

**TOWN OF CEDARBURG
ORDINANCE NO. 2009-9**

An ordinance working to make Chapter 320: Zoning, of the Town of Cedarburg Code of Ordinances, consistent with the Town Comprehensive Plan; pertaining to Articles II, III, IV, V, VII, XII, XV

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,

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,

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.~~ Formatted: Strikethrough
 - ~~(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.~~ Formatted: Underline
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- 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.

§ 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, aerals, 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~~

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- 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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Barbershops

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Bars

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Beauty shops

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Business offices

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Clothing stores

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Cocktail lounges

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Confectioneries

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Delicatessens

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Drugstores

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▲ Hobby shops	Formatted: Strikethrough
▲ Home occupations	Formatted: Strikethrough
▲ Lodges	Formatted: Strikethrough
▲ Meat markets	Formatted: Strikethrough
▲ Optical stores	Formatted: Strikethrough
▲ Packaged beverage stores	Formatted: Strikethrough
▲ Private athletic clubs	Formatted: Strikethrough
▲ Professional offices	Formatted: Strikethrough
▲ Restaurants	Formatted: Strikethrough
▲ Self-service and pickup laundry and dry-cleaning establishments	Formatted: Strikethrough
▲ Soda fountains	Formatted: Strikethrough
▲ Sporting goods	Formatted: Strikethrough
▲ Supermarkets	Formatted: Strikethrough
▲ Tobacco stores	Formatted: Strikethrough
▲ Vegetable stores	Formatted: Strikethrough

(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.

DC: ~~Additional conditional uses:~~

~~(1) ,~~

~~(2) ,~~

EC: ~~Lot:~~

(1) Width: minimum 100 feet.

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~~Deleted: 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.~~

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(2) Area: minimum $\frac{1}{2}$ acre.

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~~FD.~~ Building height: maximum 35 feet.

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~~GE.~~ 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.

Deleted: none

- (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	Formatted: Strikethrough
▲ Newspaper offices and press rooms	Formatted: Strikethrough
▲ Nightclubs	Formatted: Strikethrough
▲ Office supplies	Formatted: Strikethrough
▲ Pawnshops	Formatted: Strikethrough
▲ Personal service establishments	Formatted: Strikethrough
▲ Pet shops	Formatted: Strikethrough
▲ Photographic supplies	Formatted: Strikethrough
▲ Places of entertainment	Formatted: Strikethrough
▲ Plumbing supplies	Formatted: Strikethrough
▲ Printing	Formatted: Strikethrough
▲ Private clubs	Formatted: Strikethrough
▲ Private schools	Formatted: Strikethrough
▲ Publishing	Formatted: Strikethrough
▲ Radio broadcasting studios	Formatted: Strikethrough
▲ Secondhand stores	Formatted: Strikethrough
▲ Television broadcasting studios	Formatted: Strikethrough
▲ Variety stores	Formatted: Strikethrough

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

DC. Development. Formatted: Strikethrough

(1) Frontage: minimum 150 feet. Deleted: 200

(2) Area: minimum one acre. Deleted: two

ED. Building height: maximum 45 feet. Formatted: Strikethrough

FE. Yard setbacks. Formatted: Strikethrough

(1) Street: minimum 25 feet. [Amended 2-7-2001 by Ord. No. 2001-1] Deleted: 75

(2) Rear: minimum 30 feet.

(3) Side: minimum 15 feet. Deleted: 30

§ 320-21. B-3 Business District.

A. Statement of Purpose. This Formatted: Strikethrough

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.

Deleted: 75

(2) Rear: minimum 30 feet.

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

Deleted: 30

§ 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.

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

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Deleted: none

~~CB.~~ 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.

~~DE.~~ 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.~~

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~~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.

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[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.

§ 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.

G. Site plan and architectural review for nonresidential buildings.

- (1) 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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§ 320-27. 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

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next adjacent property owner so that at least two property owners in each cardinal direction are provided notice of the hearing.

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

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

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

~~(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.~~ Formatted: Strikethrough
- (9) 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 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] Deleted: 10
- ~~(10) Second single-family dwelling unit pursuant to § 320-58. [Added 3-7-2007 by Ord. No. 2007-3]~~ Deleted: 11
- ~~(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]~~ Deleted: 12
- (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]~~
- ~~N.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~~

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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.

~~O.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]

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§ 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.

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

Comment [SA2]: Moved to 320-12.

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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 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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Comment [SA3]: Same as 320-9 B.

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

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- (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]~~
- ~~(11) Second single-family dwelling unit pursuant to § 320-58. [Added 3-7-2007 by Ord. No. 2007-3]~~
- ~~(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]~~
- ~~(13) See § 320-57 and § 320-60.~~

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- 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]~~

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~~N.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~~

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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.

~~O.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]

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§ 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.

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- (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]

Comment [SA4]: Same as 320-9 B.

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- (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 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

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

- F. Open space. A minimum open space ratio of 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.
- (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:
 - (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.

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(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 IV Planned Unit Development (PUD)

§ 320-35. Intent; condominiums.

~~A. Conditional use. Planned residential developments, such as cluster developments in the R-2 and R-3 Residential Districts and garden apartments, row housing and group housing in the R-3 Residential District, are a type of conditional use. The district regulations may be varied, provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. The proper preservation, care and maintenance by the original and all subsequent owners of the exterior design, all common structures, facilities, utilities, access and open spaces shall be assured by deed restrictions enforceable by the Town.~~

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Comment [SA6]: Moved to 320-36 B.

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A. Statement of Purpose. The planned unit development is a conditional use 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. This article contemplates that there may be residential, commercial and industrial planned unit developments and mixed compatible use developments. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this chapter will allow for flexibility of overall development design, with benefits from such design flexibility intended to be derived by both the developer and the community while at the same time maintaining, insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district.

B. Condominiums permitted. 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 under § 320-41 of this chapter and after public hearing, 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 article have been met.

Comment [SA7]: Section moved to 320-35 A.

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This article contemplates that there may be residential, commercial and industrial planned unit developments and mixed compatible use developments.

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~~§ 320-36. Types of development.~~

§ 320-36. General requirements.

A planned unit development shall be consistent in all respects with the expressed intent of this article and with the spirit and intent of this chapter, shall be in conformity with the adopted Comprehensive Land Use Plan, ~~Neighborhood Plan~~ or any adopted component thereof, and shall not be contrary to the general welfare and economic prosperity of the community. Developers shall demonstrate an effort to become consistent with any design guidelines applicable to their planned unit development.

~~§ 320-38. Physical requirements.~~

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~~A. Minimum nonresidential area requirements. Areas designated as planned unit developments shall contain a minimum development area as follows:~~

Principal Uses	Minimum Area of PUD
Commercial PUD	5 acres
Industrial PUD	10 acres
Mixed compatible use	10 acres

~~A. Physical requirements (lot area, width and yard requirements). The lot area, width and yard requirements of the basic use district may be modified. The development density for proposed residential planned unit development shall be determined on an individual basis. [Amended 9-3-2003 by Ord. No. 2003-16] The proper preservation, care and maintenance by the original and all subsequent owners of the exterior design, all common structures, facilities, utilities, access and open spaces shall be assured by deed restrictions enforceable by the Town.~~

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~~C. Residential PUD requirements. The following provisions shall be complied with: [Amended 9-3-2003 by Ord. No. 2003-16]~~

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~~(1) Development:~~

~~(a) Area: minimum 10 acres.~~

~~(2) Lot:~~

~~(a) Area: minimum 43,560 square feet.~~

~~(b) Width at the road frontage:~~

~~[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.~~

~~[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]~~

~~(3) Building:~~

~~(a) Area: minimum building area for the district in which it is located.~~

~~(b) Height: maximum 42 feet.~~

~~(c) Rooms. All living rooms shall have windows opening onto a yard.~~

~~(4) Yard setbacks:~~

~~(a) Street: minimum 75 feet.~~

~~(b) Rear: minimum 50 feet.~~

~~(e) Side: minimum 25 feet from street rights-of-way, exterior property lines of the development and other buildings.~~

B. Ownership and recordation. Single parcel, lot or tract. The planned unit development shall may be considered as one or multiple tracts, lots or parcels, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded as such with the County Register of Deeds.

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§ 320-37. Public services and facilities.

- A. Drainage. The development site shall be provided with adequate drainage facilities for surface water and stormwater.
- B. Accessible. The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
- C. Burden on public services. No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas, by the development.
- D. Streets and driveways. The streets and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the Town.
- E. Water and sewer. Public water and sewer facilities shall be provided.

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§ 320-38. Subsequent land division.

The division of any land or lands within a planned unit development for the purpose of change or conveyance of ownership may be accomplished pursuant to Chapter 184, Land Division, of this Code when such division is contemplated.

§ 320-39-40 (Reserved)

§ 320-41. Procedural requirements.

- A. Intent. Sections 320-35 through 320-38 set forth the basic philosophy and intent in providing for planned unit developments, the kinds thereof, and the general requirements, physical requirements and requirements as to public services and facilities. The following sections are intended to set forth the procedures and considerations involved leading to possible approval of such developments.
- B. Procedural requirements for planned unit developments.
 - (1) Pre-petition conference. Prior to the official submission of the petition for the approval of a planned unit development, the owner or his agent making such petition shall meet with the Plan Commission, Town Administrator, or its staff to discuss the scope and

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proposed nature of the contemplated development.

- (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 detailed 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) Petition for approval. Following the pre-petition conference or site plan review, the owner or his agent may file a petition with the Town Administrator for approval of a planned unit development. Such petition shall be accompanied by a review fee as set by the Town Board as well as incorporate the following information:

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- (a) Informational statement. A statement which sets forth the relationship of the proposed PUD to the Town's adopted Comprehensive ~~Land Use Plan~~, ~~Neighborhood Plan~~, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

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- [1] Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
- [2] A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
- [3] A general outline of the organizational structure of a property owners' or management association which may be proposed to be established for the purpose of providing any necessary private services.
- [4] Any proposed departures from the standards of development as set forth in this chapter, Chapter 184, Land Division, of this Code, other Town regulations or administrative rules, or other universal guidelines.
- [5] 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.

- (b) A general development plan, including:

- [1] A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
- [2] The location of public and private roads, driveways, sidewalks and parking facilities.
- [3] The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
- [4] The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
- [5] The type, size and location of all structures.

- [6] General landscape treatment.
- [7] The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
- [8] The existing and proposed location of all private utilities or other easements.
- [9] Characteristics of soils related to contemplated specific uses.
- [10] Existing topography on the site with contours at no greater than two-foot intervals.
- [11] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
- [12] If the development is to be staged, a staging plan.
- [13] A plan showing how the entire development can be further subdivided in the future.

(4) Referral to Plan Commission. The petition for a planned unit development shall be referred to the Plan Commission for its review and recommendation, which recommendation shall include any additional conditions or restrictions which the Plan Commission may deem necessary or appropriate.

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(5) Public hearing. Following receipt of the Plan Commission's recommendation, the Town Board shall hold a public hearing on the petition, including any conditions or restrictions imposed by the Plan Commission, in the manner provided in §§ 320-48 and 320-49 for conditional uses.

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(6) Notice of hearing to interested parties.

(a) The Town Clerk shall give written notice of the time, date and place of the Town Plan Commission meeting at which the application for a planned development will be considered by regular first class mail to the owners of real estate in the Town of Cedarburg within 1,000 feet of the real estate for which a planned development has been requested. Such notice shall be deposited in the United States mail at least seven days prior to the Town Plan Commission meeting at which such request for a planned development is to be considered.

(b) Publication of a Class 2 notice in accordance with § 985.07, Wis. Stats.

§ 320-42. Basis for approval of petition.

A. Requirements. The Plan Commission, in making recommendations for approval, and the Town Board, in making a determination approving a petition for planned unit development, shall find as follows:

(1) That the general requirements made and provided in § 320-36 will be met.

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(2) That the applicable physical requirements made and provided in § 320-36 will be met.

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- (3) That the requirements as to public services and facilities made and provided in § 320-37 will be met.

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- B. Proposed construction schedule. The Plan Commission and Town Board, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one year of approval being deemed reasonable.
- C. Residential PUD considerations. The Plan Commission and Town Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
- (1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
 - (2) The total net residential density within the planned unit development will be compatible with the Town Comprehensive Land Use Plan, Neighborhood Plan, or components thereof, and shall be compatible with the density of the district wherein located.
 - (3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district.
 - (4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
 - (5) Provision has been made for adequate, continuing fire and police protection.
 - (6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - (7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- D. Commercial PUD considerations. The Plan Commission and Town Board, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:
- (1) The economic practicality of the proposed development can be justified.
 - (2) The proposed development will be served by off-street parking and truck service facilities in accordance with this chapter.
 - (3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.
 - (4) The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern

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of the surrounding neighborhood.

- (5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.

E. Industrial PUD considerations. The Plan Commission and Town Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:

- (1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
- (2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.
- (3) The proposed development will include provision for off-street parking and truck service areas in accordance with this chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
- (4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

F. Mixed use PUD considerations. The Plan Commission and Town Board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:

- (1) The proposed mixture of uses produces a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
- (2) The various types of uses conform to the general requirements as hereinbefore set forth applicable to projects of such use and character.
- (3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.

§ 320-43. Action on petition; alteration of approved plans.

A. General. The Town Board, upon receipt of recommendation from the Plan Commission and following public hearing thereon, and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Town Board may impose.

- B. Approval. The general and detailed approvals of a planned unit development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Town Board.
- (1) General approval. The general development plan submitted with the PUD application need not necessarily be completely detailed at the time of petition, provided that it is in sufficient detail to satisfy the Town Board as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building sites. The approval of such general development plan, by way of approval of the petition, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.
 - (2) Detailed approval. Detailed plans must be furnished to the Plan Commission and Town Board for their consideration, and the detailed approval by the Town Board of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will be approved, the petitioner shall give satisfactory proof that he has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Town Board.
- C. Changes and additions. Any subsequent substantial change or addition to the plans or uses shall first be submitted for approval to the Plan Commission, and if, in the opinion of the Plan Commission, such change or addition constitutes a substantial alteration of the original plan, it shall make its recommendation to the Town Board and further recommend additional public hearings, in which event the Town Board shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Town Board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

§ 320-44. Planned developments for specialized purposes.

- A. Purpose.
- (1) Within planned development districts for specialized purposes, it is intended to permit, on application and on approval of detailed use, site and building plans, planned developments for specialized purposes on tracts suitable in location and character for the uses and structures proposed and which are planned and developed as units. Suitability shall be determined by applicable development plans and general benefit or welfare of the Town.
 - (2) Within planned development districts for specialized purposes, the regulations established herein shall provide for a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, and economic design and location of public and private utilities and community facilities and are intended to ensure adequate standards of construction and planning.
- B. Designation. Each approved planned development for specialized purposes should constitute a planned development district and should be so zoned and designated.

- | C. Pre-petition conference. Before submitting a petition for a planned development for specialized purposes, an applicant shall confer with the Town Administrator, Town Director of Public Works, Town Building Inspector and Plan Commission to obtain information and direction on development plan requirements and application procedures.
- D. Contents of application. Application for approval of a planned development for specialized purposes shall be made in writing to the Town Board by filing the same with the Town Administrator and shall include the following:
 - (1) Names, addresses and signatures of the applicant and/or owners of the proposed site and the names and addresses of the architect and/or professional engineer.
 - (2) Description of the subject site by lot, block, and recorded subdivision or certified survey number, or by metes and bounds and address of the subject site.
 - (3) Preliminary development plan, including maps, preliminary building plans and a written statement, showing enough of the surrounding area to demonstrate the relationship of the planned development to adjoining uses, both existing and proposed. The maps may be in general schematic form and shall contain the following information:
 - (a) Plat of survey prepared by a registered land surveyor showing all of the information required under Chapter 108, Building Construction, of this Code for a building and zoning permit.
 - (b) The existing topographic character of the land, including but not limited to two-foot contours.
 - (c) Existing and proposed land uses.
 - (d) A site plan showing existing and proposed buildings and structures, common open areas, open spaces around buildings and structures and any other existing or proposed site improvements. The site plan shall also show how the proposed site relates to its surroundings.
 - (e) Elevation and perspective drawings of all proposed structures and improvements and their accessory buildings. The drawings need not be the result of final architectural decisions and need not be in detail.
 - (f) Off-street parking and loading plan.
 - (g) A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the planned development and to and from existing thoroughfares and adjacent properties.
 - (h) A preliminary landscaping plan.
 - (i) Drainage pattern and easement to include a diagram indicating how stormwater will drain on the site and from the site to established drainageways.
 - (j) Soil tests, soil phase lines and soil types.
 - (k) A description of how the water supply, waste disposal, trash removal, bus service and road maintenance needs of the project will be met.

(4) The written statement to accompany the preliminary development plan shall contain the following information:

- (a) A statement of the present ownership of all lands included in the planned development.
- (b) An explanation of the general operation of the planned development.
- (c) A statement of proposed financing.
- (d) A development schedule as follows:
 - [1] The approximate date when construction of the project can be expected to begin.
 - [2] The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 - [3] The approximate dates when construction of each of the stages in the development will be completed.
 - [4] The area and location of common open space that will be provided at each stage.

