TOWN of CEDARBURG

Preserving Yesterday's Heritage for Tomorrow.

IN THE NAME AND BY THE AUTHORITY OF THE TOWN OF CEDARBURG, WISCONSIN

ORDINANCE NO. 2026-13

"AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 320, ZONING, OF THE TOWN OF CEDARBURG CODE OF ORDINANCES AND TO ADOPT THE ACCOMPANYING OFFICIAL ZONING MAP FOR THE TOWN OF CEDARBURG, OZAUKEE COUNTY, WISCONSIN"

WHEREAS, the Town of Cedarburg, Ozaukee County, Wisconsin (the "Town"), is a Wisconsin town organized and operating pursuant to Chapter 60 of the Wisconsin Statutes; and

WHEREAS, pursuant to Wis. Stat. § 60.10(2)(c), the Town meeting has authorized the Town Board to exercise the powers of a village board; and

WHEREAS, pursuant to Wis. Stat. § 60.22(3), a town board authorized to exercise village powers may exercise powers relating to villages and conferred upon village boards under Chapter 61 of the Wisconsin Statutes, except those powers that conflict with statutes relating to towns and town boards; and

WHEREAS, pursuant to Wis. Stat. § 60.62(1), a town board that has been granted authority to exercise village powers under Wis. Stat. § 60.10(2)(c) may adopt zoning ordinances under Wis. Stat. § 61.35; and

WHEREAS, pursuant to Wis. Stat. § 61.35, the powers and duties conferred upon villages under Wis. Stat. § 62.23 are applicable to a town exercising village powers; and

WHEREAS, pursuant to Wis. Stat. § 62.23(7), the Town Board, exercising village powers, is authorized to regulate and restrict by ordinance the height, number of stories, size and use of buildings and structures, the percentage of lots that may be occupied, the size of yards and open spaces, the density of population, and the location and use of buildings, structures, and land, and to divide the Town into zoning districts for such purposes; and

WHEREAS, the Town of Cedarburg has exercised village powers and has established and maintains a Town Plan Commission for purposes of comprehensive planning and land use regulation; and

WHEREAS, pursuant to Wis. Stat. § 62.23(7)(d), proposed zoning regulations and amendments thereto are subject to review and recommendation by the Town Plan Commission and to the applicable public hearing and notice requirements established by Wisconsin law; and

WHEREAS, the Town Board has directed the review and comprehensive revision through a repeal and replace of Chapter 320, Zoning, of the Town of Cedarburg Code of Ordinances for the purpose of updating, clarifying, reorganizing, and modernizing the Town's zoning regulations and establishing regulations that appropriately implement the Town's planning objectives; and

WHEREAS, the Town Board delegated the responsibility of holding the related public hearing to the Plan Commission; and

WHEREAS, the Town Plan Commission has reviewed the proposed comprehensive repeal and replace ordinance of Chapter 320 and the accompanying Official Zoning Map and has provided its recommendation to the Town Board in accordance with applicable Wisconsin law and Town ordinances; and

WHEREAS, pursuant to Wis. Stat. § 66.1001(3)(L), a town zoning ordinance enacted or amended under Wis. Stat. § 60.62 is required to be consistent with the Town's adopted comprehensive plan; and

WHEREAS, the Town of Cedarburg adopted the Town of Cedarburg: 2050 Comprehensive Plan (2nd Edition) by Ordinance No. 2024-9 on November 6, 2024; and

WHEREAS, the Town Board has reviewed the proposed revised zoning regulations and accompanying Official Zoning Map for consistency with the Town's adopted comprehensive plan and has determined that the proposed zoning regulations and Official Zoning Map are consistent with the Town's comprehensive plan; and

WHEREAS, pursuant to Wis. Stat. § 62.23(7)(d), notice of the public hearing concerning the proposed zoning regulations and accompanying Official Zoning Map was published as a Class 2 notice under Wis. Stat. ch. 985; and

WHEREAS, the Town maintained and utilized the list of persons who have submitted a written or electronic request to receive notice of proposed zoning actions affecting the allowable use of their property, and provided notice as required by Wis. Stat. § 62.23(7)(d); and

WHEREAS, the Plan Commission held a public hearing on the proposed comprehensive repeal and replace of Chapter 320, Zoning, and the accompanying Official Zoning Map on October 1, 2026 at 7:00pm at Town Hall, at which interested persons and members of the public were afforded an opportunity to be heard; and

WHEREAS, the Town Board has considered the recommendation of the Town Plan Commission, the proposed repeal and replace of Chapter 320, the accompanying Official Zoning Map, the Town's adopted comprehensive plan, and comments received during the public hearing process; and

WHEREAS, the Town Board determines that adoption of the repeal and replace Chapter 320 and accompanying Official Zoning Map is authorized by Wisconsin law and is intended to promote the public health, safety, morals, and general welfare of the Town and to provide for the orderly development and use of land within the Town; and

WHEREAS, the Town Board therefore determines that it is appropriate to repeal and replace Chapter 320, Zoning, of the Town of Cedarburg Code of Ordinances and to adopt the accompanying Official Zoning Map.

