permit, when for limited conditional use, shall specify the period of time for which the specific limited conditional use permit is effective. Prior to the granting of a conditional use, the Plan Commission shall review standards as prescribed in § 320-51 of this article to ensure said standards herein prescribed are being complied with. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- B. Review by highway agency. Any development within 500 feet of an existing or proposed state or county trunk highway right-of-way and within 1/2 mile of an existing or proposed interchange or turning lane shall be specifically reviewed by the highway agency that has jurisdiction over the trafficway. The Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed 20 days before taking final action. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- C. Conditions may be required. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, signs, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this chapter. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- D. Compliance with other provisions required. Compliance with all other provisions of this

chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses.

§ 320-47. Initiation of conditional use.

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

§ 320-48. Application for conditional use. [Amended 12-3-2003 by Ord. No. 2003-22 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).]

- A. Application. An application for a conditional use permit, including an alteration or modification of an existing permit, shall be filed on a form prescribed by the Town. Applications for conditional use permits shall be made to the Building Inspector.
- B. Additional information. The Town Board, Plan Commission, or Building Inspector may require such other information as may be necessary to determine and provide for enforcement of this chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, and specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; and plans of buildings, signs, sewage disposal facilities, water supply systems and arrangements of operations.
- C. Fee. Application fees for conditional use permit applications shall be determined annually by the Town Board as listed on the Town fee schedule and shall be paid to the Town at the time of filing an application for a conditional use permit.

§ 320-49. Hearing on application. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Upon receipt of the application and application fee referred to in § 320-48, the Plan Commission shall hold a public hearing on each application for a conditional use, ~~except applications for conditional uses involving a planned unit development, for which the Town Board shall hold a public hearing.~~ The hearing shall be conducted and a record of the proceedings shall be preserved.

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§ 320-50. Notice of hearing; Plan Commission report. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- A. Notice. The owners of record in whole or in part as listed in the office of the Ozaukee County Register of Deeds and who are situated within 1,000 feet of the boundaries of the properties affected shall be sent a notice postmarked at least 10 days prior to the date of consideration by the Plan Commission or Town Board. The applicant requesting the conditional use permit

shall be responsible for mailing the notices to meet the above timeline. In the event that the property situated within the one-thousand-foot area is owned entirely by a single property owner, then notice shall be given to the next adjacent property owner so that at least two property owners in each cardinal direction are provided notice of the hearing.

- B. Report of Plan Commission. The Plan Commission shall report its advisory recommendations in writing to the Town Board within 30 days or such longer period as may be stipulated by the Town Board after a conditional use matter has been referred to the Plan Commission. If such recommendation has not been forwarded to the Town Board by the Plan Commission within the time prescribed, the Town Board may act without such recommendation.

§ 320-51. Standards for approval.

- A. No application for a conditional use shall be recommended for approval by the Plan Commission or granted by the Town Board unless such Commission and Board shall find that all of the following conditions are present:
- (1) Welfare. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) Compatible with adjacent land. The uses, values and enjoyment of other Town property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (3) Not impede surrounding property development and improvement. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding Town property for uses permitted in the district. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (4) Adequate infrastructure. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) Ingress and egress. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) Conform to zoning district regulations. The conditional use application shall conform to all applicable regulations of the district in which it is located. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- B. Floodplain regulations. Conditional use applications shall not violate floodplain regulations as established by Ozaukee County and/or the Wisconsin Department of Natural Resources (WisDNR) and/or the Federal Emergency Management Agency (FEMA). Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- C. Purposes and objective of the zoning district. When applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the

proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

D. Evaluate the effect. In addition to passing upon a conditional use permit, the Plan Commission and Board shall also evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution, including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.
- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) Its compatibility with uses on adjacent Town land. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

§ 320-52. Denial of application. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

When an advisory recommendation denying a conditional use permit application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards which are not met and enumerate reasons the Commission has used in determining that each standard was not met. The same shall be forwarded to the Town Board as the Plan Commission's formal recommendation.

§ 320-53. Conditions and guarantees.

The following conditions shall apply to all conditional uses.

A. Conditions. Prior to the granting of any conditional use, the Town Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in § 320-51 above. In all cases in which conditional uses are granted, the Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping.