(5) Copies of agreements, provisions, or covenants which govern the use, maintenance and continued operation of the planned development and any of its common open areas.

(6) A preliminary plat review fee as set by the Town Board to be paid to the Town Treasurer upon submission of the planned development application.

E. Review of preliminary development plan. The preliminary development plan shall be reviewed by the Town Plan Commission and the Town Attorney, Town Administrator and Town Director of Public Works and reports of their findings shall be submitted to the Town Board.

F. Hearing on preliminary development plan. The Town Plan Commission shall hold a public hearing upon each application for approval of a preliminary development plan and related restrictions and conditions.

G. Notice of hearing to interested parties.

- (1) The Town Clerk shall give written notice of the time, date and place of the Town Plan Commission meeting at which the application for a planned development will be considered by regular first class mail to the owners of real estate in the Town of Cedarburg within 1,000 feet of the real estate for which a planned development has been requested.
- (2) Such notice shall be deposited in the United States mail at least seven days prior to the Town Plan Commission meeting at which such request for a planned development is to be considered.

H. Building Inspector report on preliminary development plan. Applications for planned development plans shall be referred by the Town Board to the Town Building Inspector for review of elevation and perspective drawings of all proposed structures and improvements and their accessory buildings. No action shall be taken upon such application or preliminary

development plan prior to receipt of the report of the Town Building Inspector.

- I. Plan Commission report on preliminary development plan and development conditions. In addition to planned development district standards, the Plan Commission may recommend, and the Town Board may impose, various restrictions and conditions on the construction and operation of a planned development.
- J. Preliminary development plan approval.
 - (1) The preliminary development plan may be approved provided that the information submitted with application, the testimony of the public hearing, and the findings of the Town Plan Commission and the Building Inspector establish that:
 - (a) The preliminary development plan, together with the related restrictions and conditions to regulate its construction and operation, is in accord with the intent and purpose of adopted plans or plan components of the Town of Cedarburg.
 - (b) The planned development will create an environment of continuing desirability and stability and will not be detrimental to present and potential surrounding uses.
 - (c) Public facilities and utilities, including water supply and waste disposal, existing and proposed, either in conjunction with the plan or separately, are, or will be, adequate to serve the planned development.
 - (d) The various stages, if any, by which the development is proposed to be constructed or undertaken as stated in the final development plan are practical and in the public interest.
 - (2) The Town Board shall approve or reject the planned development, the preliminary development plan, and proposed restrictions and conditions within 120 days of its submission unless the time is extended by agreement with the developer.
 - (3) If the preliminary development plan, conditions and restrictions are approved with modifications, the action shall not become final until the applicant has filed with the Town Board written consent to the plan and restrictions and conditions as modified.
 - (4) No building permits may be issued on land within the planned development until final plans for the development have been approved as required and the Town Board has established final dwelling densities for the planned development.
- K. Review of final development plan.
 - (1) Within six months following approval of the preliminary development plan with related restrictions and conditions, the applicant shall file with the Town Board a final development plan with related restrictions and conditions, including payment of the final planned development application plat review fee, and containing in final form the information required in the preliminary plan and related restrictions and conditions. In its discretion, and for good cause, the Town Board may extend for not more than six months the period for filing of the final development plan. Thereafter, if the final development plan is not filed as required, the application for the planned development shall be null and void.
 - (2) The Town Plan Commission shall give notice and provide an opportunity for the public

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to be heard on the final development plan and related restrictions and conditions by the following:

- (a) Publication of a Class 2 notice in accordance with § 985.07, Wis. Stats.
- (b) Regular first class mail to those owners of real estate in the Town of Cedarburg located within 1,000 feet of the boundaries of the real estate for which a planned development has been requested.
- (c) Any other person who has indicated to the Plan Commission in writing that he/she wishes to be notified.

(3) Such notices shall be deposited in the United States mail at least seven days prior to the Town Plan Commission meeting at which such request for a planned development is to be considered.

- L. Building Inspector report on final development plan. Final building plans shall be subject to the review and recommendation of the Town Building Inspector. Recommendations shall be made in writing to the Town Board within 30 days of its submission unless the time is extended by agreement with the developer.
- M. Plan Commission report on final development plan. The Town Plan Commission shall review the final development plan for its compliance with restrictions and conditions established by the Town Board on the construction and operation of the planned development. A report of its findings together with its recommendations shall be submitted to the Town Board.
- N. Approval of final development plan. The Town Board shall review and approve the final development plans and related restrictions and conditions to determine if they are in compliance with the approved preliminary development plan and related restrictions and conditions.
- O. Recording of final development plan. The Town Clerk shall record the final development plan and related restrictions and conditions with the Register of Deeds of Ozaukee County. The recording fees shall be paid by the developer as a condition of the final development plan. No building permit shall be issued for the planned development until all review, recording and impact fees have been paid in full.
- P. Building permits. The developer shall make application for building permits to the Building Inspector, who shall issue building permits for buildings and structures in the area covered by the approved final development plan if they are in conformity with the approved final development plan and related restrictions and conditions and with all other applicable ordinances and regulations.
- Q. Failure to begin construction or establish use. If no construction has begun or no use has been established in the planned development within one year from the approval of the final development plan, the final development plan and related restrictions and conditions shall lapse and be of no further effect. In its discretion and for good cause, the Town Board may extend for not more than one additional year the period for the beginning of construction or the establishment of a use. If a final development plan and related restrictions and conditions lapse under the provisions of this subsection, the Town Clerk shall file a notice of revocation

with the Register of Deeds of Ozaukee County.

- R. Procedure for changes and amendments. No changes shall be made in the approved final development plan and related restrictions and conditions during the construction of the planned development except upon application to the Town Board under the procedures provided below:
 - (1) Minor changes in the location, siting and height of buildings and structures may be authorized by the Plan Commission if required by circumstances not foreseen at the time the final development plan and related restrictions and conditions were approved.
 - (2) All other changes in use, any rearrangement of lots, blocks and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final development plan or related restrictions and conditions must be authorized by the Town Board under the procedures authorized for approval of a planned development. No amendments may be made in the approved final development plan or related restrictions and conditions unless they are shown to be required by changes in conditions that have occurred since the final development plans and related restrictions and conditions were approved, or by a change in the development policy of the Town.
- S. Recording of changes or amendments. Any changes or amendments to the final development plan, or related restrictions or conditions which are approved by the Town Board, shall be recorded with the Register of Deeds of Ozaukee County.
- T. Development schedule.
 - (1) From time to time the Building Inspector shall compare actual development accomplished with the schedule and shall report the same to the Plan Commission and Town Board.
 - (2) If the owner or owners of property in an approved development have failed to meet the approved development schedule, the Town Plan Commission may recommend, and the Town Board may initiate, proceedings to repeal the approval of the final development plans and related restrictions and conditions.
- U. Certificate of completion. The Building Inspector shall issue a certificate certifying the completion of the planned development and the Town Clerk shall file a copy of the same with the Register of Deeds of Ozaukee County.
- V. Subdivision and resale.
 - (1) A planned development shall not be subdivided or resubdivided for purposes of sale or lease without the prior approval of the Town Board.
 - (2) All sections of a subdivided planned development shall comply with the final development plan and related restrictions and conditions as approved by the Town Board unless changes thereto have been approved in accordance with Subsection R.
 - (3) The owners or lessees of a subdivided or resubdivided planned development may jointly make application under Subsection R for an amendment to the final development plan and related restrictions and conditions.
- W. Permits and fees.

- (1) A fee to cover the cost to the Town of Cedarburg for reviewing the plans and specifications shall be paid. This fee is to be based on the actual amount of time spent by the staff of the Town of Cedarburg. This review fee shall be equal to twice the hourly rate paid to the respective individual of staff performing said services. Said fee set forth herein shall be in addition to other charges specified, including impact fees.
 - (2) At the demand of the developer or the Town Director of Public Works, the fee may be recomputed after the work is done in accordance with the actual cost of the improvements, and the difference, if any, shall be paid or remitted to the developer.
 - (3) For the services of testing labs, consulting engineers, and other personnel, the developer agrees to pay to the Town the actual charge and cost plus 5% for administration and overhead.
- X. Amendments. Any amendment to regulations, restrictions or conditions for an existing planned development must be approved by the Town Board. Such regulations, restrictions or conditions may include but are not limited to changes or alterations to landscaping, architectural design, type of construction, sureties, lighting, fencing, planting screens, operational control, hours of operation, signs, improved traffic circulation, deed restriction, highway access restrictions, minor alterations or minor additions, building height or area of existing structures, and off-street parking or loading requirement changes.

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. HPS 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:

- | | |
|---|---|
| <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>Deleted: c</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>Formatted: Strikethrough</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.~~ Deleted: F
- ~~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]~~ Deleted: G
- ~~G. Quilt shops. Quilt shops in the R-2 Residential District. [Amended 2-5-2003]~~ Deleted: H
- ~~H. Retirement and senior care facilities.~~ Deleted: H. ... [2]
- ~~These facilities may be permitted within all zoning districts except P-1 and C-1. These facilities are subject to design guidelines that can be obtained at Town Hall.~~ Deleted: I
- ~~J. Second single-family dwelling units. [Added 3-7-2007 by Ord. No. 2007-3]~~ Deleted: J
- (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.

- (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.
- 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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- ~~I. 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 VI Nonconforming Uses, Structures and Land [Amended 9-6-2000 by Ord. No. 2000-18]

§ 320-63. Existing nonconforming uses and structures.

A. Definitions. As used in this section, the following terms shall have the meaning indicated:

FAIR MARKET VALUE — Determined by the average assessment ratio as listed on the most recent property tax bill which shall be used by the Town Assessor to determine the fair market value for the building or buildings in question.

NONCONFORMING STRUCTURE — Any building or structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this chapter or amendments thereto and which is not now in conformance with this chapter is a nonconforming structure and may be continued although the structure does not conform to the provisions of this chapter or any amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming structure but shall be considered nonconforming with respect to those characteristics.

NONCONFORMING USE — Any use of a building or land which as of the effective date of this chapter or amendments thereto does not, though lawfully established, comply with all the applicable use regulations of the zoning district in which such building or land is located.

Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. II).

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

STRUCTURE — Any constructed, erected or placed material or combination of matter in or upon the ground, including buildings (to include decks, porches and three-season rooms), towers, sheds, signs, poles, decorations and carports but not including driveways or at-grade patios.

B. Continuation of nonconforming structure/use. The nonconforming use of a nonconforming structure or land existing at the time of the adoption or any amendment of this chapter may be continued although it does not conform to the provisions of this chapter or any amendments thereto.

C. Repairs, improvements or alterations to nonconforming structures. The total structural repair, improvements or alterations to a nonconforming structure or building shall not exceed 50% of the current fair market value of the building unless permanently changed to conform to this chapter; provided, however that:

- (1) For the purpose of promoting the health, safety and general welfare of the Town and of the state, the Town Board may waive this provision to regulate any place, structure or object with a special character, historic interest, aesthetic interest or other significant value for the purpose of preserving the place, structure, building or object and its significant characteristics of the Town of Cedarburg (§ 60.64, Wis. Stats).

- (2) The nonconforming building is not within any existing or proposed state or county highway right-of-way or existing Town highway right-of-way. Editor's Note: Original § 10-1-80(c)(3), which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (3) Where a legal nonconforming building or structure has been destroyed by fire or other natural disaster to the extent that the cost of repair or restoring the structure to its before-damaged condition is not more than 50% of its current fair market value, the same may be rebuilt if a permit is obtained from the Building Inspector within six months after the date of the fire or other disaster and if the building is reconstructed within 18 months from the date of such fire or other calamity and an occupancy permit is issued.

§ 320-64. Nonconforming as to land or use by government action.

- A. Action of a governmental body. Except for zoning or rezoning, when the action of a governmental body or agency renders a parcel of land or lot nonconforming, the use and structures shall, for all purposes, be considered conforming.
- B. Zoning district changed. When a zoning district is changed, any existing conforming use in such changed district may be continued or changed to a use permitted in the same zoning district.

§ 320-65. Additions and enlargements.

- A. Additions and enlargements to existing nonconforming structures in the residential zoning districts are permitted when it is determined that the enlargement or addition does not increase the nonconformity of the structure, that is, it does not decrease existing setbacks of the established structure. Additions to existing nonconforming structures must comply with the required setbacks of the zoning district, with the following exceptions:
 - (1) An addition to the side of a structure does not come any closer to the right-of-way than the closest part of the current nonconforming structure already does.
 - (2) An addition to the nonconforming side of a structure does not come any closer to the property line than the closest part of the current nonconforming structure.
 - (3) Any additional stories to a structure are located over existing indoor living space and do not exceed the maximum height requirement for the zoning district in which the structure is located.
 - (4) The addition and/or enlargement is required to address any federal, state or local codes.
- B. Town Board approval is required for all additions and/or enlargements to nonconforming structures. Documentation shall be provided to the Town Board by the property owner substantiating the cost of the building addition and/or enlargement. All appropriate building permits shall be obtained from the Building Inspector prior to commencement of the addition and/or enlargement.

§ 320-66. Discontinued use.

If a nonconforming use is discontinued or terminated for a period of 12 months, any further use of the structure, land or water shall conform to the provisions of this chapter.

§ 320-67. Floodland nonconforming uses.

Floodland nonconforming uses, repaired or altered under the nonconforming use provisions of this chapter, shall provide for floodproofing to those portions of the structure involved in such repair or alteration. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, or other factors associated with the one-hundred-year recurrence interval flood.

§ 320-68. Wetland nonconforming uses. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

The repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure in the C-1 Conservancy District shall be subject to the obtaining of a permit issued by the Town Board and all other regulatory agencies.

§ 320-69. Substandard lots.

In any residential district, a single-family dwelling and its accessory structures may be erected on any existing legal lot recorded as such in the Register of Deeds of Ozaukee County before the effective date of the Zoning Code of the Town.

ARTICLE VII Traffic Visibility, Loading, Parking and Access

§ 320-70. Traffic visibility. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- A. For intersections with no control. No obstructions, such as structures, parking or vegetation, except crops, shall be permitted in any district between heights of 2 1/2 feet and 10 feet above the plane through the mean center line within a defined triangular space. That triangular space shall be formed by the approaching lanes of any two existing or proposed intersecting streets, neither of which is protected by a stop sign, and a line joining a point in each approaching lane located a given distance from the intersection of the two lanes. That distance shall be as shown in the table below (from pages 658 to 660, AASHTO Geometric Design of Highways and Streets 2001) for various speed limits:

Distance to Points From Intersection of Approach Lanes (feet)	Posted Speed or 85 Percentile Speed (mph)
115	25
140	30
165	35
195	40
220	45
245	50
285	55

- B. For intersections where one road is controlled by stop signs. No obstruction, such as structures, parking or vegetation, except crops, shall be permitted in any district between the heights of 2 1/2 feet and 10 feet above the plane through the mean center line within a defined triangular space. That triangular space shall be formed by the approaching lanes of any two existing or proposed intersecting streets, one of which is provided with stop signs, and a line joining a point in each of the approaching lanes. The point for the approach lane controlled by the stop sign shall be located 20 feet back of the near edge of the intersecting pavement, and the point in the approaching arterial lane shall be a distance shown in the table below (from page 665, AASHTO Geometric Design of Highways and Streets 2001), measured from the intersection of the two approaching lanes:

Distance Along Through Traffic Approach Lanes (feet)	Posted Speed or 85 Percentile Speed (mph)
390	35
445	40

500	45
555	50
610	55
665	60

§ 320-71. Loading requirements.

- A. Loading space requirements. On every lot on which a business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

Use	Floor Area (square feet)	Loading Space
Retail, wholesale warehouse, service manufacturing, and industrial establishments	2,000 to 10,000	1
	Over 10,000 to 20,000	2
	Over 20,000 to 40,000	3
	Over 40,000 to 60,000	4
	Each additional 50,000	1
Hotels, offices, hospitals, and places of public assembly	5,000 to 10,000	1
	Over 10,000 to 50,000	2
	Over 50,000 to 100,000	3
	Each additional 25,000	1
Funeral homes	2,500 to 4,000	1
	Over 4,000 to 6,000	2
	Each additional 10,000	1

- B. Multiple or mixed uses. Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- C. Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.
- D. Design standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 45 feet, and a vertical clearance of at least 14 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to 10 feet in width, 25 feet in length, and

eight feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.

- E. Surfacing. All open off-street loading berths shall be improved with a compacted macadam base, not less than seven inches thick, surfaced with not less than two inches of asphalt or treated with some comparable all-weather dustless material. Permeable paving materials are encouraged in an effort to decrease the amount of impervious surface and runoff created thereon.
- F. Repair and service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residence district.
- G. Utilization. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- H. Central loading. Central loading facilities may be substituted for loading berths on the individual zoning lots provided that the following conditions are fulfilled:
 - (1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.
 - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
 - (3) No zoning lot served shall be more than 300 feet removed from the central loading area.
 - (4) The tunnel or ramp connecting the central loading area with the zoning lot served shall be not less than seven feet in width and have a clearance of not less than seven feet.