NOW, THEREFORE, BE IT ORDAINED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, pursuant to its authority under Wis. Stat. §§ 60.10(2)(c), 60.22(3), 60.62, 61.35, and 62.23(7), adopts Chapter 320 Zoning as follows:

Passed and adopted this 19th day of October, 2026.

David M. Salvaggio, Town Chairman

Published/Posted: 10/19/2026

Attest:

Sara Jacoby, Assistant Administrator/Clerk

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 320
Zoning

GENERAL REFERENCES

Zoning Board of Appeals — See Ch. **16**.

Building construction — See Ch. **108**.

Construction site erosion control — See Ch. **110**.

Outdoor wood-fired furnaces — See Ch. **112**.

Land division — See Ch. **184**.

Post-construction stormwater management — See Ch. **185**.

Landmarks preservation — See Ch. **186**.

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 to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage.

E. Population density and distribution. Regulate population density and distribution 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 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. Except as otherwise provided in the Zoning Code, the jurisdiction of this chapter shall apply to all structures, lands, water and air within the corporate limits of the Town of Cedarburg. Unless specifically exempted by this chapter or by state statute, all state, county, city, villages, towns, or other municipal lands, structures or facilities shall comply with this chapter and obtain all of its necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies. Town lands, Town structures, and Town facilities are exempt from complying with this chapter.

B. Compliance. Except as otherwise provided in this chapter, 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 all necessary permits and approvals 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 in this chapter, the use, location, 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. The use of Town land, Town structures, and Town facilities, including, but not limited to, fire and police stations, community centers, libraries, public emergency shelters, public works, parks, playgrounds, recreational, and utility facilities, are permitted uses as a principal use in any district.

D. Yard reduction or joint use. 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.

§ 320-9 **Use regulations.**
Only the following uses and their essential services may be allowed as specified in each zoning district:

A. Principal uses. Permitted uses, being the principal uses and structures specified for a district.

B. Accessory uses. Accessory uses and structures as specified for a district are permitted but not until their principal use or structure is present or under construction unless otherwise provided in this chapter.

C. Conditional uses. Conditional uses as specified for a district, provided all provisions of Article **V** are met.

D. Uses not specified in Zoning Code. Uses not specified in this Zoning Code, which are found by the Town Board, following a recommendation from the Town Plan Commission, to be sufficiently similar to specified principal, accessory, or conditional uses for a district may be allowed by the Town Board. Any other use not specifically listed as a principal, accessory, or conditional use shall be considered prohibited.

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 Town Board, and shall be addressed at the time of site plan review and other application procedures for the permanent use. The Town Board may place conditions on location, duration, aesthetics and maintenance of the site where this applies. The Building Inspector will monitor and enforce compliance of temporary uses as part of the building permit process.

F. Public Utility Lines. Public utility transmission and distribution lines, poles and other accessories are permitted in all districts, 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.

§ 320-10 **Site regulations.**

A. Street frontage. All newly created lots shall abut upon a public street and meet the frontage requirements of the zoning district in which they are 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. No building permit or development approvals shall be issued for a lot unless it abuts a public street or a private shared driveway that meets § **279-6D**.

B. Principal structures. All principal structures shall be located on a lot. Only one principal structure shall be located, erected or moved onto a lot, with the following exceptions:

(1) The development is approved as part of a Planned Unit Development, Condominium Development, or Town Center Overlay District approval.

(2) Any other development that is not approved as part of a Planned Unit Development, Condominium Development, or Town Center Overlay District approval in the B-1, B-2, M-1, M-3, MU-1, MU-2, MU-3, and I-1 Districts in accordance with the Conditional Use requirements in Article **V** of this Zoning Code.

(3) In the A-1 and A-2 Districts, provided the conditions of § **320-27** and § **320-28** are met.

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

D. 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 three horizontal to one vertical, within a distance of 20 feet from the property line, except with the approval of the Town Board, following a recommendation from the Town Plan Commission. The applicant shall submit a grading permit application for any change in existing grade that requires Town Board approval. As part of the application, documentation must be provided by the applicant at their expense that demonstrates the activities will not alter the existing drainage or topography in any way as to adversely affect the adjoining property or road as requested and reviewed by the Director of Public Works. The Director of Public Works may request a review by the Town Engineer. The applicant shall be responsible to pay a fee equal to the actual cost to the Town for all related professional services per § **21-16** of the Town Code. 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. Berms, as defined in Article **V**, shall comply with the Conditional Use standards of Article **V**.