- (2) Type of construction.
 - (3) Construction commencement and completion dates.
 - (4) Sureties.
 - (5) Lighting.
 - (6) Fencing.
 - (7) Signs. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (8) Operational control.
 - (9) Hours of operation.
 - (10) Traffic circulation.
 - (11) Deed restrictions.
 - (12) Access restrictions.
 - (13) Setbacks and yards.
 - (14) Type of shore cover.
 - (15) Specified sewage disposal and water supply systems.
 - (16) Planting screens.
 - (17) Piers and docks.
 - (18) Increased parking.
 - (19) Any other requirements necessary to fulfill the purpose and intent of this chapter.
- B. Site review. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (1) In making its recommendation to the Town Board, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
 - (2) Any development within 500 feet of the existing or proposed rights-of-way of freeways, expressways, and interstate and controlled access trafficways and within 1,500 feet of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the trafficway. The Town Plan Commission shall request such review and await the highway agency's recommendations for a period not to exceed 20 days before taking final action.
- C. Alteration of conditional use. No alteration of a conditional use shall be permitted unless approved by the Town Board after recommendation from the Plan Commission.
- D. Architectural treatment. Proposed architectural treatment will be in general harmony with

surrounding uses and the landscape. To this end, the Town Board may require the use of certain general types of exterior construction materials and/or architectural treatment.

- E. Sloped sites; unsuitable soils. Where slopes exceed 6% and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- F. Conditional uses to comply with other requirements. Conditional uses shall comply with all other provisions of this chapter, such as lot width and area, yards, height, signs, parking and loading. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 320-54. Approval of permit; term.

- A. Approval. The Town Board, upon recommendation of the Plan Commission, may authorize the Building Inspector to issue a conditional use permit for conditional uses after review by the Town Plan Commission, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. A notification of each conditional use permit granted in the A-2 Prime Agricultural District shall be transmitted to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
- B. Validity. Where the Town Board has approved or conditionally approved an application for a conditional use, such approval shall become null and void within 12 months of the date of the Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately 45 days prior to the automatic revocation of such permit, the Building Inspector shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of 90 days for justifiable cause, if application is made to the Town Board at least 30 days before the expiration of said permit.

§ 320-55. Complaints regarding conditional uses. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

The Town Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Town Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official and after seeking an advisory recommendation from the Plan Commission, the Town

Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in § 320-51 above, a condition of approval or other requirement imposed hereunder. Upon concluding a potential violation of a conditional use permit has occurred, a hearing shall be held upon notice as provided in § 320-50. Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Town Board may, in order to bring the subject conditional use into compliance with the standards set forth in § 320-51 or conditions previously imposed by the Town Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that § 320-51A(1) and (2) will be met, the Town Board may revoke the subject conditional approval and direct the Town Administrator and the Town Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Town Board shall be furnished to the current owner of the conditional use in writing stating the reasons ~~therefore.~~

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§ 320-56. Bed-and-breakfast establishments.

- A. As conditional use. Bed-and-breakfast establishments shall be considered conditional uses and may be permitted in any district ~~pursuant to with the exception of the C-1 Conservancy district this article.~~
- B. Definition. "Bed-and-breakfast establishment" means ~~any place of lodging that provides four or fewer rooms for rent for more than 10 nights in a twelve-month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.~~
- C. ~~State standards. Bed-and-breakfast establishments shall comply with the standards of Ch. HFS 197, Wis. Adm. Code.~~

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§ 320-57. Public and semipublic uses.

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

- A. Airfields. Airports, airstrips and landing fields in the M-1 and M-2 Industrial Districts, A-1 Agricultural District and P-1 Park District, provided that the site area is not less than 20 acres. Airports, airstrips and landing fields in the A-2 Prime Agricultural District shall be governmentally owned and operated or used for farm-related operations such as crop dusting.
- B. Governmental and cultural uses. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums, in all residential and business districts, M-1 and M-2 Industrial Districts and P-1 Park Districts. Governmental uses and structures may have a street yard setback of not less than 25 feet in all permitted zoning districts with the specific setback requirement defined in the conditional use permit. [Amended 3-1-2000 by Ord. No. 2000-5]
- C. Utilities. Utilities in all districts, provided that all structures and uses are not less than 25 feet from any residential district side yard lot line. Communication utility vaults or ground

structures shall be exempt from all zoning district yard setback requirements, except as previously noted in this subsection, set forth in the Town Code and shall have yard setback requirements defined in the conditional use permit. Communication utility vaults or ground structures shall be screened by appropriate landscaping to be approved by the Plan Commission and Town Board. Utility vaults or ground structures, excluding towers, located in residential districts shall be exempt from placement restrictions for accessory buildings set forth in Article XI, § 320-109 of this chapter. Gas and electric utility uses which have been issued a certificate of public convenience and necessity pursuant to § 196.49(3), Wis. Stats., are exempt from the requirements of this chapter and shall not be required to obtain a zoning permit, conditional use permit or certificate of compliance. [Amended 4-7-1999 by Ord. No. 1999-7]

- D. Public passenger transportation terminals. Public passenger transportation terminals, such as heliports and bus and rail depots, except airports, airstrips and landing fields, in all business districts and the M-1 and M-2 Industrial Districts, provided that all principal structures and uses are not less than 100 feet from any residential district boundary.
- E. Schools and churches. Public, parochial and private elementary and secondary schools and churches in the R-2 and R-3 Residential Districts and P-1 Park District, provided that the lot area is not less than four acres and all principal structures and uses are not less than 100 feet from any lot line.
- F. Other public and private institutions. Colleges, universities, hospitals, sanitariums, religious, charitable, penal and correctional institutions, cemeteries and crematories in the A-1 Agricultural District and P-1 Park District, provided that all principal structures and uses are not less than 100 feet from any lot line.