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§ 320-72. Parking requirements.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Town Board, after a recommendation from the Plan Commission. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located within the fire zone as designated on the Official Map, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- A. Access. Adequate access to a public street shall be provided for each parking space.
- B. Design standards. The size of each parking space shall be not less than 180 square feet, exclusive of the space required for ingress and egress. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: 12 feet for thirty-degree parking and 20 feet for ninety-degree parking. Minimum width of aisles providing access to stalls for two-way traffic shall be 28 feet. No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Screening shall be approved by the Town Board with a recommendation from the Plan Commission. Large expanses of unchanneled parking areas

shall be avoided by interior landscaping and safety islands. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C. Location. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (1) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts. Parking and driveways shall not be closer than six feet to a side lot line, right-of-way line or rear lot line.
- (2) Off-street parking in single-family residential districts is permitted in the front yard in the driveway, even though closer than six feet to a side lot line, provided that the driveway conforms to the requirements in § 320-73.
- (3) Off-street parking is permitted in all yards of the B-1 and B-2 Business Districts but shall not be closer than 15 feet to any public right-of-way.

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D. Surfacing. All ~~new off-street parking areas for more than 10 vehicles are encouraged to be surfaced with a permeable paving material. When permeable pavement is determined not to be feasible, the parking area shall be surfaced with a~~ dustless all-weather material capable of carrying a wheel load of 4,000 pounds (normally, a two-inch blacktop on a four-inch base of five inches of Portland cement will meet this requirement). Any parking area for more than five vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used with the approval of the Town Board.

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E. Landscaping.

- (1) Accessory landscape area. All public and private off-street parking areas which serve 10 vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with accessory landscape areas totaling not less than 10% of the surfaced area. The minimum size of each landscape area shall not be less than 100 square feet.
- (2) Location. Location of landscape areas, plant materials and protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Town Board. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (3) Plans. All plans for such proposed parking areas, at the discretion of the Town Board, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (4) Special residential requirements. Those parking areas for five or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of five feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five feet from said lot line. Said fence shall be located a minimum of one foot from said lot line. Screening shall be approved by the Town Board with a

recommendation from the Plan Commission. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (5) Repair and service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in residence districts.
- (6) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three footcandles measured at the lot line.
- (7) Street setback area. No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

F. Curbs. Curbs or barriers shall be installed a minimum of three feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

G. Number of stalls. The number of parking stalls required is shown in the following table:

Use	Minimum Parking Required
Dwellings, single-family, two-family and mobile homes	2 stalls for each dwelling unit
Dwellings, multi-family	1.5 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with 1/2 of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Town Board may order them installed
Hotels and motels	1 stall for each guest room plus 1 stall for each 3 employees
Sororities, dormitories, and rooming and boarding houses	1 stall for each bed
Retirement homes, orphanages, convents and monasteries	1 stall per 2,000 feet of principal floor area
Hospitals, sanitariums, institutions, and rest and nursing homes	1 stall for each 2 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor
Churches, theaters, auditoriums, community centers, vocational and community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats
Colleges and secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more

Restaurants, bars, clubs and lodges, and places of entertainment	1 stall for each 150 feet of floor area and 1 space for each 2 employees
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 2 employees (number of employees shall be construed to mean the maximum number on the premises at one time)
Financial institutions, business, government and professional offices, and retail and service establishments	1 stall for each 300 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used) [Added 10-6-1999 by Ord. No. 1999-15]	2 customer parking spaces per salesperson for the work shift with the largest number of salespersons, plus 1 employee parking space per employee (including salespersons) for the work shift with the largest number of employees (this requirement does not include service stations, see below)
Repair shops and retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	5 spaces for each alley

- H. Uses not listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- I. Combined uses. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided that such uses are not operated during the same hours. A written agreement satisfactory to the Town Attorney shall accompany any joint use arrangement.
- J. Handicapped parking requirements. In addition to any other requirements relating to parking spaces contained in this Code, the provisions contained in §§ 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto, are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- K. Changes in buildings or use. Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of 25% or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50% or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.

L. Off-lot parking.

- (1) Required off-street parking spaces shall be located on the same lot with the principal use, or, when this requirement cannot be met, such parking spaces may be located off lot, provided that the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Town Attorney.
- (2) Off-lot parking spaces for residential uses shall be within 250 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved, while the farthest portions of a parking lot for all other uses shall be within 300 feet of the entrance of the establishment.
- (3) Accessory parking may be located in residential districts, provided that said lots or property is immediately adjacent to a commercial, business or industrial zoning district.
- (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of 10 feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

M. Adjustments to required parking. [Added 10-6-1999 by Ord. No. 99-15]

- (1) Purpose. The purpose of this Subsection M is to allow adjustments to the minimum number of parking spaces required to avoid constructing unneeded and excessive off-street parking facilities. Reducing the amount of excess off-street parking facilities is intended to provide for more cost-efficient site development, to eliminate constructing more impervious surface than necessary, to minimize stormwater runoff, to avoid construction of unnecessarily large stormwater management facilities, and to provide more landscape areas and open space on commercial and industrial sites. To achieve these purposes, the Plan Commission may reduce the minimum number of required off-street parking spaces in specific cases as described in this subsection.
- (2) Adjustments. In all ~~commercial and industrial~~ districts, the minimum number of required parking spaces may be adjusted by the Town Board, upon recommendation from the Plan Commission, on an individual basis. The petitioner for such an adjustment shall show to the satisfaction of the Plan Commission that adequate parking will be provided for customers, clients, visitors, and employees. The following provisions and factors shall be used as a basis to adjust parking requirements:
 - (a) Evidence that actual parking demands will be less than Zoning Code requirements. The petitioner shall submit written documentation and data to the satisfaction of the Plan Commission that the operation will require less parking than the Zoning Code requires.
 - (b) Availability of shared parking. The petitioner shall submit written documentation to the satisfaction of the Plan Commission that off-site shared parking spaces are available to satisfy the parking demand. When a reduction of parking spaces attributable to shared parking is requested, the petitioner shall submit written verification that such parking is available and shall include copies of any contracts, joint lease agreements, purchase agreements, and other such

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documentation to show that such shared parking can be accomplished. The Town Attorney shall provide an opinion designating the method by which the required shared parking shall be provided. The off-site shared parking spaces shall be clearly posted for the joint use of employees and/or tenants or customers of each respective use those spaces serve.

- (c) Use of off-street parking for visitors. Available nearby on-street parking may be counted toward visitor parking needs. This may only be allowed when on-street parking is permitted in a specific location, and then only when such on-street parking spaces are within 250 feet of the entrance they are intended to serve.
 - (d) Use of alternative transportation. Upon demonstration to the Plan Commission that effective alternative transportation to the automobile will occur, the Plan Commission may reduce parking requirements. Alternative transportation may include, but is not limited to, bus transit, van pool operations, car pool/ride sharing and bicycles. Parking management plans/operations may also be used as a basis to reduce required parking. Parking management plans may include, but are not limited to, flexible working hours or shifts, preferential parking for car pools/van pools, transit/van pool fare subsidy, imposition of a charge for parking, and establishment of a transportation coordinator to implement car pool, van pool, and transit programs. Proposals for adjustments of parking requirements under this subsection shall show how the alternative transportation modes will be implemented, the permanency of such modes, extent of the program, the number of vehicles the mode will replace, and other pertinent information.
- (3) Space to be set aside for reduced parking. The site plan for the commercial or industrial use shall be designed to provide sufficient open space on the subject site to accommodate the additional parking spaces otherwise required by this chapter. Such open space shall be in addition to required yards, setbacks, driveways, private streets, loading, and service areas. Sufficient open space shall be provided which, if converted to parking spaces, would provide off-street parking to meet the full requirements of this chapter at the time of application.

§ 320-73. Driveways.

See Chapter 279, Streets and Public Ways, § 279-6, Driveways and culverts, § 279-7, Structures and construction in Town-right-of-way, § 279-8, Violations, and § 279-9, Permittee liable for damage or injury.

§ 320-74. Highway access.

- A. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street, without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of

the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within 100 feet of the intersection of an arterial street right-of-way line.

- B. Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.
- C. Temporary access to the above rights-of-way may be granted by the Town Board after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 320-75. Storage and parking of recreational vehicles. [Added 2-7-2002 by Ord. No. 2002-2]

- A. Definitions. For purposes of this section, the following definitions shall apply:

BOAT — Every description of watercraft used or capable of being used as a means of transportation on water.

BOAT OR SNOWMOBILE TRAILER — A vehicle on which a boat or snowmobile may be transported and which is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this section, is termed an unmounted boat or snowmobile.

CHASSIS MOUNTS, MOTOR HOMES AND MINI MOTOR HOMES — Recreational structures constructed integrally with a truck or motor-van chassis and incapable of being separated therefrom.

CONVERTED AND CHOPPED VANS — Recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.

MOBILE HOME — A structure, transportable in one or more sections, which is eight body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. Length of a mobile home means the distance from the exterior of the front wall (nearest to the exterior of the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions or other attachments. Width of a mobile home means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions or other attachments.

RECREATIONAL VEHICLE — Any of the following:

- (1) **TRAVEL TRAILER** — A vehicular, portable structure built on a chassis and on wheels that is between 10 and 36 feet long, including the hitch, and eight feet or less in

width, designated to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes so-called fifth-wheel units.

- (2) PICKUP COACH — A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
- (3) MOTOR HOME — A portable, temporary dwelling to be used for travel, recreation, vacation or other uses, constructed as an integral part of a self-propelled vehicle.
- (4) CAMPING TRAILER — A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.

YARD, FRONT — That part of a lot between the front lot line and front(s) of the principal building on the lot and extended to both side lot lines.

YARD, REAR — That part of a lot between the rear lot line and the back(s) of the principal building on the lot and extended to both side lot lines.

YARD, SIDE — That part of a lot not surrounded by a building and not in the front or rear yard.

- B. Permitted parking or storage of recreational vehicles. In all residential and commercial districts provided for in this Zoning Code, it is permissible to park or store a recreational vehicle or boat and boat trailer on private property in the following manner:
 - (1) Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zoning district where located.
 - (2) Parking is permitted outside in the side yard or rear yard, provided that it is not nearer than 10 feet to the lot line. Parking shall also be permitted on a garage approach or a driveway apron located in front of a garage.
 - (3) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - (a) Used for dwelling purposes, except for overnight sleeping for a maximum of 14 days in any one calendar year. Cooking is not permitted at any time.
 - (b) Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - (c) Used for storage of goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.
 - (4) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.
 - (5) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.

§ 320-76. **Berm requirements.** [Added 4-5-2000 by Ord. No. 2000-11]

A. Berm defined.

- (1) Except as provided in Subsection A(3) below, as used in this section the term "berm" shall include any mound or wall of soil or rock (which may include clean concrete if suitably covered with topsoil) extending more than 50 linear feet or vertically higher than two feet above the center line of the road. A berm is determined as starting at the base where natural grade changes.
- (2) Berms within 50 feet of public road rights-of-way must comply with Subsection A(1).
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (3) This section would not apply to the following:
 - (a) Temporary topsoil piles on construction sites.
 - (b) Mound septic systems.
 - (c) Landscaping areas not meeting requirements under Subsection A(1).
 - (d) Berms under two feet above the center line of the road, less than 50 feet in length or with a slope of one foot vertical to six feet horizontal or greater in all zoning districts.
 - (e) Planting berms of 25 feet or less in length and not exceeding a height of four feet above the center line of the road with a slope of one foot vertical to three feet horizontal.

B. Permit required.

- (1) General permit requirements. No berm may be located, erected, moved, reconstructed, extended, enlarged, reduced, converted, or altered without obtaining all permits required by this section and without being in conformity with the provisions of this section.
- (2) Conditional use permit required. Berms exceeding two feet in vertical height from the center-line elevation of the adjacent roadway in all zoning districts shall require a conditional use permit. Berms exceeding this requirement can be issued a conditional use permit by the Town Board upon compliance with the requirements of this section and approval by the Plan Commission and Town Board.

(3) Approval process.

- (a) The Plan Commission shall have the authority to recommend the height, location, slope and landscaping of the berm to the Town Board.
- (b) The Plan Commission shall also notify neighbors within 1,000 feet of the property containing the proposed berm of a public hearing on the conditional use application.
- (c) The Plan Commission, in determining whether to recommend the conditional use permit, shall apply the same standards as applied under Article V, Conditional Uses, of this Zoning Code.
- (d) The Town Board has the authority to revise recommendations of the Plan Commission.

C. Permit application.

- (1) Applications for a berm permit shall be made on forms provided by the Town and shall contain or have attached thereto the following information:
 - (a) Name, address and telephone number of the applicant and location of the building, structure, or lot to which or upon which the berm is to be erected.
 - (b) Name of the person, firm, corporation, or business locating, erecting, moving, reconstructing, extending, enlarging, reducing, converting, or altering the berm.
 - (c) Written consent of the owner or lessee of the land upon which the berm is located or proposed to be located.
 - (d) Additional information as may be required by the Town Director of Public Works or the Town Plan Commission.
- (2) Plans and attachments. The following plans must be submitted for Town staff and Plan Commission review and must, at a minimum, include the following:
 - (a) Berm plan depicting location, setbacks, property lines, and proposed and existing grade contours.
 - (b) Proposed type of fill material.
 - (c) Planting plan, including grasses, shrubbery and tree types with spacing. It is recommended that the landscape plantings be spaced randomly to help visually break up the continuous line of the berm and that the berm be constructed in such a way as to be undulating and serpentine in appearance. It is also required that at least six inches of topsoil be placed on all berms in addition to suitable plantings.
 - (d) Proposed schedule for all phases of work.

D. General regulations. General regulations applicable to all berms receiving permits under this section.

(1) Location.

- (a) The berm shall be located at least 10 feet from a road right-of-way.

- (b) An earthen berm shall not be constructed to obstruct the view of vehicular traffic for ingress and egress for any Town or other public road, private driveway, walkway or bike trail.
 - (c) Berms shall not be placed in drainageways, floodplains, wetlands or conservancy zoned areas.
- (2) Slope. All berms shall be constructed such that the slope shall not exceed a slope of one foot vertical to six feet horizontal. The berm must be of no greater grade than would be allowable to be mowed with a riding lawn mower, or some similar device.
- (3) Drainage. All berm construction shall not impede surface water drainage or disturb existing drain tile systems.
- (4) Erosion control. All berm construction shall adhere to Chapter 123, Construction Site Erosion Control, of this Code where applicable.
- (5) Deadline. All berms shall be completed, including all landscaping, in accordance with the time frame established within the conditional use permit.
- (6) Permit conditions. All berm permits shall require the permittee to:
 - (a) Notify the Town Director of Public Works at the completion of the berm but prior to planting the berm to allow inspection of the berm;
 - (b) Obtain permission in writing from the Plan Commission and Town Board prior to modifying the berm plan;
 - (c) Maintain all road drainage systems, stormwater drainage systems, best management practices and other facilities identified in the berm plan; and
 - (d) Allow Town personnel or other agents authorized by the Town to enter the site for the purpose of inspecting compliance with the berm plan or for performing any work necessary to bring the site into compliance with the berm plan.
- E. Inspection. If berm development or berm activities are being carried out without a permit, Town personnel shall enter the land pursuant to the provisions of § 66.0119, Wis. Stats.
- F. Fees. Fees referred to in this section shall be the fee for a conditional use permit application as established by the Town Board as provided in the Town schedule of fees. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE VIII Signs [Amended 8-6-2003 by Ord. No. 2003-11; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 320-77. Purpose.

The purpose of this article is to:

- A. Regulate the size, type, construction standards, maintenance and placement of signs situated within the boundaries of the Town of Cedarburg, Wisconsin.
- B. Promote the public health, safety, welfare and comfort of the general public by:
 - (1) Reducing distractions and obstructions from signs which would adversely affect traffic safety and alleviating hazards caused by signs projecting over or encroaching upon the public right-of-way;
 - (2) Discouraging excessive visual competition in signs and ensuring that signs aid orientation and adequately identify uses and activities to the public; and
 - (3) Preserving or enhancing the natural beauty and unique physical characteristics of the Town of Cedarburg as a community in which to live and work by requiring a new or replacement sign which is:
 - (a) Creative and distinctive;
 - (b) Harmonious with the building, surrounding neighborhood aesthetics and other signs in the area;
 - (c) Appropriate to the type of activity to which it pertains;
 - (d) Expressive of the Town's identity in a manner which will not diminish property values; and
 - (e) ~~Complimentary~~ to the Town's rural architectural character and unobtrusive commercial developments.
 - (4) Promote a healthy and properly designed business environment.
 - (5) Protect property values within the Town.

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§ 320-78. Scope.