E. Decks and porches. For purposes of this chapter, attached decks and porches shall be considered a part of the attached building or structure.

F. 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 SPS 383. As part of a Planned Unit Development, Condominium Plat, or Town Center Overlay District application, an applicant may seek approval for shared on-site soil absorption sewage disposal systems on a private lot or within common open space areas so long as accompanying legal documents are recorded with the Ozaukee County Register of Deeds office detailing owner and beneficiary responsibilities.

G. New public park facilities and trails. New public park facilities and trails shall meet the requirements of the Americans with Disabilities Act (ADA).

H. Cisterns. Cisterns shall be required in each new residential development containing eight or more lots or units as a part of the development and for each new commercial or industrial development as a part of the development, unless the Town Board determines a fee in lieu is more appropriate as noted below. 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 or development should the Town Board determine that a cistern located outside of the proposed subdivision or development 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. Where determined by the Town Board that the fire protection needs of the development may be better served by the use of a tanker vehicle, the developer shall be required to pay a fee equivalent to the cost of an installed water storage tank in lieu of providing on or off-site water storage. Any funds received by the Town under the provision of this section shall be used exclusively for the purchase and maintenance of capital fire equipment used to serve the Town .

I. Site Design Standards. The standards of this section apply to all persons, firms, entities, or associations needing Site Plan Approval in accordance with § **320-126** for commercial, industrial, mixed use, multifamily, not including two-family residences, senior care, institutional or government facilities, or any development subject to a planned unit development as follows:

(1) All Site Design Standards Apply. The following improvements require compliance with all site design standards of this section:

(a) Any new development of a site that is currently vacant or the redevelopment of a site from single-family or two-family residential to commercial, industrial, mixed use, multifamily (not including two-family residence), senior care, institutional or governmental.

(b) Redevelopment of a site that involves the demolition of or an addition or expansion of 75% or more of the total square footage of a building that existed prior January 1, 2026.

(c) If there are multiple structures on the property, the standards of this section apply to the building that is being constructed or redeveloped in accordance with subsection a or b above. The Town Board, following a recommendation from Plan Commission, may require that the remaining buildings and site comply with the standards of this section at their discretion.

(2) Site Design Standards Apply at the Town's Discretion. The Town Board, following a recommendation from Plan Commission, may require compliance with some or all site design standards of this section for the following improvements:

(a) All lateral and vertical additions and enlargements to an existing structure that result in the addition or enlargement of or demolition of less than 75% of the square footage of a building that existed prior to January 1, 2026.

(b) Site plan modifications. Examples include, but are not limited to, changes in parking, landscaping, and signage.

(c) Change in use. Examples include, but are not limited to, the conversion of an office to a restaurant or the conversion of a vehicle dealer to a repair shop.

(3) Exceptions. The following improvements do not need to comply with the site design standards of this section.

(a) Properties zoned or used for single and two-family residential purposes.

(b) Unlimited renovations and maintenance that does not enlarge the footprint, square footage, or vertical height and no changes to the site or use of the property.

(c) Landscaping renovations that are consistent with existing landscaping as determined by the consulting planner or Building Inspector.

(4) Standards.

(a) Building placement standards:

[1] Buildings shall be placed parallel to the street edges when physically possible, or perpendicular to the street if arranged around a courtyard or other open space.

[2] Commercial, industrial, institutional and governmental, and mixed-use buildings shall be oriented towards adjacent public streets, courtyards and other public spaces.

[3] When located within the Town Center Overlay District, buildings shall be placed close to the right-of-way when possible to help create a sense of pedestrian friendliness and accessibility.

[4] If buildings are substantially set back from the street, decorative fences, walls and/or landscape elements shall be used to hide parking lots and vehicles from view and maintain the privacy of any residential units.

[5] Elements such as decorative fences, walls, and/or landscaping may be required to buffer the use from adjacent uses and the roadway.

(b) Parking and circulation standards:

[1] Parking shall not be located in the street yard in the Town Center Overlay District unless the Town Board, following a recommendation from the Plan Commission, determines that site limitations and development layout necessitate such a location. The use of street-facing garage doors is not recommended; such a request is subject to Town Board approval, following a recommendation from the Town Plan Commission.

[2] Detached garages and other accessory structures shall be designed and constructed of like materials of the principal structure.

[3] Parking lots and driveways shall not be placed at street corners unless the Town Board, following a recommendation from the Town Plan Commission, determines that the layout is in the best interest of the overall development and site access, or there is no other viable location due to topography or some other physical site limitation.

[4] Parking lots shall be substantially screened from adjacent streets, public spaces and residential uses by use of landscaping, decorative fences/garden walls and or low berms.

[5] Berms shall not exceed three feet above the centerline of the road and must be landscaped with a mix of ground cover, shrubs, and trees.