§ 320-58. Residential and quasi-residential uses.

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

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|---|--|
| <p>A. Planned unit developments. Planned unit developments pursuant to Article IV.</p> | <p>Formatted: Strikethrough</p> |
| <p>A. Meeting places of a noncommercial nature. Clubs, fraternities, lodges and meeting places of a noncommercial nature in the R-3 Residential District, provided that all principal structures and uses are not less than 100 feet from any lot line.</p> | <p>Deleted: B</p> |
| <p>B. Homes for the aged and children's nurseries. Rest homes, nursing homes, homes for the aged, and clinics and children's nurseries in the R-3 Residential District, provided that all principal structures and uses are not less than 100 feet from any lot line.</p> | <p>Deleted: C</p> <p>Formatted: Strikethrough</p> <p>Formatted: Strikethrough</p> |
| <p>C. Home occupations and professional offices. Home occupations and professional offices in the R-2 or R-3 Residential District. State licensed family and group child care centers may be allowed in residential districts with a conditional use permit. Child care operations of three or fewer children do not require a conditional use permit.</p> | <p>Deleted: D</p> |
| <p>D. Boarders and lodgers. Boarders and lodgers not to exceed two per dwelling in the R-3 Residential District.</p> | <p>Deleted: E</p> |

- | ~~E.~~ Residential unit used by the owner or operator of a contiguous business. A single residential unit to be used by the owner or operator of a contiguous business in a business district.
- | ~~F.~~ Private athletic clubs. Private athletic clubs of a noncommercial nature in the R-2 Residential District. [Amended 12-4-2002 by Ord. No. 2002-14]
- | ~~G.~~ Quilt shops. Quilt shops in the R-2 Residential District. [Amended 2-5-2003]
- | ~~H.~~ Multi-family dwellings.
- | ~~I.~~ Retirement and senior care facilities.
- | ~~J.~~ Second single-family dwelling units. [Added 3-7-2007 by Ord. No. 2007-3]
 - (1) Purpose and intent. The purpose and intent of permitting as a conditional use the construction and/or occupancy of a second dwelling unit is to allow, when all applicable standards have been met, a detached building designed for and occupied by the family of the owner-occupied primary dwelling unit to promote and preserve the family in single-family residential or quasi-residential zoning districts of A-1, A-2, CR-A, CR-B and E-1 in the Town of Cedarburg. The rental, lease, or separate sale of any such second dwelling unit is prohibited in order to protect the single-family residential nature and character of the district in which it is located.
 - (2) Definitions. For purposes of this section, the term "dwelling unit" shall consist of and include both the primary dwelling unit occupied by the owner and the second dwelling unit occupied by the owner's family, and together are viewed as one single-family dwelling. A primary dwelling unit is defined as a detached building designed for and occupied by the owner as a single-family dwelling unit. A second dwelling unit is defined as a detached dwelling unit occupied by the owner's family located on the same lot of a primary dwelling unit that is occupied by the owner as a single-family dwelling unit. A second dwelling unit shall have sleeping areas and a bathroom, with or without kitchen facilities, as specified in the permit. A second dwelling unit may be permitted as a conditional use, if it is occupied by the family of the owner-occupied primary dwelling unit and all such persons are occupying the same as a single, nonprofit housekeeping unit, who are living together as a bona fide stable and committed living unit, being a traditional family or the functional equivalent thereof, exhibiting the generic character of a traditional family. A second dwelling unit may not be rented, leased or sold separately from the primary dwelling unit on the lot. The owner of a lot containing a primary dwelling unit and a second dwelling unit must live in either the primary dwelling or in the second dwelling unit in order for the conditional use permit to be valid.
 - (3) Permits. A conditional use permit must be obtained before a building and/or occupancy permit may be issued for any second dwelling unit. When a conditional use permit has been issued for a second dwelling unit, the owner of the lot shall be responsible for payment of impact fees as required in § 184-16.
 - (4) Standards.
 - (a) An applicant for such a conditional use must comply with general ordinances for conditional use permits as required in §§ 320-45 through 320-55.

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Comment [SA8]: Add design standards and stipulations (THIS IS A PLACEHOLDER FOR FUTURE DISCUSSION).