Except as otherwise noted herein, the regulations of this article shall govern all outdoor signs, advertising structures or devices with respect to location, safety, size, construction standards, erection, attachment, support, lighting, anchorage, maintenance, appearance, and aesthetics.

§ 320-79. Definitions.

When used in this article, the following words and phrases shall have the specific meaning as hereinafter defined, and any words not listed shall have the meaning defined by Article XV of this Zoning Code:

APPROVED COMBUSTIBLE MATERIALS — Wood, combustible plastics, or other rigid material impervious to water.

APPROVED COMBUSTIBLE PLASTICS — Only those combustible plastic materials which, when tested in accordance with the Standard Method of Testing for Flammability of Plastics (ASTM D635, latest revision), over 0.050 inch in thickness, burn no faster than 2.5 inches per minute in sheets of 0.060 inch in thickness.

AREA — Measurement of sign area shall be calculated as the sum of the area within the smallest regular polygon that will encompass all elements of the actual sign face, including any writing, representation, emblem, or any figure or similar character, together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed.

- A. For a sign painted on or applied to a building or to a freestanding wall, the area shall be considered to include all lettering, wording, and accompanying designs or symbols, together with any background of a different color than the natural color or finish material of the building or architectural wall. The architectural wall shall be subject to Plan Commission review and Town Board approval of the site and landscaping plan.
- B. The main supporting sign structure (i.e., brackets, posts, foundation, etc.) shall not be included in the area measurement if such framework is incidental to the display.
- C. When a sign has two or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two feet from each other. The sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

BANNER — A sign intended to be hung either with or without a frame and which possesses characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind.

BASE SETBACK LINE — The edge of the established ultimate street right-of-way.

BEACON — A stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which is intended to attract or divert attention.

BUILDING INSPECTOR — The Town of Cedarburg employee(s) responsible for administering this article.

BULLETIN BOARD — A sign not to exceed 15 square feet in area located on the premises of a charitable, religious, or educational institution or a public body for purposes of announcing events which are held on the premises.

CANOPY SIGN — Any sign that is attached to or part of an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area.

CONSTRUCTION SIGN — A sign identifying individuals or companies involved in design, construction, demolition, financing, or development of a building/lot and/or identifying the future use of the building/lot.

DIRECTIONAL SIGN — A sign for the purpose of directing patrons or attendants to a

commercial establishment off the main traveled highway, or to service clubs, churches, schools or other nonprofit organizations. Also, signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, and where the display area does not exceed three square feet or extend higher than five feet above the mean center-line street grade.

DIRECTORY SIGN — A sign which indicates the name of the occupants or tenants located on the premises.

DISPLAY SURFACE — The surface made available on the sign, either for the direct mounting of letters and decorations or for the mounting of facing material intended to carry the entire advertising message.

ELECTION CAMPAIGN SIGN — Signs which support candidates for public office or issues on an election ballot.

EXTERNAL ILLUMINATION — Illumination of a sign with an exterior light source.

FACING — The surface of the sign or billboard upon, against, or through which the message of the sign or billboard is displayed.

FLASHING SIGN — A sign whose illumination is not kept constant in intensity at all times when in use and/or which exhibits changes in light, color, direction, or animation and word/text changes.

FREESTANDING/GROUND SIGN — A sign which is attached to or part of a completely self-supporting structure other than a building. The supporting structure shall be set firmly in, upon, or below the ground surface and shall not be attached to any building.

HEIGHT — The height of all freestanding signs shall be the distance between the existing preconstruction grade at the base of the sign and the highest point on the sign or supporting structure.

ILLUMINATED SIGN — A sign in which an artificial source of light is used in connection with the display of such sign.

INTERNAL ILLUMINATION — Illumination of a sign in which the source of light is contained within the sign itself.

LETTERS and DECORATIONS — The letters, illustrations, symbols, figures, insignia, logo and other media employed to express and/or illustrate the sign message.

LOT — A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law.

LOT LINE — A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

MARQUEE — A permanent roof-like structure extending from part of the wall of a building, but not supported by the ground, and constructed of durable material such as metal or glass.

MARQUEE SIGN — A sign attached to, painted on, or supported by a marquee.

NEON OR OTHER GAS TUBE ILLUMINATION — Illumination from a light source consisting of a neon or other gas tube which forms letters, symbols or other shapes.

NONCONFORMING SIGN — A sign existing at the effective date of the adoption of this

article which does not conform to the terms of this article.

OFF-PREMISES SIGN — Any sign that advertises, calls attention to or identifies an occupant, business or property situated on a different lot than the sign.

OFFSET — The regulated minimum distance of a structure from a side, front or rear lot line.

ON-PREMISES SIGN — Any sign that advertises, calls attention to or identifies an occupant, business or property situated on the same lot as the sign.

OUTDOOR ADVERTISING — Any outdoor structure or device that is used as an announcement, declaration, demonstration, display, illustration, indication, symbol, insignia, logo, emblem or advertisement.

PORTABLE SIGN — A sign not permanently affixed to the ground, building, or other structure and which may be easily moved from place to place.

PROJECTING SIGN — A sign affixed or attached directly to the exterior wall of a building or structure and extending more than 10 inches from the exterior wall of the building or structure.

REAL ESTATE SIGN — A sign which is used to offer for sale, lease, or rent the premises upon which such sign is placed.

ROOF SIGN — A sign which is located or projects above the lowest point of the eaves or the top of the parapet wall of any building or which is painted on or fastened to a roof.

SETBACK — The regulated minimum horizontal distance between the base setback line and any structure on a lot.

SHOPPING CENTER — A planned/coordinated grouping of architecturally unified commercial establishments built on the same site and managed as one operating unit offering for sale goods such as food, drugs, hardware and personal services.

SIGN — Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way which either conveys a message to the public or intends to advertise, direct, invite, announce or draw attention to goods, products, services, facilities, persons, property interest or business either on the lot or on any other premises.

STREET — A public or private right-of-way for pedestrian or vehicular traffic.

TEMPORARY SIGN — A sign intended to be used for a period of no more than 60 days unless otherwise specified herein.

TRIM — The moldings, battens, capping, nailing strips, latticing and platforms attached to any sign or billboard structure.

WALL SIGN — A sign or billboard affixed or attached directly to the exterior wall of a building and extending not more than 10 inches from the exterior wall of the building or structure.

WARNING SIGN — A sign, containing no advertising material, warning the public of the existence of danger.

WINDOW SIGN — A sign attached to, placed upon, or painted on the interior of a window or door of a building which is intended for viewing from the exterior of such building.

§ 320-80. Sign permit required.

- A. Permit required. It shall be unlawful for any person to erect, repair, alter, relocate, or display any sign or other advertising structure as defined in this article without first obtaining a sign permit from the Town of Cedarburg and making payment of required fees. All illuminated signs shall, in addition, be subject to the provisions of the Electrical Code and the permit fees required thereunder.
- B. Application for permit. Application for a sign permit shall be made to the Town of Cedarburg and shall contain or have attached thereto the following information:
 - (1) Name, address, and telephone number of the applicant and location of building, structure, or lot to which or upon which the sign is to be attached or erected.
 - (2) Name of person, firm, corporation, or association erecting the sign.
 - (3) Written consent of the owner of the building, structure, or land to which or upon which the sign is to be affixed.
 - (4) A scale drawing of such sign indicating the dimensions, materials to be used, color scheme, type of illumination, if any, and the method of construction and attachment.
 - (5) A scale drawing indicating the location and position of such sign in relation to nearby buildings or structures.
 - (6) Copies of any other permit required and issued for said sign, including the written approval of the Town Board where required by the Zoning Code and/or of the Building Inspector in the case of illuminated signs, who shall examine the plans and specifications, reinspecting all wiring and connections to determine if the sign complies with the Town Electrical Code.
 - (7) Additional information as may be required by the Town.
- C. Validity of permit. A sign permit shall become null and void if work authorized under the permit has not been completed within 12 months of the date of issuance.
- D. Issuance of permit.
 - (1) It shall be the duty of the Building Inspector, upon the filing of an application for a sign permit, to examine such plans and specifications and other data. He/she shall determine whether the proposed structure is in compliance with the requirements of this article and all other regulations of the Town of Cedarburg.
 - (2) Following his/her examination of the sign permit application, the Building Inspector shall take one of the following actions:
 - (a) If the proposed sign is not in compliance with the requirements of this article and any other regulations of the Town of Cedarburg, the Building Inspector shall deny such permit and state the specific lack of compliance with the article requirements in his/her denial.
 - (b) If the proposed sign complies with all dimensional requirements, the Building Inspector shall consider the purpose, appearance, location, lighting, height, size, and impact of the sign relative to the scenic beauty of the vicinity and to the values

identified in § 320-77, Purpose, of this article. If the Building Inspector determines, on the basis of the above-noted considerations, that there is a question as to whether or not the proposed sign is in accordance with the intent of this article, he/she shall refer the sign permit application to the Plan Commission and Town Board, stating the reasons for such referral. Following its review, the Plan Commission shall recommend with modifications or deny the sign permit application.

- (c) If the Building Inspector determines that the sign is in compliance with the intent of this article and all other regulations of the Town of Cedarburg, he/she shall issue the sign permit. If the property and/or proposed use thereof for where the proposed sign is to be located is subject to a conditional use permit pursuant to Article V of this Zoning Code, then the Building Inspector may not issue a sign permit unless a conditional use permit under Article V of this Zoning Code is granted by the Town Board, which may include conditions for a sign permit.
- (3) All permits issued shall expire on July 1 of each year. Sixty days prior to the permit expiration date, a notice of sign permit renewal shall be issued by the Building Inspector to the sign owner. Payment of an annual maintenance inspection fee shall be made to the Town of Cedarburg on or before July 1. The penalty for failing to comply with this subsection shall be a double permit fee.

§ 320-81. Fees.

Application fees for sign permits shall be in accordance with the Town's established Annual Fee Schedule.

§ 320-82. Revocation of permit.

The Building Inspector is hereby authorized and empowered to revoke any permit issued by him/her upon failure of the holder thereof to comply with any provision of this article.

§ 320-83. Prohibited signs.

The following types of signs are prohibited in the Town of Cedarburg:

- A. Roof signs, unless specifically permitted by the Town Board.
- B. Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity. This provision is intended to prohibit signs placed on or affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.
- C. Signs which are attached or otherwise affixed to rocks, trees, or other living vegetation.

- D. Signs which contain untruthful or misleading information.
- E. Signs which imitate, interfere with, obstruct the view of, or can be confused with any official traffic control sign, signal, or other device.
- F. Flashing or rotating signs, message crawl signs, digital electronic signs, signs containing moving parts, and signs containing reflective elements which sparkle or twinkle in the sunlight. Signs indicating the current time and/or temperature may be permitted provided that they meet all other provisions of this article and subject to approval of the Plan Commission.
- G. A-frame, sandwich board, sidewalk, or curb signs, except as a temporary sign, as may be provided for in § 320-84B of this article.
- H. Banners, pennants, streamers, balloons, and other gas-filled figures, except as a temporary sign, as may be provided for in § 320-88D of this article.
- I. Billboards and off-premises signs, except Town Board approved temporary off-premises signs to identify businesses during road construction. Official Town bulletin boards are also allowed off premises.
- J. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises.
- K. Any sign larger than 50 square feet in area except as may otherwise be permitted under the terms of this article and subject to review and approval by the Plan Commission or Park and Open Space Committee, if the sign is proposed to be located within a Town-owned park or preserve.
- L. Projecting signs.
- M. Portable and wheeled signs.
- N. Signs or other advertising painted directly on walls unless specifically approved by the Plan Commission.
- O. Inflatable signs and tethered balloons.
- P. Signs attached to or erected or maintained on any standpipe, exterior stairway, fire escape, tower, or balcony so as to interfere with the use thereof.
- Q. Signs erected at or near the intersection of any streets in such manner as to obstruct free and clear vision or at any location where, by reason of position, shape or color, they may interfere with, obstruct the view of, or be confused with any official traffic sign, signal or device or which make use of the word "stop," "look," "danger" or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.
- R. Signs erected, constructed or maintained so as to obstruct any exit or any window opening necessary for required light or ventilation or which prevent free passage from one part of a roof to another.
- S. A sign extending above the top or 10 inches beyond the side of the exterior wall to which such sign is attached.
- T. Signs and associated lighting fixtures which project more than 10 inches from the exterior

wall to which they are attached.

- U. Signs entirely supported by a parapet wall.
- V. Signs, cards, banners, pictures, handbills, sign posters, advertising, or notices of any kind, on any curb, street, walk, public street surface, fence, board, barrel, box, case, railing, pole, post, bridge, tree, barricade, material, bridge fender, dock, pile, building or structure of any kind on public ground, public waterway or upon any structure projecting over any public street, public ground or public waterway within the Town except by Town Board authorization.
- W. Outdoor advertising devices such as banners, decorative displays or other advertising devices of cloth, paper, or other nonrigid materials, except as may be otherwise permitted by this article.

§ 320-84. Exemptions.

- A. The following outdoor signs, advertising structures or devices shall be exempted from § 320-80 of this article:
 - (1) One wall sign not to exceed six square feet in size maintained by the owner or occupant of any residential building which display only the name of the owner or occupant.
 - (2) Legal home occupation signs not exceeding two square feet in size and placed on the residential structure or mailbox. Home occupation signs may not be illuminated.
 - (3) Bulletin boards not over 15 square feet in size for public, charitable or religious institutions when the same are located on the premises of said institutions. Such signs shall be subject to the location, lighting and landscaping standards as set forth in §§ 320-85 through 320-87 of this article and may not exceed seven feet in height.
 - (4) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials, grave markers, statuary, or other remembrances of persons or events that are noncommercial in nature.
 - (5) Official traffic signs, legal notices, railroad crossing signs, "danger" and such temporary emergency or nonadvertising signs as may be erected for the public safety.
 - (6) One sign not to exceed 15 square feet in area identifying farm operations on parcels of land containing not less than 20 acres.
 - (7) Flags or banners representing the United States, State of Wisconsin, Ozaukee County or the Town of Cedarburg.
 - (8) Special decorative displays or signs in the public right-of-way when authorized by the Town Board.
 - (9) Signs which are located within the interior of any building and which are not visible from the exterior of the building.
 - (10) Yard sale signs, provided that no person shall attach posters, notices or advertisements

to utility poles, meter posts, or trees in or along any street right-of-way within the Town and that no person shall put up any notice upon any building, wall, fence, or other property of another person without having first obtained the consent of the owner of such property. The maximum time limit for all yard sale or estate sale signs is three consecutive days and nine cumulative days in a one-year period. Such signs may not exceed 10 square feet in area.

- (11) Nonilluminated window signs, including but not necessarily limited to paper signs, box signs, and painted window signs, covering less than 25% of the individual window area.
- (12) A "No Hunting," "No Trespassing" or other similar wording sign not in excess of six square feet in width.

B. The following temporary signs shall also be exempted from § 320-80 of this article subject to the following conditions:

(1) Temporary real estate signs.

- (a) Number. There shall not be more than one temporary real estate sign for each lot, except that where a lot abuts two or more streets, one "For Sale" sign may be allowed for each abutting street frontage.

(b) Area.

- [1] Single-family areas. In all residential zoned areas, temporary "For Sale" or "For Rent" real estate signs shall not exceed 12 square feet in gross surface area.
- [2] Business areas. In business and multi-family residential zoned areas, temporary "For Sale" real estate signs shall not exceed 25 square feet in gross surface area, and temporary "For Lease" or "For Rent" real estate signs shall not exceed 10 square feet in gross surface area. Exception: Where vacant land in business and multi-family residential zoned areas is for lease or for rent, a freestanding real estate sign, not exceeding 25 square feet in gross surface area, may be allowed in accordance with the setback standards established in Subsection B(1)(c).

(c) Location.

- [1] Temporary "For Sale" real estate signs shall be located only upon the premises for sale and shall be set back a minimum of 10 feet from any abutting side or rear property line or driveway. Additionally, signs shall be set back a minimum 10 feet from the edge of the roadway shoulder. If no shoulder exists, the sign shall be set back a minimum of 10 feet from the edge of the roadway pavement. Temporary "For Lease" or "For Rent" real estate signs for business shall be attractively designed and located on the existing business's freestanding sign in accordance with Town Administrator approval. If the Building Inspector and sign applicant disagree on sign design and/or location, the proposed sign shall be subject to Town Board approval.
- [2] Exceptions:

- [a] Property for sale or lease that does not have roadway frontage may locate a real estate sign on a nearby property that does have roadway frontage, in accordance with location requirements stated in Subsection B(1)(c)[1]. This shall only be permitted with the permission of the owner of the property on which the sign is being placed.
 - [b] The Town Administrator may waive and/or modify location requirements in writing if such requirements would result in a visual hindrance due to existing vegetation.
 - [c] If a business site does not have a freestanding sign on which to attach a "For Lease" sign, the lease sign may alternatively be placed on the building facade.
 - [d] In any case where the setback of the "For Sale" sign results in the sign being located within the road right-of-way, the Town shall not be held liable for any sign damage or maintenance.
- (d) Height. Temporary "For Sale" real estate signs shall not project higher than seven feet as measured from preconstruction grade at the base of the sign. Temporary "For Lease" or "For Rent" real estate signs shall not project higher than the existing business's freestanding sign.
- (e) Removal. Temporary real estate signs shall be removed within seven days of the sale or lease of the premises upon which the sign is located.
- (2) Temporary construction signs.
- (a) Number. There shall not be more than one temporary construction sign for each project or development, except that where a project or development abuts two or more streets, one sign may be allowed for each abutting street frontage.
 - (b) Area.
 - [1] Residential areas. In all residential areas, temporary construction signs may not exceed 25 square feet in gross surface area.
 - [2] Nonresidential areas. In all nonresidential areas, temporary construction signs may not exceed 32 square feet in gross surface area.
 - (c) Location. Temporary construction signs shall be located only upon the premises upon which construction either is about to occur or is occurring. Such signs shall be set back/offset a minimum of 10 feet from any abutting property line, road right-of-way or driveway.
 - (d) Height. Temporary construction signs may not project higher than seven feet, as measured from preconstruction grade at the base of the sign.
 - (e) Special conditions.
 - [1] Temporary construction signs shall be permitted only as accessory to an approved building permit for the purpose of identifying a proposed

construction project and the names of contractors, engineers, architects, and financial institutions involved in the project development.

- [2] Temporary construction signs may be erected and maintained for a period not to exceed 30 days prior to the commencement of construction and shall be removed within 30 days of the termination of construction of the project or development.

- C. All signs permitted under this section shall conform to the provisions of § 320-87 of this article.

§ 320-85. Illumination standards.

- A. In addition to complying with the provisions of this article, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the Town Electrical Code. No person may erect a sign with exposed electrical wires.
- B. The use of unshielded lighting, including exposed incandescent light bulbs hung or strung on poles, wires or any other type of support intended to illuminate a sign or other advertising device, is prohibited.
- C. All sign lighting shall be so designed, located, shielded or hooded so as to prevent the casting of glare or direct light upon adjacent roadways or surrounding properties or into the sky.
- D. In no case shall the lighting intensity of any sign, whether resulting from internal or external illumination, exceed 60 footcandles when measured with a standard light meter held perpendicular to the sign face at a distance of 10 inches.
- E. Neon signs or other exterior neon displays may be permitted in cases where they are custom designed to be compatible with the building's architectural character and where their color has been selected to harmonize with the building's exterior colors. Such lighting shall be subject to review and approval of the Town Plan Commission.
- F. Electrical illumination of signs in residence districts shall be as regulated in the Wisconsin Department of Commerce Electrical Code.
- G. All illumination of signs shall be provided utilizing electricity.

§ 320-86. Landscaping standards.

- A. In the case of any pole or ground-mounted freestanding signs, a landscape plan must also be submitted when the sign permit is issued.
- B. Where any sign is proposed to be externally illuminated using ground-mounted fixtures (i.e., floodlight), landscape plantings shall be installed in such a manner as will entirely shield the light source from the surrounding view. Landscape plantings shall be of the type as will ensure effective yearlong screening.

§ 320-87. Location standards.

- A. In any zoning district, no sign or sign supporting structure shall be set back/offset less than 10 feet from any abutting lot line and/or right-of-way.
- B. Placement of all signs shall be subject to the vision setback regulations as set forth in the Town of Cedarburg Code and formally approved by the Director of Public Works or his/her designee.
- C. No sign in a nonresidential zoning district shall be located closer than 50 feet to an abutting residential zone.

§ 320-88. Permitted signs.

- A. Residential uses. For all residential uses, the following signs are hereby allowed subject to issuance of a permit in accordance with § 320-80 of this article.
 - (1) Building name and address signs. Name and address signs of buildings containing four or more residential units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises, subject to the following:
 - (a) Type. Building name and address signs may be either wall signs or ground signs.
 - (b) Number. There may not be more than one name and address sign for each building, except that where a building abuts two or more streets, one sign may be allowed for each abutting street frontage.
 - (c) Area. Building name and address signs may not exceed six square feet in gross surface area.
 - (d) Location. Building name and address signs may not be located closer than 10 feet to any property line, right-of-way, or driveway.
 - (e) Height. Building name and address signs may not exceed six feet as measured from preconstruction grade at the base of the sign.
 - (2) Subdivision identification signs. A permanent sign used to designate a residential subdivision entrance may be permitted subject to Plan Commission approval and the following criteria:
 - (a) Type. Subdivision identification signs shall be ground signs.
 - (b) Number. There may not be more than two subdivision identification signs for each point of vehicular access to the subdivision.
 - (c) Area. Subdivision identification signs may not exceed 32 square feet in area per sign.
 - (d) Location. Subdivision identification signs may not be located closer than 10 feet to any property line, right-of-way, driveway, or intersection of a vision triangle.
 - (e) Height. Subdivision identification signs may not exceed six feet as measured from preconstruction grade at the base of the sign.
- B. Commercial, industrial, park, and institutional uses. For all commercial, industrial, park, and

nonreligious institutional uses, only the following signs are hereby allowed subject to issuance of a permit in accordance with § 320-80 of this article:

(1) Wall signs.

- (a) Number. Except for the case of multi-tenant buildings as regulated in Subsection B(4), there may be not more than one wall sign for each principal building within any zoned district in the Town of Cedarburg.
- (b) Area. Except in the case of multi-tenant buildings as regulated in Subsection B(4), the gross surface area of a wall sign may not exceed 2.5% of the area of the building wall, including doors and windows, to which the sign is to be affixed or 60 square feet, whichever is less.
- (c) Location. A wall sign may be located on the outermost wall of any principal building but may not project more than 10 inches from the wall to which the sign is to be affixed.
- (d) Height. A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed. A wall sign may not exceed 20 feet in height from the base of the building wall to which the sign is affixed.

(2) Freestanding ground signs.

- (a) Number. There may not be more than one freestanding ground sign for each principal building.
- (b) Area. The gross surface area of a ground sign may not exceed 32 square feet in area.
- (c) Location. A ground sign may not be located closer than 10 feet to any property line, right-of-way or driveway.
- (d) Height. A ground sign may not project higher than six feet above the center line of the nearest road.

(3) Awning, canopy, and marquee signs.

- (a) Number. Except for the case of the multi-tenant buildings as regulated in Subsection B(4), there may not be more than one awning, canopy, or marquee sign exceeding an aggregate gross surface area of two square feet for each principal building. Awning, canopy, and marquee signs which are two square feet or less in aggregate gross surface area are exempt from the provisions of this article as specified in § 320-84.
- (b) Area. The gross surface area of an awning, canopy or marquee sign may not exceed 50% of the gross surface area of the face of the awning, canopy, or marquee to which such sign is to be affixed or 30 square feet in area, whichever is less.
- (c) Location. A sign may be affixed to or located upon any awning, canopy, or marquee subject to the review and approval of the Plan Commission.
- (d) Height. An awning, canopy, or marquee sign may not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

- (4) Multiple-tenant signs. Each business tenant shall be allowed to display one wall sign not exceeding 2.5% of the tenant's area of the building wall, including doors and windows, to which wall the sign is to be affixed or 60 square feet, whichever is less.
- (5) Window signs.
 - (a) Neon signs. Each business tenant shall be allowed to display on each public street it fronts one neon sign not exceeding 300 square inches in size or 50% of the window area, whichever is less. Neon signs shall emit a steady light and only be illuminated during business hours. Blinking, flashing, strobe or other light animation is not allowed.
 - (b) Temporary signs. Temporary, nonilluminated window signs covering less than 25% of the individual window area shall be allowed for 30 days.
 - (c) Business decals. Business decals not exceeding two square feet in size shall be allowed.
- (6) Changeable letter signs. Changeable letter signs shall only be allowed for institutional, religious, theater, and public service uses subject to Plan Commission approval.
- (7) Fire number signs. Fire number signs issued by the Town of Cedarburg shall be placed within 10 feet of the right-of-way and in a close proximity to the driveway.
- (8) Gasoline price signs. Gasoline price signs, as required by law, may not be larger than 20 square feet in area, one- or two-sided.
- (9) Election campaign signs. Election campaign signs are permitted, provided that permission shall be obtained from the property owner, renter or lessee and provided that such sign shall not be erected prior to the first day of the election campaign period as defined in § 12.04, Wis. Stats., and shall be removed within seven days following the election. No election campaign sign shall be located in a street right-of-way. All election campaign signs permitted under this subsection shall conform to the provisions of § 320-87 of this article.

C. Religious uses. For all religious uses, only the following signs are hereby allowed subject to issuance of a permit in accordance with § 320-80 of this article:

- (1) Wall signs.
 - (a) Number. Except for the case of multi-tenant buildings as regulated in Subsection B(4), there may be not more than one wall sign for each principal building.
 - (b) Area. The gross surface area of a wall sign may not exceed 2.5% of the area of the building wall, including doors and windows, to which the sign is to be affixed or 60 square feet, whichever is less.
 - (c) Location. A wall sign may be located on the outermost wall of any principal building but may not project more than 10 inches from the wall to which the sign is to be affixed.
 - (d) Height. A wall sign may not project higher than the parapet line of the wall to which the sign is to be affixed. A wall sign may not exceed 20 feet in height from the base of the building wall to which the sign is affixed.

(2) Freestanding ground signs.

- (a) Number. There may not be more than one freestanding ground sign for each principal building.
- (b) Area. The gross surface area of a ground sign may not exceed 32 square feet in area.
- (c) Location. A ground sign may not be located closer than 10 feet to any property line, right-of-way, or driveway.
- (d) Height. A ground sign may not project higher than six feet, as measured from the center line of the nearest road.

(3) Auxiliary freestanding sign or banner.

- (a) Number. There may not be more than one freestanding auxiliary ground sign for each site.
- (b) Area. The gross surface area of an auxiliary ground sign or banner may not exceed 48 square feet.
- (c) Location. An auxiliary ground sign or banner may not be located closer than 10 feet to any property line, right-of-way, or driveway.
- (d) Height. An auxiliary ground sign or banner may not project higher than six feet, as measured from the center line of the nearest road.
- (e) Special conditions. Auxiliary signs and banners shall be attached to ground posts. While the sign or banner face and message may change throughout the year, the content of the sign message must directly relate to the religious organization's use and operation. Auxiliary banners may not be displayed for more than 14 consecutive days and shall be limited to no more than four events per year (maximum total of 56 banner days per year).

D. Special event signs. For all special event signs, only the following signs are allowed for business uses subject to issuance of a permit in accordance with § 320-80 of this article:

- (1) Grand opening signs. One grand opening sign not exceeding 48 square feet shall be allowed per business. The sign may be displayed for a maximum of 60 days.
- (2) Banners. Special event banners shall be allowed for each business subject to the following:
 - (a) Banner size may not exceed 30 square feet.
 - (b) Banners may not be displayed for more than 14 consecutive days.
 - (c) Individual businesses may be limited to four banner events a year.
 - (d) There may be no more than one banner erected per site at one time unless the site is located on a corner lot or the lot has multiple road frontages. In this case, one banner for each side of the site abutting the road will be permitted.

§ 320-89. Existing signs.

- A. Existing signs which become nonconforming upon adoption of this article may not be reconstructed, remodeled, relocated or changed in size unless such action will make the sign conforming in all respects with this article. Nonstructural changes to an existing freestanding sign face as a result of tenant changes, business name changes, or other content-related changes shall require compliance with the opaque sign face standard pursuant to § 320-90A(1)(d) of this article.
- B. A nonconforming sign or sign structure which is destroyed or damaged may be restored only after the owner has shown that the damage did not exceed 50% of the appraised value of the sign. If such sign or sign structure is destroyed or damaged to an extent exceeding 50% of the appraised sign value, it shall be removed and shall not be reconstructed or replaced unless such action makes the sign and sign structure conforming, in all respects, with this article. If restoration of a damaged sign is not completed within six months of the date damage occurred, such sign shall be removed or replaced in a manner as will conform to all specifications of this article. Replacement signs may require Plan Commission approval.
- C. A nonconforming sign or sign structure shall be removed within 30 days of the date the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding 50% of the building's appraised value.
- D. Whenever the owner of any building or lot on which a nonconforming sign is located requests Plan Commission approval for any change to the use, building or lot, the Plan Commission may require that such nonconforming sign be removed or made to conform to this article as a condition of building or site approval.

§ 320-90. Design, construction and erection standards.

A. Architectural design.

- (1) Freestanding ground signs. These signs shall be architecturally integrated with the principal building in the following manner:
 - (a) The base of the sign shall be constructed with the principal building's primary building material, to the greatest extent practical.
 - (b) The color scheme of the sign shall follow the color scheme of the principal building, to the greatest extent practical.
 - (c) Architectural features (e.g., sills, piers, reveals, capstones, medallions, etc.) which are part of the architectural style of the principal building shall be incorporated into the sign, to the greatest extent practical.
 - (d) The sign face shall be constructed with an opaque surface to allow internal light to only project through the cutout lettering and/or logos.
 - (e) The Building Inspector and/or Plan Commission may approve, deny, or request changes to a proposed sign, based on the architectural design of that sign.
 - (f) General external lighting must be submitted with sign permit.
- (2) Wall signs.

- (a) Interior lit box signs shall be prohibited, unless approved by the Plan Commission as part of a total sign package.
- (b) Channeled letter sign colors are subject to Plan Commission approval as part of a total sign package.
- (c) Business logos or symbols may be allowed but shall be included in the total sign calculation.

(3) Sign content.

- (a) Signs shall serve a primary function of wayfinding and site identification. Signs shall not include superfluous text, symbols, and/or graphics that serve as advertisements. Features such as web site addresses and phone numbers shall not be allowed.
- (b) Business logos are not be allowed.

B. Structure design.

- (1) Wind pressure. All signs shall be constructed, erected and maintained to safely withstand wind pressure as specified by Wisconsin State Statute and applicable Administrative Code.
- (2) The design, construction and erection of all signs shall be by a competent professional in the sign design and construction industry.
- (3) Wall signs attached to exterior building walls shall be anchored or attached in such a manner as will ensure stability and safety.

§ 320-91. Maintenance and removal of signs.

The Town may cause any sign or other advertising structure which is, in its opinion, an immediate peril to persons or property to be removed summarily and without notice.

A. Appearance requirements.

- (1) The owner of any sign as defined and regulated by this article shall be required to properly maintain the appearance of all parts and supports of the sign as directed by the Town.
- (2) In the event that the sign owner does not provide proper sign maintenance within 60 days after written notification from the Town, the sign may be removed as provided in Subsection B.

B. Removal of certain signs and billboards.

- (1) Any sign, now or hereafter existing, which no longer advertises a bona fide business or product, or which is dilapidated, out of repair, unsafe, or insecure, or has been constructed, erected or maintained in violation of the provisions of this article, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or land upon which such sign may be found. If within 10 days after written

notification from the Town the sign owner fails to comply with such notice the Town may remove such sign. Any cost or expense incident thereto shall be paid by the owner of the building or land to which such sign is attached. In the event such costs and expenses are not paid within 30 days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on said real estate.

- (2) Any sign which is constructed without proper approval and permit shall be removed or proper permit obtained within five days of notice to the owner by the Town. In the event that the owner of such sign is not issued a proper permit or fails to remove said sign, the Town may remove such sign. Any cost or expense incident thereto shall be paid by the owner of the building or land to which such sign is attached. In the event such cost and expenses are not paid within 10 days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on said real estate.
- (3) In the event that the owner of an illegal sign cannot be ascertained by the Town, then notice as indicated in Subsection B(2) shall be given to the owner of the real estate upon which the sign is located. In the event that the owner of the real estate does not obtain a proper permit or does not remove the sign within 10 days of notice from the Town, then such sign may be removed by the Town. Any expense incident thereto shall be paid by the owner of the building or land to which such sign is attached. In the event such cost and expenses are not paid within 10 days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on said real estate.
- (4) If a permit is denied, the Town shall issue a five-day removal notice. If the sign is not removed within the five-day period, the sign may be removed by the Town of Cedarburg. Any expense incident thereto shall be paid by the owner of the building or land to which such sign is attached. In the event such cost and expenses are not paid within 10 days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on said real estate.
- (5) The cost of removing any signs located in the road right-of-way at the time the road is widened shall be paid by the sign owner.

§ 320-92. Variances.

The Town Board may, in its judgment, grant a variance to the provisions of this article where it would further the public interest and uphold the purpose of this article as put forth in § 320-77. Such variance may be based on, among other things, site-specific hardships such as topographic aberrations and visual encumbrances.

§ 320-93. Violations and penalties; nuisances.

- A. Penalty. Any person, firm, company, or corporation who or which violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this article shall be subject to a forfeiture of not less than \$100 nor more than \$500 for each offense, together with the costs of the action. Default of the payment may result in imprisonment in the county jail not exceeding 90 days. Each day that a violation exists shall constitute a separate violation and be punishable as such.
- B. Declared nuisances. Any sign or similar advertising structure erected, structurally altered, painted, moved, or maintained in violation of the provisions of this article is hereby declared to be a nuisance per se, and the Town may apply to any court of competent jurisdiction to restrain or abate such nuisance.