Comment [E9]: Add design standards and stipulations (THIS IS A PLACEHOLDER FOR FUTURE DISCUSSION).

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- (b) Only one second dwelling unit may be allowed per lot. Only one (1) driveway access for the primary dwelling and the second dwelling unit may be allowed from any public road.
- (c) The lot proposed for a second dwelling unit shall contain an existing primary dwelling unit and must meet the minimum lot size for the respective zoning district.
- (d) The square footage of a second dwelling unit shall not exceed 30% of the footprint of the home, excluding the garage, or 900 square feet, whichever is smaller. The minimum size of the second dwelling unit shall be at least 300 square feet regardless of the 30% rule.
- (e) The number of persons occupying a second dwelling unit shall be limited to four family members or less, depending on the square footage of the dwelling, and/or the number and type of rooms.
- (f) All second dwelling units shall be limited to one story and a maximum height of 19 feet, but in no event may it exceed the height of the primary dwelling unit.
- (g) All second dwelling units shall have a minimum building wall separation from the primary dwelling unit of 20 feet.
- (h) All second dwelling units shall comply with applicable setback requirements for principal dwelling structures in the respective zoning district. However, second dwelling units shall not be allowed in the front yard of a lot.
- (i) All second dwelling units shall be served by the same electrical, water and gas meters, as applicable, that serve the primary dwelling unit. No separate meters shall be allowed. The sanitary sewerage systems of second dwelling units shall comply with the standards in Chs. Comm 82 and 83, Wis. Adm. Code, as regulated by Ozaukee County.
- (j) Adequate off-street parking shall be available for the second dwelling unit.
- (k) Construction of all second dwelling units shall comply with applicable building codes.
- (l) All second dwelling units shall be designed and built consistent with the building type, architectural style, and color of the primary dwelling unit, and the appearance of the second dwelling unit shall be that of a site-built, single-family dwelling unit.
- (m) In the event these standards or the applicable terms of a conditional use permit are violated, including, but not limited to, if one of the dwellings is not owner-occupied for any period longer than 30 days, then the owner shall be required to have the Town Building Inspector verify within 10 days of any such violation date that one of the two dwellings has had its water supply line and sewer lateral disconnected, and that it is no longer occupied as a dwelling unit. Such conditions of the property shall remain until such time the Town Building Inspector has verified, in writing, that the violation has been cured and a new occupancy and/or

building permit has been issued for such dwelling unit.

- (5) Covenants and restrictions. Prior to the issuance of any building, occupancy, or conditional use permit for a second dwelling unit, the lot owner shall record against the deed to the subject property, restrictive covenants that shall run with the land, in a form approved by the Town Attorney, in favor of and for the benefit of the Town of Cedarburg, which shall indicate that the occupancy and/or use of the second dwelling unit is subject to and regulated by the Town of Cedarburg Code of Ordinances. A copy of the signed conditional use permit for a second dwelling unit shall be recorded, and attached thereto and incorporated by reference, with the covenants. The covenants shall prohibit, including but not limited to, the rental or lease of the second dwelling, and also prohibit any sale or form of ownership transfer separate from the primary dwelling on the same lot. Nothing herein is intended to modify, amend or alter the legal effect of any conditions, covenants and restrictions, or other independent or private deed restrictions that may be applicable to a lot for which a second dwelling unit is permitted under this section.

§ 320-59. Highway-oriented uses.

The following commercial uses shall be conditional uses and may be permitted as specified:

- A. Drive-in theaters. Drive-in theaters in the B-2 Business District, provided that a planting screen at least 50 feet wide is created along any side abutting a residential district and no access is permitted to or within 1,000 feet of an arterial street.
- B. Drive-in establishments serving food or beverages. Drive-in establishments serving food or beverages for consumption outside the structure in the B-2 Business District.
- C. Motels. Motels in the B-2 Business District.
- D. Funeral homes. Funeral homes in the B-2 Business District, provided that all principal structures and uses are not less than 25 feet from any lot line.
- E. Drive-in banks. Drive-in banks in the B-2 Business District.
- F. Tourist homes. Tourist homes in the B-2 Business District, provided that such district is located on a state trunk or U.S. numbered highway.
- G. Vehicle uses. Vehicle sales, service, washing and repair stations, garages, taxi stands and public parking lots in all business districts, provided that all gas pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed street line.
Editor's Note: Original § 10-1-74(h), Expressway, which immediately followed this subsection, was deleted 10-4-2006 by Ord. No. 2006-11.

§ 320-60. Industrial and agricultural uses.