ARTICLE IX Performance Standards for Industrial Development
§ 320-94. Intent.

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

§ 320-95. Noise.

- A. M-2 District. No activity in an M-2 Industrial District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound-level meter and associated octave band filter:

Octave Band Frequency (cycles per second)	Sound Level (decibels)
0 to 75	79
76 to 150	74
151 to 300	66
301 to 600	59
601 to 1,200	53
1,201 to 2,400	47
2,401 to 4,800	41
Above 4,800	39

- B. Other districts.

- (1) No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (cycles per second)	Sound Level (decibels)
0 to 75	72
76 to 150	67
151 to 300	59
301 to 600	52
601 to 1,200	46
1,201 to 2,400	40
2,401 to 4,800	34
Above 4,800	32

- (2) All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

§ 320-96. Vibration.

- A. Vibration prohibited. No activity in any district except the M-2 Industrial District shall emit vibrations which are discernible without instruments outside its premises. No activity in an M-2 Industrial District shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (cycles per second)	Displacement (inches)	
	Outside the Premises	Outside the District
0 to 10	0.0020	0.0004
11 to 20	0.0010	0.0002
21 to 30	0.0006	0.0001
31 to 40	0.0004	0.0001
41 to 50	0.0003	0.0001
51 and over	0.0002	0.0001

- B. Vibrations exempt. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

§ 320-97. External lighting.

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond the M-1 and M-2 Industrial District boundaries.

§ 320-98. Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in the Wisconsin Administrative Code.

§ 320-99. Particulate emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in the Wisconsin Administrative Code.

§ 320-100. Visible emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in the Wisconsin Administrative Code.

§ 320-101. Hazardous pollutants.

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

ARTICLE X Satellite Earth Stations; Radio or Television Antenna Towers; Wind Energy Systems; Telecommunications

§ 320-102. Satellite earth stations.

- A. Permit required. No owner shall, within the Town, build, construct, use or place any type of satellite earth station until a permit shall have first been obtained from the Building Inspector.
- B. Definitions. For purposes of this section, the following terms shall have the meaning indicated:

OWNER — The holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life, but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one owner shall be considered an owner.

SATELLITE TELEVISION DISH OR EARTH STATION — An apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. They are also commonly referred to as disks, satellite communications systems or home earth stations.

- C. Application. Application for a satellite earth station permit shall be made in writing to the Building Inspector. With such application, there shall be submitted a fee as set by the Town Board and a complete set of plans and specifications, including a plot plan showing the location of the proposed satellite earth station with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of this section, the application shall be approved.
- D. Installation restrictions. Satellite earth stations installed in any zoning district within the Town shall comply with the following provisions:
- (1) Number of units. Not more than one satellite earth station may be allowed per individual recorded lot, except that additional stations may be permitted upon application for a variance in nonresidential zones.
 - (2) Location and setbacks.
 - (a) Any satellite dish mounting post shall only be located in the rear yard of a residential lot and at least 25 feet from any property line. Placement of a satellite dish in a business or industrial district shall not be allowed unless a special exception is granted by the Zoning Board of Appeals.
 - (b) If the dish cannot receive a usable satellite signal in the rear yard of any residential lot but can receive such a signal while located in a side yard, it may be located only in a side yard after receiving approval from the Zoning Board of Appeals. For corner lots, a side yard is only a yard that does not face a street.
 - (c) No dish shall be placed in the front yard of any residential, business or industrial lot in the Town.

- (d) The Town Board shall determine whether a signal constitutes a usable satellite signal based on evidence provided by the person seeking a permit to erect or construct the dish.
- (3) Mounting. Satellite earth stations may be ground-, wall- or roof-mounted in all districts. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be subject to the structure being constructed to carry all imposed loading. The Building Inspector may require engineering calculations.
- (4) Diameter. The diameter of the satellite television dish shall not exceed 10 feet for the ground-mounted dish and six feet for the roof-mounted dish, except for stations used to provide community antenna television services.
- (5) Height.
 - (a) A ground-mounted satellite dish may not exceed then 10 feet in height, as measured from the ground to the highest point of the dish.
 - (b) A roof-mounted satellite dish may not exceed eight feet in height above the surrounding roofline as measured from the lowest point of the existing roofline.
- (6) Wind pressure. All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of 80 miles per hour.
- (7) Electrical installations. Electrical installations in connection with satellite earth receiving stations, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground, unless installation site conditions preclude underground installation. If a satellite earth station is to be used by two or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All satellite earth stations shall be grounded against direct lightning strikes.
- (8) Temporary placement. No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five days. However, such trial placement shall be in accordance with all provisions of this section. Failure to comply shall result in a citation being issued for violation of this section. Any person making such temporary placement shall give written notice to the Building Inspector of the date when such placement shall begin and end.
- (9) Advertising. No form of advertising or identification, sign or mural is allowed on the dish or framework other than the customary manufacturer's identification plates.
- (10) Interference with broadcasting. Satellite earth stations shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or

reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the satellite earth stations shall promptly take steps to eliminate the harmful interference.

- (11) Compliance with federal regulations. The installation and use of every satellite earth station shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.
- (12) Color. The color of any satellite dish shall be such that it blends into its surroundings and shall be approved by the Building Inspector as part of the application.

E. Variances. Requests for variances from the standards established by this section may be made to the Zoning Board of Appeals pursuant to § 320-135 of this chapter.

F. Enforcement.

- (1) It shall be unlawful to construct, use, build or locate any satellite television dish in violation of any provisions of this section. In the event of any violation, the Town Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this section.
- (2) Any person, firm or corporation who or which fails to comply with the provisions of this section shall, upon conviction, be subject to the general penalty found in Chapter 1, § 1-3.

§ 320-103. Radio or television antenna towers.

- A. Location. No radio or television antenna tower shall be erected or installed within the front yard or side yard. The rear setback and the side setback in rear yards shall be that for the principal structure within the respective zoning district. The exact location of the antenna tower shall be subject to approval by the Town Board.
- B. Height. No radio or television tower shall exceed a height of 20 feet above the roofline of the building on the property upon which the antenna is located or 60 feet above the ground measured at grade level, whichever is the minimum.
- C. Code requirements. Radio or television antenna towers shall be erected and installed in accordance with the Wisconsin State Electrical Code, National Electrical Safety Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern.

§ 320-104. Conditional use permit for wind energy systems.

- A. Approval required. No owner shall, within the Town, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- B. Separate permit required for each system. A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.

- C. Basis of approval. The Town Board shall base its determination on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Town and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- D. Fees. The Town Board shall, by resolution, establish fees for the processing and issuance of conditional use permits under this section.
- E. Definition. "Wind energy systems" shall mean windmills which are used to produce electrical or mechanical power.

§ 320-105. Permit procedure for wind energy systems.

- A. Application. The permit application for a wind energy system shall be made to the Town Administrator on forms provided by the Town.
 - (1) The application shall include the following information:
 - (a) The name and address of the applicant.
 - (b) The address of the property on which the system will be located.
 - (c) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (d) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (e) Any other information which the Town Board or Town Administrator may deem to be necessary to the proper review of the application.
 - (2) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (3) The Town Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Town Board.
- B. Hearing. A public hearing shall be held by the Town Board before any permit is issued. A Class 2 legal notice shall be published at least 10 days prior to the hearing and notices sent to owners of record of property within 500 feet of the proposed windmill. The Town Board

should take into consideration citizen input at the hearing as well as any written recommendations of the Town Plan Commission before arriving at a decision regarding the granting of a permit.

- C. **Determination.** Following public hearing and necessary study and investigation, the Town Board shall, as soon as practical, render its decision in writing, and a copy shall be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Town Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- D. **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself causes it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Town Board following a public hearing thereon.
- E. **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Town Board, and if, in the opinion of the Town Board, such change or addition constitutes a substantial alteration, a public hearing before the Board shall be required and notice thereof be given.
- F. **Approval does not waive permit requirements.** The approval of a permit under this section shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

§ 320-106. Specific requirements regarding wind energy systems.

- A. **Additional standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce mechanical or electrical power shall also satisfy the requirements of this section in addition to those found elsewhere in this article. Editor's Note: Original § 10-1-134(b), Application, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See § 320-105A, Application.
- B. **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot in area.
- C. **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be 50 decibels, as measured on a dB(A) scale, measured at the lot line.
- D. **Electromagnetic interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference.
- E. **Location and height.** Wind energy conversion systems shall be located in the rear yard only

and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems shall not be located in residential districts.

- F. Fence required. All wind energy conversion systems shall be surrounded by a security fence not less than six feet in height. A sign shall be posted on the fence warning of high voltages.
- G. Utility company notification. The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

§ 320-107. Telecommunication installation. [Added 8-7-2002 by Ord. No. 2002-8]

- A. Statement of purpose. The purpose of this section is to provide standards and criteria for the placement, construction and maintenance of telecommunication facilities in the Town of Cedarburg.
- B. Statement of intent. The intent of this section is to:
 - (1) Strike a balance between the interests of the telecommunication service providers, the consumers of those services and the Town of Cedarburg.
 - (2) Minimize adverse visual impacts of telecommunication installations through careful design, siting, landscape screening and innovative camouflaging techniques.
 - (3) Maximize the use of existing telecommunication installations so as to minimize the need to construct new telecommunication structures.
 - (4) Encourage the location of telecommunication installations in nonresidential areas.
 - (5) Create clear and objective approval criteria for towers and accessory structures.
 - (6) Avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and located and removed when no longer used or determined to be structurally unsound.
 - (7) Comply with the 1996 Telecommunications Act.

- C. Definitions. The following definitions shall be used for the purpose of this section:

ALTERNATIVE TOWER STRUCTURE — An existing man-made structure which is used as an alternative to a tower and to which an antenna and/or an antenna support structure is attached.

ANTENNA — Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic magnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

ANTENNA SUPPORT STRUCTURE — A structure which is attached to a tower or an alternative tower structure and which is designed to support an antenna at a height sufficient

to permit effective reception or transmission of wireless communications.

COLLOCATION — The provision of multiple antennas or more than one commercial wireless communication service provider or government entity on a single tower or structure.

EQUIPMENT FACILITY — A building, cabinet, or other enclosure used to house and protect the electronic equipment necessary for processing wireless communications at a wireless communications facility.

FAA — Federal Aviation Administration.

FCC — Federal Communications Commission.

HEIGHT — The vertical distance from the ground at the base of the tower or alternative tower structure to the highest point on the tower or alternative tower structure or any fixture attached thereto, whichever is highest.

OPERATOR — A person, corporation, partnership, association or other organization who or which:

- (1) Provides wireless communication services, either directly or through one or more agents, employees, subsidiaries or affiliates; or
- (2) Controls or is responsible for the management and operation of a wireless communications facility.

POINTS OF VISUAL INTEREST — Views of waterways, open spaces, historic buildings, architecturally significant structures or other scenic views.

PREEXISTING TOWERS AND ANTENNAS — Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of this section.

STEALTH DESIGN — A tower designed to be concealed or look like another structure to screen it from general public view.

TELECOMMUNICATION INSTALLATION — Installation of structures and equipment that provide wireless communication service.

TOWER — Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, microwave towers, common-carrier towers, cellular telephone towers, and the like, but excluding alternative tower structures. The term includes the structure and any support thereto.

TOWER SITE — The parcel of land where a tower and associated wireless communication structures, fixtures and equipment are located.

WIRELESS COMMUNICATIONS SERVICE — The provision of wireless communication services for a consideration. Wireless communication services include, but are not limited to, cellular communications service (CCS), personal communication service (PCS), specialized mobile radio service (SMR), and enhanced specialized mobile radio (ESMR).

D. Applicability of regulations.

- (1) Facilities regulated by this section. Except as provided in Subsection D(2) of this section, the regulations contained in this section shall apply to all telecommunication installations in the Town of Cedarburg.
- (2) Facilities exempt from this section. The following wireless communication facilities are exempt from the provisions of this section:
 - (a) A ground- or building-mounted receive-only radio or television antenna which does not exceed 25 feet in height and which is used solely by the occupants of a dwelling located in a residential zoning district.
 - (b) A ground- or building-mounted receive-only radio or television satellite dish which does not exceed 36 inches in diameter; which does not project beyond the roofline; and which is used solely by the occupants of a dwelling located in a residential zoning district.
 - (c) A citizen band radio tower and antenna which does not exceed 35 feet in height.
 - (d) A ham radio tower and antenna which does not exceed 75 feet in height.
 - (e) Governmentally owned and operated receive and/or transmit telemetry station antenna for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, stormwater, pump stations and/or irrigation systems, with heights not exceeding 20 feet.
 - (f) Towers, equipment facilities and antennas that existed prior to the effective date of this section.
 - (g) Repair and replacement of telecommunication equipment located in an equipment cabinet or building and replacement of exterior telecommunication equipment with components that are similar in size, appearance and number.

E. Application process. Telecommunication installation application regulated by this section shall be subject to the general conditional use requirements contained in § 320-45 of this chapter. Public hearing notices shall be mailed to the owners of all lands within 2,000 feet of the subject property for conditional use permit, the expense for which shall be compensated to the Town by the applicant as an administrative cost of processing the application. Additionally, any application shall include the following:

- (1) If proposed on a Town-owned site, a completed application form for lease approval as provided by the Town.
- (2) Site plan drawn at an engineering scale showing the location of the telecommunications facility in relation to surrounding structures.
- (3) Building elevations and floor plans for installation of the wireless equipment facility.
- (4) Required application fee as set by the Town Board. Additionally, as stated in Subsection F(1) below, the Town may employ the services of a consulting expert to assist in the review of the application, the expense for which shall be compensated to the Town by the applicant as an administrative cost of processing the application.
- (5) A written statement by a qualified engineer licensed to practice in the State of Wisconsin that the reception and transmission functions of the proposed tower,

antenna or equipment facility will not interfere with the usual and customary transmission and reception of radio, television or other services.

- (6) Scaled architectural drawing of the tower and/or antenna installations along with a picture of a similar tower/antenna installation.
- (7) For towers, a written statement from the applicant's engineer indicating:
 - (a) The types of antennas that may be accommodated by the tower.
 - (b) The tower's capacity for such antennas.
 - (c) The failure characteristics of the tower.
 - (d) The adequacy of its setback in the event of failure.
- (8) Landscaping plans drawn to scale of one inch equals 20 feet. Those plans should specify the location of any tower, building, parking, landscaping, fencing and other accessory uses. The landscape plan shall indicate the size, number and type of planting for the proposed site.
- (9) List of all existing telecommunication installations located in the Town of Cedarburg and within two miles of the Town limits. The list should identify the location, height and design of each installation. The Plan Commission and Town Board may share such information with other applicants applying for a conditional use permit to construct, install or alter telecommunication facilities.
- (10) Demonstration of need for a new tower or alternate tower structure as outlined in Subsection F(1) below.
- (11) The collocation information required pursuant to Subsection F(1) below, including existing possible tower structures such as silos.
- (12) The security information required pursuant to Subsection F(13) below.

F. Installation criteria.

- (1) Collocation. The Town encourages collocation. Accordingly, if the applicant proposes a new tower installation, it shall demonstrate, to the reasonable satisfaction of the Plan Commission and Town Board, that no existing tower or alternative tower structure can accommodate its proposed antenna. Upon a showing by the applicant that any one of the following circumstances enumerated below exists, the applicant shall be deemed to have satisfactorily demonstrated the need for a new tower. In evaluating such circumstances, the Town may employ the services of a consulting expert to assist in the review of the application, the expense for which shall be compensated to the Town by the applicant as an administrative cost of processing the application.
 - (a) No existing tower or alternative tower structure is available to accommodate collocation in a manner that provides wireless communication services in accordance with the 1996 Telecommunication Act and subsequent case law interpreting that Act.
 - (b) Existing towers or alternative tower structures are not of sufficient height or otherwise fail to meet engineering requirements for coverage and capacity needs

as provided for in the 1996 Telecommunications Act and subsequent case law interpreting that Act.