The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

- A. Animal hospitals. Animal hospitals in the A-1 Agricultural and M-1 and M-2 Industrial Districts, provided that the lot area is not less than three acres and all principal structures and uses are not less than 200 feet from any residential district.
- B. Disposal facilities. Dumps, disposal areas, incinerators and sewage disposal plants in the A-1-Agricultural and the M-1 and M-2 Industrial Districts. Municipal earth and sanitary landfill operations may be permitted in any district except the C-1 Conservancy District.
- C. Commercial production.
 - (1) Commercial raising, propagation, boarding or butchering of animals, such as dogs, mink, rabbits, foxes, goats and pigs; the commercial production of eggs; and the hatching, raising, fattening or butchering of fowl in the A-1 and A-2 Agricultural Districts. Commercial raising, propagation and boarding of dogs, however, shall not be permitted in the A-2 Prime Agricultural District.
 - (2) Pea vineries, creameries and condenseries in the A-1 Agricultural and M-1 and M-2 Industrial Districts.
 - (3) Limited non-agricultural commercial activities that meet applicable regulations pertaining to home occupations professional home offices, or in the case of utilizing outbuildings, such commercial activities that are low profile in nature, be operated by the owner of the premises, employ no more than two non-resident employees, produce no light or noise, be compatible with the agricultural setting of the area, and be a commercial activity that would not be better suited to be maintained in a traditional commercial setting or business park.
- D. Housing. Housing for farm laborers and for seasonal and migratory farm workers in the A-1 and A-2 Agricultural Districts.
- E. Manufacturing and processing.
 - (1) Manufacture and processing of abrasives, acetylene, acid, alkalis, ammonia, asbestos, asphalt, batteries, bedding, bleach, bones, cabbage, candles, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oilcloth, paint, paper, peas, perfume, pickles, plaster of paris, plastics, poison, polish, potash, pulp, peroxylin, radium, rope, rubber, sausage, shoddy, shoe and lamp blacking, size, starch, stove polish, textiles and varnish.
 - (2) Manufacturing, processing and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.
 - (3) Manufacture and bottling of alcoholic beverages.

(4) Bag cleaning, bleacheries, canneries, cold storage warehouses, electric and steam generating plants, electroplating, enameling, forges, foundries, garbage incinerators, lacquering, lithographing, offal, rubbish or animal reduction, oil, coal and bone distillation, refineries, road test facilities, slaughterhouses, smelting, stockyards, tanneries and weaving in the M-2 Industrial District and shall be at least 600 feet from residential and public and private park districts.

F. Outside storage and manufacturing areas in the M-2 Industrial District. Wrecking, junk, demolition and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least 600 feet from residential and public and private park districts.

G. Commercial service facilities in M-1 and M-2 Industrial Districts. Commercial service facilities, such as restaurants and fueling stations, in the M-1 and M-2 Industrial Districts, provided that all such services are physically and saleswise oriented toward industrial district users and employees and other uses are only incidental customers.

~~H. Planned industrial developments. Planned industrial developments may be permitted in the M-2 Industrial District. The preparation of the development plan is the obligation of the owner or developer prior to the selling of any parcel. The industrial collector roads as determined by the Plan Commission should have at least 80 feet of right-of-way, and all other vehicular rights-of-way shall be at least 66 feet wide.~~

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~~H. Second single-family residence. A second single-family residential dwelling for a child or parent of the principal farm resident in the A-2 Prime Agricultural District may be allowed by conditional use permit. The need for more than one single-family dwelling to support and carry out the permitted principal use or conditional use must be established to the satisfaction of the Town Board, subject to a recommendation from the Town Plan Commission. If approved, the second farm dwelling shall meet the standards of the R-3 Single-Family Residential District. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).~~

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~~J. Veterinary services. Veterinary services intended to service animals in an A-2 Prime Agricultural District, provided that all principal uses and streets are located not less than 200 feet from a residential district.~~

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~~J. Storage. Storage of boats, mobile homes, recreational vehicles, automobiles, trucks, tractors, nonoperating machinery, equipment and similar property in barns and related outbuildings may be a conditional use in A-1 and A-2 Agricultural Districts and permitted as such upon application as provided in this article. Legal description and plat of survey as specified may be waived.~~

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§ 320-61. Mineral extraction. [Amended by Ord. No. 2001-11]

Mineral extraction operations, including washing, crushing or other processing, are conditional uses and may be permitted in the M-2 Planned Industrial District, A-1 Agricultural District, A-2 Prime Agricultural District and in the M-3 Quarrying District provided that they were in existence prior to October 5, 1994.

- A. Application. The application for the conditional use permit shall include an adequate description of the operation, including the quantity available and to be removed; a list of equipment machinery and structures to be used; the source, quantity and disposition of water to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of two feet; trees; proposed and existing access roads; and the depth of all existing and proposed excavations.
- B. Reclamation plan. Reclamation plans shall be regulated by Chapter 206, Mining, Nonmetallic, of the Town of Cedarburg Code and Ch. NR 135, Wis. Adm. Code.
- C. Validity. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (1) The conditional use permit may be in effect for a period of up to five years. Modification or additional conditions may be imposed upon application for any renewal of a conditional use permit. A conditional use permit application that seeks renewal of an existing conditional use permit under this section shall meet all of the requirements under this Zoning Code.
 - (2) The Town Plan Commission, in its recommendation to the Town Board, shall particularly consider the effect of the proposed conditional use operation upon existing Town streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the Town and shall also consider the practicality of the proposed restoration of the site.

§ 320-62. Recreational uses.

The following public and private recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, hiking trails, hunting, ice boating, marinas, music halls, polo fields, pools, riding, academies, skating rinks, stadiums, swimming pools and zoological and botanical gardens in the P-1 Park District, provided that the lot area is not less than five acres and all structures are not less than 100 feet from any district boundary. Commercial recreational facilities such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks and theaters are conditional uses and may be permitted in the B-2 Business District. Sport fields are conditional uses and may be permitted in all districts except residential.

ARTICLE XV Definitions

§ 320-137. Definitions and word usage. Editor's Note: The definitions of "lot, corner," "nonconforming uses" and "use, accessory" which appeared in this section were deleted 10-4-2006 by Ord. No. 2006-11.

For the purposes of this chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

ABUTTING — Have a common property line or district line.

ACCESSORY USE OR STRUCTURE — A use or detached structure, including storage tents lacking a permanent foundation, that are subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure. Accessory uses include, but are not limited to, incidental repairs; storage; parking facilities; gardening; servant's, owner's, itinerant agricultural laborer's and watchman's quarters not for rent; private swimming pools; tennis courts; and any other athletic or recreational facility and private emergency shelters. [Amended 11-7-2007 by Ord. No. 2007-16]

ACRE, NET — The actual land devoted to the land use, excluding public streets and public lands contained within 43,560 square feet.

ALLEY — A public way not more than 21 feet wide which affords only a secondary means of access to abutting property.

APARTMENT — A room or suite of rooms in a multi-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

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ARTERIAL STREET — A public street or highway used or intended to be used primarily for large volume or heavy through traffic. "Arterial street" shall include freeways and expressways as well as arterial streets, highways and parkways.

BASEMENT — That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-round living accommodations. It is typically any structure having unfinished foundation walls, floor or ceiling and having more than 1/2 its height or more than 1/2 its windows below the lot grade.

BED & BREAKFAST — any place of lodging that provides four or fewer rooms for rent for more than ten nights in a twelve month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast. Bed and breakfast establishments shall comply with the standards of Ch. HFS 197, Wis. Adm. Code.

BLOCK — A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

BOARDINGHOUSE — A building other than a hotel or restaurant where meals or lodging is regularly furnished by prearrangement for compensation for three or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

BUILDABLE LOT AREA — The portion of a lot remaining after required yards have been provided.

BUILDING — Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

BUILDING AREA — The total living area bounded by those exterior walls of a building which are completely above grade, not including basements, utility areas, garages, porches, breezeways and unfinished attics, and confined to the upper two stories of multiple-story residential buildings for minimum building area requirements, except that 10% of the required building area of a bi-level or tri-level house may consist of basement area which has been finished off as living rooms and which has a minimum of one wall with at least four feet of its exterior height above grade.

BUILDING, DETACHED — A building surrounded by open space on the same lot.

BUILDING, HEIGHT OF — Total building height shall be measured at the front elevation of the structure at finished grade of the highest foundation wall to the top of the highest roof line. [Amended 3-1-2000 by Ord. No. 2000-7]

BUILDING, PRINCIPAL — A building in which the principal use of the lot on which it is located is conducted.

BUILDING SETBACK LINE — A line parallel to the lot line at a distance parallel to it regulated by the yard requirements set up in this Zoning Code.

BULK ZONING — Comprehensive list of lot sizes, building area and yard setbacks for all zoning classifications. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

BUSINESS — An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

CHANNEL — Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

COMMERCIAL RETAIL — The sale of commercial goods or merchandise in small quantities to the consumer.

COMMUNITY LIVING ARRANGEMENT — As defined in §§ 46.03(22), 48.02(6) and (17q) and 50.01(1), Wis. Stats., and community living arrangements shall be subject to the same building, housing and zoning codes and regulations of the Town of Cedarburg or Ozaukee County as similar residences located in the area. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

CONDITIONAL USES — Uses of a special nature as to make impractical their predetermination as a principal use in a district.