- (c) The charges for the use of an existing tower or alternative tower structure are deemed unreasonable by the operator and the showing is confirmed by the Plan Commission.
 - (d) The applicant's proposed antenna would cause interference with another antenna already located on an existing tower or structure or that the antenna on the existing tower or structure would cause interference with the applicant's proposed antenna.
- (2) Reservation of antenna space on towers. Unless specifically waived by the Town, new towers shall be designed to accommodate at least two other wireless communication service providers at market rate.
 - (3) Tower location. The installation of freestanding towers and antennas thereon, including the placement of accessory buildings or equipment, may be allowed by a conditional use permit in M-1 Industrial, M-2 Planned Industrial, and P-1 Park Districts and on Town-owned land. If the applicant demonstrates to the satisfaction of the Plan Commission and Town Board that the location of a telecommunication installation within an agriculturally zoned area is necessary to comply with the 1996 Telecommunications Act and subsequent case law interpreting that Act or as a replacement of an existing tower, the Town may approve location within an agricultural zoning district by conditional use permit. In evaluating such circumstances, the Town may employ the services of a consulting expert, the expense for which shall be compensated to the Town by the applicant as an administrative cost of processing the application.
 - (4) Tower and antenna height. No tower and/or antenna, other than alternative tower structures, shall exceed 150 feet in height, unless the carrier shall provide substantial evidence in the opinion of the Town Board indicating a greater height is necessary so as to limit the number of towers required throughout the Town. No antenna or other telecommunication device shall extend more than 20 feet above the highest point of an alternative tower structure to which it is attached (e.g., building, electric pole, etc.). Tower height shall be measured from the average adjoining grade to the highest point of the tower or antenna.
 - (5) Tower design. Telecommunication installations shall be designed to blend into the surrounding environment and protect important visual vistas to the greatest extent possible by using stealth design when required by the Plan Commission and Town Board. If stealth design is not required, a monopole rather than latticework tower shall be required.
 - (6) Tower/antenna color. Telecommunication towers and antennas shall be finished with a noncorrosive material and painted in a neutral color to reduce visual obtrusiveness.
 - (7) Lighting. No tower or antenna shall be artificially illuminated unless required by the FAA.

- (8) Advertising signs. No advertising sign shall be placed on a telecommunication tower or antenna.
- (9) Accessory building/structure design. Equipment facilities, accessory buildings, and fence enclosures shall be designed with brick, stone and/or decorative block materials and reflect the design of buildings within the surrounding area. Final design shall be subject to Plan Commission and Town Board approval.
- (10) Landscaping. A buffer of plant materials of sufficient maturity and size to immediately and effectively screen the equipment cabinets, structures or buildings from public view and from adjacent properties shall be provided.
 - (a) The minimum buffer shall consist of a landscaped strip at least five feet in width outside the entire perimeter of the wireless communications facility. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived with the approval of the Plan Commission.
 - (b) Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, where towers are sited on large, wooded lots, the natural growth around the perimeter of the property may be a sufficient buffer.
 - (c) All landscaping requirements detailed here shall be properly maintained so long as the telecommunication installation is in place.
- (11) Building codes and safety standards. The owner or operator of the telecommunication installation shall ensure that the installation is maintained in compliance with the standards contained in all applicable Town codes, including but not limited to the Building Code, and the applicable standards published by the Electronic Industries Association, applicable at the time the installation was constructed. The more stringent of the codes shall apply. If, upon inspection, the Town Building Inspector concludes that the installation fails to comply with any one or more of such applicable codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner or operator of the installation and to the title holder of the property upon which the installation is located, the owner, operator or title holder shall have 30 days to bring such installation into compliance with such standards. If the owner, operator or title holder fails to bring such installation into compliance within said 30 days, the Town may commence appropriate enforcement proceedings.
- (12) Regulatory compliance. All telecommunication installations must meet the standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate such installations applicable at the time the installation is constructed. If such standards and regulations are changed, then, if required by the changed standard or regulation, the owners or operators of the installation governed by this section shall bring the installation into compliance with the revised standards and regulations within 120 days of the effective date of the change in standards and regulations, unless a more stringent compliance schedule is mandated by the controlling agency. Failure to bring the installation into compliance with the revised standards and regulations shall constitute grounds for the removal of

the installation at the expense of the owner, operator or title holder, as the case may be.

- (13) Security. All telecommunication installations shall be protected by appropriate security devices. A description of proposed security measures shall be provided as part of any application to site, construct, install or modify installations. Additional measures may be required as a condition of the issuance of any conditional use permit as deemed necessary by the Town.
- (14) Fencing. A wireless communication facility shall be enclosed by a security fence not less than six feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area as determined by the Plan Commission and Town Board. Electrical fencing shall not be permitted.
- (15) Setbacks and offsets. Telecommunication towers shall be set back a minimum of 100 feet from a front, side, or rear lot line and at least 200 feet from any residential district unless the carrier shall provide substantial evidence in the opinion of the Town Board that a lesser setback shall be appropriate to limit the visual impact of the tower on the site.

G. Maintenance and operational requirements.

- (1) General requirements. The telecommunication installation shall be maintained in accordance with all applicable local, state and federal regulations. If the Building Inspector concludes that a tower or any other part of a telecommunication facility fails to comply with such codes and constitutes a danger to persons or property in the vicinity, the Town Building Inspector shall notify the owner or operator of the telecommunication facility of such fact. The notice shall be in writing and shall require the owner or operator to bring the installation into compliance with such applicable codes within 30 days of the date of service of the notice. If the owner or operator fails to bring the telecommunication installation into compliance within the time provided, the Town Building Inspector may order the tower or other telecommunication installation to be repaired, maintained, or modified to the extent necessary to protect persons or property in the vicinity. The cost of removing the tower or other portion of the installation shall be at the owner's expense. The owner and the operator shall be responsible to maintain the premises upon which the installation is located in a clean and sanitary condition. The tower owner or operator shall provide access for inspection to the Town Building Inspector upon reasonable notice for such inspection for all towers regulated under this section.
- (2) Operator interference. Operation of a tower facility shall be undertaken so as not to interfere with any other form of wireless communication. In the event any complaints of interference are received, the FCC will be contacted and asked to investigate the complaints.
- (3) Outdoor storage prohibited. No person shall store any vehicles, equipment or other goods on the site of the telecommunication facility except in an enclosed building. This subsection does not apply to temporary overnight storage of vehicles or equipment necessary for the construction or repair of the telecommunication facility.

H. Abandoned towers and antennas.

- (1) Evidence of abandonment. An antenna or tower shall be deemed abandoned if any of the following shall occur:
 - (a) The antenna or tower is not operated for six continuous months.
 - (b) The owner or operator has notified the Town that it has ceased operations of the antenna or tower.
- (2) Notification of abandonment. The owner or operator of a telecommunication facility shall notify the Town in writing whenever an antenna or tower is abandoned or its use discontinued. Such notice shall be given to the Town Administrator within 30 days of such abandonment or discontinuance.
- (3) Removal of abandoned towers and antennas. The owner and operator of an abandoned tower or antenna shall remove it from the telecommunications facility within six months after the tower or antenna is abandoned or its use discontinued, unless a longer period is approved by the Plan Commission upon a showing by the owner or operation that good faith efforts are being made to find another operator for the installation and such longer period is necessary to make use of the facility. If the owner fails to remove the antenna, tower, or any other structure within that time, the Town may remove the antenna, tower or any other structure at the owner's and operator's expense. In the event that the cost of removal is not paid, the Town may assess the cost of such removal against the property upon which the telecommunications facility is located.
- (4) Site restoration. Whenever a tower is removed from a telecommunications facility, the remainder of the site shall be restored to its preexisting condition, and all buildings, equipment and other devices accessory to the tower shall be removed from the site.
- (5) Letter of credit. An applicant shall provide, as a condition of issuance of a conditional use permit, an irrevocable letter of credit or escrow in the amount of \$25,000 or as adjusted from time to time by the Town's sole discretion per installation to guaranty facility removal and site restoration.

- I. Legal nonconforming facilities. Preexisting towers, antenna support structures, antennas or other wireless communication facilities which do not conform to the requirements of this section shall be permitted to continue in accordance with the provisions of Article VI of the Zoning Code relative to nonconforming buildings, structures and uses.
- J. Enforcement. The provisions of this section shall be enforced by the Building Inspector. Any person who violates any provision of this section shall, upon a conviction, be subject to a penalty as detailed in Chapter 1, § 1-3 of this Code.

ARTICLE XI Accessory Uses and Structures, Fences and Hedges
§ 320-108. Principal use to be present. [Amended 8-4-1999 by Ord. No. 1999-13]

An accessory use or structure in any zoning district shall not be established prior to the existence or construction of the principal use or structure. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

§ 320-109. Placement restrictions in residential districts.

An accessory use or building may be established subject to the following regulations:

A. Location. Accessory uses and detached accessory buildings are permitted in the rear and side yard only.

- (1) Accessory buildings shall not be closer than 20 feet to a principal structure, except that in a residential district a minor storage building may be located within 10 feet of a garage wall.
- (2) Except as otherwise provided in this section, detached accessory buildings shall not be constructed in a size greater than 600 square feet in R-1, R-2, R-3, TR Residential Zoning Districts and CR-A Countryside Residential Zoning Districts. For lots in said districts that consist of more than one acre of land, then a detached accessory building may be constructed up to an additional size of 100 square feet for each additional 1/4 acre of land up to a maximum of 1,000 square feet total for the detached accessory building. In the CR-B Countryside Residential Zoning District, detached accessory buildings shall not be constructed in a size greater than 1,500 square feet on any lot less than 10 acres in size. For CR-B lots greater than 10 acres in size, the detached accessory building may be constructed up to an additional 1,000 square feet per acre. The Plan Commission and Town Board may grant an exception to the limit of 600 square feet, up to a maximum of 1,000 square feet in total size, for those properties in the R-1, R-2 and R-3 Zoning Districts without attached garages. Property owners within 200 feet shall be notified of the date when the application is reviewed by the Plan Commission. The sizes of accessory structures in the TR, CR-A and CR-B Zoning Districts may be increased by conditional use permit if the accessory buildings existed at the time the lot was platted and if buildings have been deemed by the Landmarks Commission and Plan Commission to be of historic or preservative value as determined by § 320-63 of this chapter. [Amended 10-7-1998 by Ord. No. 1998-5; 8-4-1999 by Ord. No. 1999-13; 5-2-2001 by Ord. No. 2001-6; 1-3-2007 by Ord. No. 2007-1]
- (3) Detached accessory structures in R-1, R-2, R-3 and TR Residential Zoning Districts shall not exceed 15 feet in height except where the intent is to match the pitch of the principal structure. Where the intent is to match the pitch of the principal structure, detached accessory structures shall not exceed 25 feet in height (for storage purposes only) and shall not exceed the height of the principal structure in R-1, R-2, R-3 and TR Zoning Districts and 25 feet in CR-A and CR-B Zoning Districts. Outbuildings in the

E-1 Estate District shall not exceed a height of 35 feet. [Amended 4-3-1996 by Ord. No. 1996-4; 8-4-1999 by Ord. No. 1999-13]

- (4) Accessory buildings shall not be closer than 25 feet to a lot's side and rear yard, except as noted for outbuildings in the CR-B District, § 320-31C(4). [Amended 4-3-1996 by Ord. No. 1996-4]
- (5) Accessory buildings shall not be required to meet the normal setbacks for rear and side yards in the R-2 and R-3 Residential Zoning Districts for lots of record (as of October 30, 1997) that are 3/4 or less than the required lot size. For lots of record that are 3/4 or less than the required lot size, the side and rear yard setbacks for accessory structures may be 1/2 the required setback. [Amended 11-5-1997 by Ord. No. 1997-6]
- (6) The Town Board may, on an individual basis, grant a conditional use permit to allow for the placement of an accessory building in the street yard of a lot where the placement of an accessory structure could only be located in the street yard based upon the configuration of a lot. The accessory building may not be placed in the front yard of the house. [Amended 8-4-1999 by Ord. No. 1999-13; 6-6-2001 by Ord. No. 2001-10]

- B. Size limits. When located in the rear yard only, minor residential accessory structures not exceeding 150 square feet in floor area shall be constructed so that no part of the structure is closer than 10 feet to the side or rear property line. In no case shall any part of any structure be within five feet of a drainage easement nor within 10 feet of a wastewater soil absorption system if the building is of slab construction, nor within 25 feet of a wastewater soil absorption system if the building has a below-grade foundation. The Town Board may grant a conditional use permit that would allow minor residential accessory structures to be constructed in the side yard within 10 feet of a side property line of a corner lot.
- C. Garage size. Attached residential garages must be of less square footage than the principal structure and shall conform architecturally and visually to the principal structure.
- D. Use restrictions for all residential districts. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry, except for home occupations or home professional offices of the owner-occupant as defined herein, and shall not be occupied as a dwelling unit.
- E. Landscaping and decorative uses. In R-1, R-2, and R-3 Residential Zoning Districts, structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, trees, shrubs, flowers and gardens. For landscaping and decorative use requirements for CR-A, CR-B and TR Residential Zoning Districts, see specific zoning district requirements for zoning restrictions.

§ 320-110. (Reserved) Editor's Note: Former § 320-110, Building size restrictions for accessory structures, added 10-4-2006 by Ord. No. 2006-11, was repealed 2-6-2008 by Ord. No. 2008-4. See now § 320-25G.

§ 320-111. Lawn accessories.

In R-1, R-2, and R-3 Residential Zoning Districts, walks, drives, paved terraces, and purely decorative garden accessories such as pools, fountains, statuary, flagpoles, etc., shall be permitted in setback areas but not closer than three feet to an abutting property line other than a street line. For lawn accessory requirements in the CR-A, CR-B, and TR Residential Zoning districts, see specific zoning district requirements for zoning restrictions.

§ 320-112. Outdoor lighting.

Outdoor lighting installations shall not be permitted closer than three feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

§ 320-113. Retaining walls.

Retaining walls may be permitted anywhere on the lot; provided, however, that no individual wall shall exceed six feet in height, and a terrace of at least three feet in width shall be provided between any series of such walls, and provided further that along a street frontage no such wall shall be closer than three feet to the property line. Editor's Note: Original § 10-1-45, Temporary uses, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 320-9E.

§ 320-114. Private recreational uses.

Athletic or recreational uses for private use by the owner-occupant, including tennis courts, sand volleyball courts, volleyball courts, or children's play equipment (swings, slides, play structures, etc.), shall be located a minimum of 10 feet off lot lines and may be located in the rear and side yard only. (See § 320-117 for swimming pool requirements.)

§ 320-115. Outside storage of firewood.

- A. Front yard. No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of 30 days from the date of its delivery.
- B. Stacked. Firewood should be neatly stacked and may not be stacked closer than two feet to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. "Fence" as used in this section shall not include hedges and other vegetation.
- C. Processing. All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- D. Diseased wood. Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code. Editor's Note: See Ch. 223, Nuisances.

- E. Maximum area. Not more than 20% of the side and rear yard may be used for storage of firewood at any one time.

§ 320-116. Fences and hedges.

- A. Fences defined. For the purpose of this section, "fence" is herein defined as an enclosed barrier consisting of vegetation, wood, stone or metal intended to prevent ingress or egress. For the purpose of this section, the term "fence" shall include plantings, such as hedges and shrubbery. No fence shall be constructed of unsightly or dangerous materials that would constitute a nuisance.
- B. Fences categorized. Fences shall be categorized into five classifications:
 - (1) Boundary fence. A fence placed on or within three feet of the property lines of adjacent properties.
 - (2) Protective fence. A fence constructed to enclose a hazard to the public.
 - (3) Architectural or aesthetic fence. A fence constructed to enhance the appearance of the structure or the landscape.
 - (4) Hedge. A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.
 - (5) Picket fence. A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- C. Height and location. Residential fences are permitted on the property lines in residential districts but shall not, in any case, exceed a height of six feet. Fences shall not exceed a height of four feet in the street yard and shall not be closer than two feet to any public right-of-way.
- D. Security fences. Security fences are permitted on the property lines in all districts, except residential districts, but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- E. Prohibited fences. No residential fence shall be constructed which is a picket fence or which is of an otherwise dangerous condition, or which conducts electricity or is designed to electrically shock, or which uses barbed wire; provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are 10 feet above the ground or height and project toward the fenced property and away from any public area.
- F. Fences to be repaired. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
- G. Temporary fences. Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four-foot intervals. Such fences shall comply with the setback requirements set forth in this section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than 45 days.

- H. Nonconforming fences and hedges. Any fence or hedge existing on the effective date of this Zoning Code and not in conformance with this section may be maintained, except where it interferes with traffic visibility at corners as governed by § 320-70, but all alterations, modifications and improvements of said fence shall comply with this section.

§ 320-117. Swimming pools.

- A. Definition. A private or residential swimming pool is an outdoor or indoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than 1 1/2 feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and intended to be used for the operation and maintenance of a private or residential swimming pool.
- B. Exempt pools. Storable children's swimming or wading pools, with a maximum dimension of 15 feet and a maximum wall height of 15 inches, and which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of this section.
- C. Permit required. Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. A fee shall accompany such application.
- D. Construction requirement. In addition to such other requirements as may be reasonably imposed by the Town Building Inspector, the Town Building Inspector shall not issue a permit for the construction of any private or residential swimming pool or for any alterations, additions, remodeling or other improvements to an existing private or residential swimming pool unless the following construction requirements are observed in such construction, alteration, addition, remodeling or other improvements:
- (1) Construction materials. All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements of private or residential swimming pools shall be approved by the Town Building Inspector.
 - (2) Plumbing. All plumbing work as defined in the Wisconsin State Plumbing Code in relation to swimming pool installation shall be in accord with the Chs. Comm 81, 82 and 84, Wis. Adm. Code.
 - (3) Draining. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall waters from any pool be drained into a sanitary disposal system nor onto lands of other property owners, except into drainage easements.
- E. Setbacks and other requirements.
- (1) Private swimming pools shall be erected or constructed on rear or side lots only and

only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

- (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building.
- (3) The area occupied by an outdoor pool shall not exceed 10% of the rear yard.