CONSERVATION STANDARDS — Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide prepared by the USDA Soil Conservation Service for Ozaukee County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

CONTROLLED ACCESS ARTERIAL STREET — The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

CORNER LOT — A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135° or less, measured on the lot side.

COVERAGE (RESIDENTIAL) — The area of a lot occupied by the principal building or buildings and accessory buildings.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving excavation or drilling operations or disposition of materials.

DISTRICT, BASIC — A part or parts of the Town for which the regulations of this chapter governing the use and location of land and building are uniform.

DISTRICT, OVERLAY — Overlay districts, also referred to herein as "regulatory areas," provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

DWELLING — A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

DWELLING, EFFICIENCY — A dwelling unit consisting of one principal room with no separate sleeping rooms.

DWELLING, MULTI-FAMILY — A residential building designed for or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided.

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DWELLING, SINGLE-FAMILY — A detached building designed for or occupied by one family.

DWELLING, TWO-FAMILY — A detached building containing two separate dwelling (or living) units, designed for occupancy by not more than two families.

DWELLING UNIT — A 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.

EQUAL DEGREE OF HYDRAULIC ENCROACHMENT — The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the

property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.

ESSENTIAL SERVICES — Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewer, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water tanks, conduits, cables, fire alarm boxes, police call boxes, traffic pumps, lift stations and hydrants, but not including buildings.

FAMILY — One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a bona fide stable and committed living unit, being a traditional family or the functional equivalent thereof, exhibiting the generic character of a traditional family. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

FAMILY CHILD CARE CENTER - A facility where a person provides care and supervision for less than 24 hours a day for at least four and not more than eight children who are not related to the provider. This care is usually at the provider's home.

FARMSTEAD — A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.

FLOOD — A temporary rise in stream flow or stage in lake level that results in water overtopping the banks and inundating the areas adjacent to the stream channel or lake bed.

FLOODLANDS — All lands contained in the regional flood or one-hundred-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district and the floodplain fringe overlay district.

FLOODPLAIN FRINGE — Those floodlands, outside the floodway, subject to inundation by the one-hundred-year recurrence interval flood. For the purpose of this Code, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.

FLOODPROOFING — Measures designed to prevent and reduce flood damage for those uses which cannot be removed from or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials, to operation and management safeguards, such as the following: reinforcing the basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire-reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal or waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and food dram pipes; placement of movable watertight bulkheads; erection of sand bag levees; and the shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two feet above the elevation of the regional flood. Any structure that is located entirely or partially

below the flood protection elevation shall be anchored to protect it from larger floods.

FLOOD PROTECTION ELEVATION — A point two feet above the water surface elevation of the one-hundred-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action and obstructions of bridge openings.

FLOOD STAGE — The elevation of the floodwater surface above an officially established datum plane, which is mean sea level, 1929 adjustment, on the Supplementary Floodland Zoning Map.

FLOODWAY — A designated portion of the one-hundred-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

FLOOR AREA — BUSINESS AND MANUFACTURING BUILDINGS — For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by 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. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

FOSTER FAMILY HOME — The primary domicile of a foster parent which has four or fewer foster children and which is licensed under § 48.62, Wis. Stats., and amendments thereto.

FRONTAGE — The smallest dimension of a lot abutting a public street measured along the street line.

GARAGE, PRIVATE — A detached accessory building or portion of the principal building designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.

GARAGE, PUBLIC — Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

GROUP CHILD CARE CENTER - A facility where a person for less than 24 hours a day provides care and supervision for nine or more children who are not related to the provider. These centers are usually located somewhere other than a residence.

GROUP FOSTER HOME — Any facility operated by a person required to be licensed by the State of Wisconsin under § 48.62, Wis. Stats., for the care and maintenance of five to eight foster children.

HOME OCCUPATION — Any business or profession carried on only by a member of the

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immediate family residing on the premises, carried on wholly within the principal building or accessory building thereto, in connection with which there are no signs or exterior display or storage other than a sign permitted by this chapter, and no activity that will indicate from the exterior that the building(s) is being used in whole or in part for any purpose other than that of a dwelling. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and does not exceed 25% of the area of any floor. No articles shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. Persons operating a home occupation shall employ no more than one nonresident employee. No business such as a store, barbershop, beauty shop, dance school, real estate brokerage or photographic studio ~~or child nursery~~ shall be conducted upon the premises. State licensed family and group child care centers may be allowed as a home occupation in residential districts as a conditional use permit. No material or equipment shall be stored outside the confines of the home. No mechanical equipment may be used which creates an excessive disturbance, such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed two horsepower each and not exceeding five horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles, motor-driven cycles, automobiles and trucks, other than those licensed and owned by the occupants of a home in a residential area, is strictly prohibited. For the purpose of this definition, the definitions of the abovementioned vehicles shall be as set forth in Ch. 340, Wis. Stats. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this definition whether or not such repairing is done in return for remuneration.

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HOTEL — A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in any individual room or apartment.

LOADING AREA — A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

LODGING HOUSE — A building where lodging only is provided for compensation for not more than three persons not members of the family.

LOT — A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Zoning Code as pertaining to the district wherein located.

LOT COVERAGE (EXCEPT RESIDENTIAL) — The area of a lot occupied by the principal building or buildings and accessory buildings, including any driveways, parking areas, loading areas, storage areas and walkways.

LOT, INTERIOR — A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.

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 abutting street or alley right-of-way line.

LOT LINES AND AREA — The peripheral boundaries of a parcel of land, including the street

right-of-way lines and the total area lying within such boundaries, excluding the street right-of-way.

LOT, SUBSTANDARD — A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking area or other open space provisions of this Zoning Code as pertaining to the district wherein located.

LOT, THROUGH — A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

LOT WIDTH — The horizontal distance between the side lot lines measured at the building setback line.

MINOR STRUCTURES — Any small, movable accessory erection or construction, such as toolhouses.

MODULAR UNIT — A factory-fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes.

OFFICIAL LETTER OF MAP AMENDMENT — Official notification from the Federal Emergency Management Agency (FEMA.) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

PARKING LOT — A structure or premises containing five or more parking spaces open to the public.

PARKING SPACE — A graded and surfaced area of not less than 180 square feet in area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

PARTIES IN INTEREST — Includes all abutting property owners, all property owners within 1,000 feet, and all property owners of opposite frontages.

PROFESSIONAL OFFICE — The office of a doctor, practitioner, dentist, minister, architect, landscape architect, engineer, lawyer, author, musician or other recognized trade. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than 25% of the floor area of one story of a dwelling unit shall be occupied by such office and only one unlighted nameplate, not exceeding one square foot in area, containing the name and profession of the occupant of the premises shall be exhibited. When established in the R-3 Residential District ~~on a parcel that is contiguous to that zoned for business~~, a professional office may be permitted as a conditional use without a residential usage, provided that the use is found to be compatible by the Plan Commission and the Town Board with the adjoining residential properties. No exterior changes to a building facade may be allowed without an amended conditional use permit specifically allowing for the exterior changes.

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PUBLIC AIRPORT — Any airport which complies with the definition contained in § 114.002(7), Wis. Stats., or any airport which serves or offers to serve common carriers

engaged in air transport.

REAR YARD — A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard.

REGIONAL FLOOD — A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year, there is a one-percent chance that the regional flood may occur or be exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent chance of occurrence.

~~**RETAIL** — The sale of goods or merchandise in small quantities to the consumer.~~

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SETBACK — The minimum horizontal distance between the front lot line and the nearest extending point of the building.

SIDE YARD — A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. All yards on corner lots that are not street yards shall be side yards.

SIGN — See § 320-79. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

STORY — That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof. A basement having 1/2 or more of its height above grade shall be deemed a story for purposes of height regulation.

STORY, HALF — That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two opposite exterior walls, are not more than 4 1/2 feet above the finished floor of such story. In the case of one-family dwellings, two-family dwellings and multi-family dwellings less than three stories in height, a 1/2 story in a sloping roof shall not be counted as a story for the purposes of this Zoning Code.

STREET — Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is 21 feet or more in width.

STREET YARD — A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have at least two street yards.

STRUCTURAL ALTERATION — Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

STRUCTURE — Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground.

TEMPORARY STRUCTURE — A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.

USE — The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

USE, PRINCIPAL — The main use of land or building as distinguished from subordinate or accessory use.

UTILITIES — Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

VISION CLEARANCE — An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

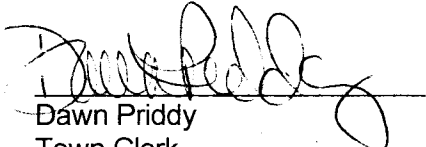
YARD — An open space between the lot line and a structure, unoccupied and unobstructed from the ground upward except with vegetation. The street and rear yards extend the full width of the lot.

ZERO LOT LINE — The concept whereby two respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

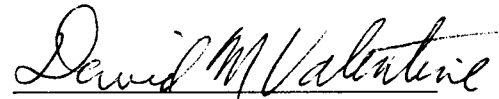
ZONING PERMIT — A permit issued by the Building Inspector to certify that lands, structures, air and waters subject to this chapter are or shall be used in accordance with the provisions of said chapter.

This ordinance shall be in full force and effect upon its passage and posting as provided by law.

PASSED AND ADOPTED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, this 7th day of January, 2009.



Dawn Priddy
Town Clerk



David M. Valentine
Town Chairman