- F. Enclosure. Every outdoor private or residential swimming pool in the ground or with sides less than four feet high, as in the case of aboveground pools, shall be completely enclosed by a fence or wall not less than four feet in height but not to exceed six feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four inches in any dimension, except for doors and gates. A residence or accessory building may be used as part of such enclosure. All gates or doors opening through such enclosures shall be equipped with self-closing and self-latching devices for keeping the gate or door securely locked at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Aboveground pools with sides greater than four feet high which are not enclosed by a suitable fence herein described and using a ladder for ingress and egress shall have this ladder removed or flipped up when the pool is not in use.
- G. Public bathing places. The provisions of the Wisconsin Statutes and Wisconsin Administrative Code for public bathing and swimming places are hereby adopted by reference and shall apply to all public bathing and swimming places in the Town of Cedarburg.
- H. Compliance. All swimming pools existing at the time of passage of this Zoning Code not satisfactorily fenced shall comply with the fencing requirements of this section or when water is placed in the pool.

§ 320-118. Ponds. [Amended 3-3-1999 by Ord. No. 1999-4; 2-5-2003 by Ord. No. 2003-1]

- A. Permit. No pond shall be constructed, altered or extended in any zoning district unless a Town of Cedarburg permit is obtained and posted. Ponds will not be permitted within 25 feet of any lot line or within 50 feet of a bicycle path. Native plantings may be required around any side of a pond that is within 100 feet of a public bicycle path. Permits shall not be required for the following:
 - (1) Wildlife ponds/wetland scrapes constructed with the assistance of the Wisconsin Department of Natural Resources or the Ozaukee County Land and Water Conservation Department and which are located at least 100 feet from a property line; and
 - (2) Landscape ponds or ground depressions less than 1,000 square feet in area, less than three feet in depth and greater than 25 feet from a property line or 50 feet from a bicycle path.
- B. Lot area. Ponds shall be considered a special accessory use and shall not be limited to any given yard but shall not occupy more than 10% of the total lot area.
- C. Hearing. A public hearing shall be held by the Town Board before any permit is issued. A

Class 2 legal notice shall be published at least 10 days prior to the hearing and notices sent to owners of record of property within 1,000 feet of the proposed pond or pond to be altered or extended. The Town Board should take into consideration citizen input at the hearing as well as written recommendations from the Plan Commission before arriving at a decision whether to grant a permit for the pond. 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. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- D. Site plan. Plans for the proposed pond shall be submitted with the application for a pond permit to assist the Town Board and Plan Commission in their determinations. The plans shall consist, as a minimum, of a plan view and a typical cross section of the proposed pond. The plan view shall include the configuration of the pond with dimensions and maximum depth areas, distances to property lines, drainage easements, structures, outlet structures, septic systems, spoil locations, proposed overflow spillway, proposed landscaping and any other information that may help the Town Board and the Plan Commission evaluate the pond. The typical cross section shall identify the bank and bottom slopes, maximum depth, outlet and/or overflow structures with elevations and normal water level elevation. A description of the soil type(s) and hydraulic conditions at the site shall be provided to determine the feasibility of a pond. The limits of the proposed pond shall be field staked for review by the Town Board and Plan Commission.
- E. Fees. A fee as set by the Town Board shall be submitted with the permit application to help defray the cost of processing the application and the cost of the public hearing.
- F. Construction and maintenance. Location, construction and maintenance of the pond shall be in accordance with the Town permit and regulations and shall also meet state and county rules and regulations.
- G. Shared ponds. The Plan Commission and Town Board shall review pond permit applications for ponds proposed to cross lot lines on an individual basis. [Amended 11-7-2001 by Ord. No. 2001-17]

§ 320-119. Privies. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Permanent privies shall be constructed and maintained in the manner described in Wisconsin Department of Commerce specifications for a sanitary privy. Privies shall be permitted only in A-1 Agricultural, P-1 Public and Private Park and M-3 Quarry Districts.

§ 320-120. Earth shelters.

- A. Definitions. As used in this section, the following terms shall have the meaning indicated:

BUILDING AREA OF AN EARTH SHELTER — The total living area within the interior face of the exterior walls, plus an area equal to the peripheral distance measured along the interior face of the exterior walls multiplied by six inches, but excluding utility areas,

garages, porches and breezeways.

EARTH SHELTER — A residential structure designed and constructed to be substantially enclosed by earth and which utilizes the surrounding earth for conserving energy.

- B. Minimum building area. Any earth shelter shall be equal to the minimum building area required for a one-story residential structure in the zoning district in which the earth shelter is to be located. Minimum yard distances shall also be the same as a single-story structure for that zoning district.

ARTICLE XII Administration

§ 320-121. General administrative system.

This chapter contemplates an administrative and enforcement officer titled the "Building Inspector" to administer and enforce the same. Certain considerations, particularly with regard to granting of ~~permitted conditional uses and planned unit developments (PUDs)~~, changes in zoning districts and the Zoning Map, and amending the text of this Zoning Code require review and recommendation by the Plan Commission and ultimate action by the Town Board. A Zoning Board of Appeals is provided to assure proper administration of the chapter and to avoid arbitrariness.

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§ 320-122. Building Inspector.

The Town Board shall designate a Town official to serve as the Building Inspector and as the administrative enforcement officer for the provisions of this chapter.

- A. The duty of the Building Inspector shall be to interpret and administer this chapter and to issue, after on-site inspection, all permits required by this chapter. The Building Inspector shall further:
 - (1) Records. Maintain records of all permits issued, inspections made, work approved and other official actions.
 - (2) Floor elevations in floodland districts. Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
 - (3) Floodland use permits. Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
 - (4) Compliance inspections. Inspect all structures, lands and waters as often as necessary to assure compliance with this chapter.
 - (5) Investigate complaints. Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the Town Attorney in a manner specified by him.
 - (6) Prohibit use until approval. Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
 - (7) Request assistance. Request assistance and cooperation from the Town Attorney as deemed necessary.
- B. The Building Inspector shall coordinate his efforts with the Town Administrator and Town Director of Public Works to accomplish the foregoing.

§ 320-123. Role of Town officials in zoning administration.

- A. Plan Commission. The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Town to the Town Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this chapter, its functions are primarily recommendatory to the Town Board pursuant to guidelines set forth in this chapter as to various matters and always being mindful of the intent and purposes of this chapter. Recommendations shall be in writing. A recording thereof in the Plan Commission's minutes shall constitute the required written recommendation. The Plan Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing.
- B. Town Board. The Town Board, the governing body of the Town, subject to recommendations by the Plan Commission and the holding of public hearings by said Board, has ultimate authority to grant ~~permitted~~ conditional uses and planned unit developments (PUDs), to make changes and amendments in zoning districts, the Zoning Map and Supplementary Floodland Zoning Map, and to amend the text of this chapter. The Town Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this chapter.
- C. Zoning Board of Appeals. A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this chapter. See Article XIV of this chapter for detailed provisions.

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§ 320-124. Zoning permit.

- A. Zoning permit required. 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.
- B. Applications. Applications for a zoning permit shall be made to the Building Inspector and shall include the following where pertinent and necessary for proper review:
- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
 - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Building Inspector: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear

yards.

- (4) Additional information as may be required by the Building Inspector or the Plan Commission and Town Board (if involved).

C. Action.

- (1) A zoning permit shall be granted or denied in writing by the Building Inspector within 30 days of application, and the applicant shall post such permit in a conspicuous place at the site.
- (2) The permit shall expire within six months unless substantial work has commenced or within 18 months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration the applicant shall reapply for a zoning permit before commencing work on the structure.
- (3) Any permit issued in conflict with the provisions of this chapter shall be null and void.

§ 320-125. Certificate of compliance.

- A. Certificate required. No vacant land hereafter developed, no building hereafter erected, relocated, moved, reconstructed or structurally altered, and no floodlands hereafter filled, excavated or developed shall be occupied or used until a certificate of compliance has been issued by the Building Inspector. Such certificate shall show that the structure, premises or use is in conformity with the provisions of this chapter.
- B. Application for certificate of compliance. Application shall be made in the same manner as for a zoning permit pursuant to § 320-124 and coincidental with application for a zoning and/or building permit. Application for a certificate of compliance in the floodland districts shall include certification by a registered professional engineer or land surveyor that the plans therefor will fully comply with the floodland regulations set forth in this chapter before the certificate shall issue, and further such certification by an engineer or surveyor shall also be filed to the effect that the project does, indeed, so comply.
- C. Existing uses. Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this chapter certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.
- D. Nonconforming uses.
 - (1) No nonconforming use shall be maintained, renewed or changed until a certificate of compliance has been issued by the Building Inspector.
 - (2) Certificates of compliance for the continued occupancy of nonconforming uses existing at the time of the passage of this chapter shall be issued by the Building Inspector and the certificate shall state that the use is a nonconforming one and does not conform to the provisions of this chapter. The Building Inspector shall notify the owner(s) of the property being used as a nonconforming use.

§ 320-126. Site plan approval.

- A. Approval required. All applications for zoning permits for any construction, reconstruction, expansion or conversion, except for one- and two-family residences in residential districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this section.
- B. Application. The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this chapter.
- C. Administration. The Building Inspector shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Plan Commission within 10 days. The Plan Commission shall review the application and may refer the application and plans to any expert consultants selected by the Town Board to advise whether the application and plans meet all the requirements applicable thereto in this chapter. Within 30 days of its receipt of the application, the Commission shall authorize the Building Inspector to issue or refuse a zoning permit.
- D. Requirements. In acting on any site plan, the Plan Commission shall consider the following:
 - (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; and the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this section.
- E. Effect on municipal services. Before granting any site plan approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Town Director of Public Works or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Town Board and shall not issue final approval until the Town Board has entered into an agreement with the applicant regarding the development of such facilities.

§ 320-127. Violations and penalties.

- A. Violations. It shall be unlawful to use or improve any structure or land or to use water or air in violation of any of the provisions of this chapter. In case of any violation, the Town Board, the Building Inspector, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this chapter or cause a structure to be vacated or removed.
- B. Remedial action. Whenever an order of the Building Inspector has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Town Board, the Building Inspector or the Town Attorney may institute appropriate legal action or proceedings.
- C. Penalties. Any person, firm or corporation who or which fails to comply with the provisions of this chapter or any order of the Building Inspector issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Chapter 1, § 1-3 of this Code.

ARTICLE XIII Changes and Amendments

§ 320-128. Authority.

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

§ 320-129. Initiation.

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

§ 320-130. Procedure.

A. Petition. Petitions for any change to the zoning district boundaries and map(s) or amendments to the text regulations shall be addressed to the Town Board and shall be filed with the Town Administrator. [Amended 12-3-2003 by Ord. No. 2003-23]

(1) Petitions for changes to text regulation shall include the following:

- (a) Describe the portions of text of regulations to be amended.
- (b) List the reasons justifying the petition.
- (c) Specify the proposed use, if applicable.
- (d) Attach a fee receipt from the Town in the amount as set by the Town Board.

(2) Petitions for changes to zoning district/boundary map.

- (a) Complete the application for rezoning completely.
- (b) List the reasons justifying the petition.
- (c) Specify the proposed use.

(d) Attach the following for change of district boundaries:

- [1] Plot plan, drawn to a scale of one inch equals 100 feet, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.
- [2] Owners' names and addresses of all properties lying within 1,000 feet of the area proposed to be rezoned.

[3] Additional information as may be required by the Plan Commission or Town Board.

[4] Fee receipt from the Town in the amount as set by the Town Board.

B. Recommendations.

- (1) The Town Board or the Town Administrator shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and Zoning Map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may on occasion, of its own volition, conduct its own public hearing on the proposed amendment(s).
- (2) No change in the A-2 Prime Agricultural District shall be recommended unless the Plan Commission finds that:
 - (a) Adequate facilities in accordance with all Town requirements and ordinances exist or will be provided within a reasonable time.
 - (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.
 - (c) Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them. [Amended 12-3-2003 by Ord. No. 2003-23]
- (3) The Town Board shall notify the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) of any change in the A-2 Prime Agricultural District.

C. Hearings.

- (1) The Town Board, following receipt of recommendation of the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Ch. 985, Wis. Stats. At least 10 days' prior written notice shall also be given to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.
- (2) The Town Board may delegate to the Plan Commission the responsibility to hold public hearings as required under this section.

D. Town Board's action. Following such hearing and after consideration of the Plan Commission's recommendations, the Town Board shall vote on the proposed ordinance effecting the proposed change or amendment. The Town Plan Commission's recommendations may only be overruled by a three-fifths majority of the Town Board's membership present.

§ 320-131. Protest.

In the event of a protest against amendment to the Zoning Map or the regulations, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the members of the Town Board voting on the proposed change.

ARTICLE XIV Appeals

§ 320-132. Zoning Board of Appeals. Editor's Note: See also Ch. 16, § 16-2.

A. Scope of appeals.

- (1) Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be taken within reasonable 30 days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Zoning Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as set by the Town Board. [Amended 12-3-2003 by Ord. No. 2003-24]
- (2) Such appeals shall be filed with the Town Clerk within 60 days after the date of written notice of the decision or order of the Building Inspector. Applications may be made by the owner or lessee of the structure, land or water to be affected at any time. Such appeals and application shall include the following:
 - (a) Name and address of the appellant or applicant and all abutting and opposite property owners of record and owners within 1,000 feet. [Amended 3-3-1999 by Ord. No. 1999-4]
 - (b) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit.
 - (c) Additional information required by the Town Plan Commission, Town Administrator, Zoning Board of Appeals or Building Inspector.
- (3) The officer(s) from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken.

B. Stay of proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

C. Powers of Zoning Board of Appeals. In addition to those powers enumerated elsewhere in this Code, the Zoning Board of Appeals shall have the following powers:

- (1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector.
- (2) Variances. To hear and grant appeals for variances in accordance with the procedures and requirements of § 320-135. Use variances shall not be granted. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (3) Interpretations. To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
- (4) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided that no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
- (5) Unclassified uses. To hear and grant applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.
- (6) Temporary uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Zoning Board of Appeals and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.
- (7) Permit. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

§ 320-133. Hearing on appeals. [Amended 3-3-1999 by Ord. No. 1999-4]

The Zoning Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than 10 days prior thereto, and cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than 10 days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than 10 days prior to the hearing to the fee owners of record of all land within 1,000 feet of any part of the subject building or premises involved in the appeal. 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.

§ 320-134. Decisions.

- A. Time frame. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Building Inspector.
- B. Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- C. Validity. Variances, substitutions or use permits granted by the Board shall expire within six

months unless substantial work has commenced pursuant to such grant.

§ 320-135. Variances.

A. Purpose.

- (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition.
- (2) The Zoning Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
- (3) For the purposes of this section "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

B. Application for variation. The application for variation shall be filed with the Building Inspector. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

- (1) Name and address of the applicant and all abutting and opposite property owners of record.
- (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
- (3) Address and description of the property.
- (4) A site plan showing an accurate depiction of the property.
- (5) Additional information required by the Plan Commission, Town Administrator, Zoning Board of Appeals or Building Inspector.
- (6) Fee receipt in the amount as set by the Town Board. [Amended 12-3-2003 by Ord. No. 2003-24]

C. Public hearing on application. The Zoning Board of Appeals shall conduct at least one public hearing on the proposed variation. Notice of such hearing shall be given not more than 30 days and not less than 10 days before the hearing in one or more of the newspapers in general circulation in the Town and shall give due notice to the parties in interest, the Building Inspector and the Plan Commission. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within 30 days after the final hearing and shall transmit a written copy of its decision to the appellant or

applicant, Building Inspector and Plan Commission.

- D. Action of the Zoning Board of Appeals. For the Board to grant a variance, it must find that:
- (1) Denial of the variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
 - (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
 - (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.
- E. Conditions. The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.

§ 320-136. Review by court of record.

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Zoning Board of Appeals.

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 or modifications 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.~~

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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.

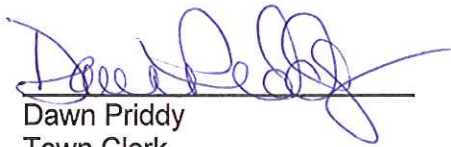
YARD — An open space between the lot line and a structure, unoccupied and unobstructed from the ground upward except with vegetation. The street and rear yards extend the full width of the lot.

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.

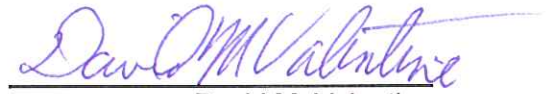
ZONING PERMIT — A permit issued by the Building Inspector to certify that lands, structures, air and waters subject to this chapter are or shall be used in accordance with the provisions of said chapter.

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 6th day of May, 2009.



Dawn Priddy
Town Clerk



David M. Valentine
Town Chairman