[6] The areas adjacent to a stormwater detention or retention device (i.e., ponds and outfalls) that are visible from the road or parking lot shall be substantially landscaped with planting beds.

[7] Pedestrian walks at least four feet in width are required for developments within the Town Center Overlay District in order to provide connectivity amongst developments and to benefit users of individual sites. Acceptable materials include concrete, brick, asphalt, or wood (natural or man-made). These walks shall be planned to connect to existing or planned future walks on adjacent properties and the pedestrian/bicycle network.

[8] Parking structures are limited to three levels or the height of the highest principal structure, whichever is more restrictive, and must have a facade constructed of the same materials as the buildings.

(c) Service and loading area standards:

[1] Service, loading, and utility areas shall be inside the building or located at the rear or side of the building and screened from the public view with decorative fencing, walls and/or solid evergreen landscaping.

[2] Dumpsters shall be completely screened from view by brick, stone, or wood fencing (natural or man-made) and the enclosure may be required to be further screened by evergreen plantings.

[3] Utility service lines shall be buried and located at the rear or side lot lines. Meters, transformers, AC units, and fuel tanks shall be completely screened from public view with decorative fencing, walls and/or solid evergreen landscaping if at ground level or completely screened from public view with a decorative enclosure to mimic other materials used on the facade if on the roof of the building.

(d) Landscape standards:

[1] A landscape plan shall be submitted that enhances the aesthetic of the site.

[2] Paved parking areas shall be landscaped with a minimum of four trees for every 20 stalls; paved parking areas less than 20 stalls must have at least four trees. Trees shall be at least two-inch caliper and at least four feet tall at time of planting. Tree plantings may be planted within landscape islands or along the perimeter of the paved area with emphasis on screening of surface lots from adjacent uses and public streets and breaking up large contiguous paved areas. The Town Board, following a recommendation from Plan Commission, shall determine if landscape islands are required to break up large contiguous paved areas.

[3] A minimum of 50% of the street facing facades shall contain foundation plantings, and at least one tree shall be planted per 50 feet of lot street frontage.

[4] Adjacent residential properties shall be screened with dense landscaping such as tree plantings, shrubs, garden walls, hedges, fences and berms. Trees shall be at least two-inch caliper and four feet tall at planting, and shrubs at least three feet tall at planting.

(e) Architecture standards:

[1] Buildings shall be designed to give the building scale and visual appeal.

[2] Elevations that are visible to a public or private street, driveway, parking area, walkway, or adjacent property shall contain features that add depth and avoid the appearance of flat facades and roofs. Flat facades and roofs may be considered if there is adequate depth, texture, and contrast to break up the monotony of the flat facades or roofs as determined by the Town Board, following a recommendation from Plan Commission.

[3] New construction shall take into account the scale and character of any historic buildings in the adjacent area.

[4] New buildings and additions shall be designed with simple rectangular volumes; cylindrical, pyramidal, and other elaborate forms as the main building are not allowed.

[5] Buildings located at street corners are encouraged to define the intersection with distinctive architectural character such as towers and recessed entries.

[6] Any rooftop and ground mechanical or utility equipment shall be screened from public view.

(f) Entryway standards:

[1] The primary building entrance shall be easily identified through the use of architectural details and/or other treatments such as steps, stoops, bays, balconies, awnings, canopies or porches.

[2] Buildings located at the intersection of roadways are encouraged to be designed with angled entrances at the corner.

(g) Signage and related lighting standards shall comply with **Article VIII** of this chapter.

(h) Material and color standards:

[1] Acceptable materials for all sides of buildings (aside from glass windows) include common size brick, natural stone (i.e., limestone, fieldstone, lannon stone), cement board siding, wood siding, and man-made brick, stone, wood, stucco, EIFS, architectural metal panels and other similar high quality materials as determined by the Town Board, following a recommendation from Plan Commission. The use of reflective glass, aluminum, and narrow-gauge vinyl are not allowed as primary materials.

[2] Building color shall avoid the use of purple, pink and fluorescent colors, except for as accents on awnings and other decorative features.

[3] When a rear facade faces a public street, the rear facade shall be designed as a front facade.

[4] Acceptable roofing materials include clay tiles, wood shingles, slate, asphalt shingles, and metal. "Green roofs" composed of organic materials are an acceptable option in new construction.

(i) Outdoor space and amenity standards:

[1] On-site green spaces and public/private amenities are encouraged. These green space areas and amenities shall be designed to connect to current and possible future amenities on neighboring properties such as seating areas, water features and courtyards with walkways at least four feet wide.

§ 320-11 **Height and setback exceptions.**
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 modifications shall be in accord with the following and are subject to Town Board approval, following a recommendation from Plan Commission. Improvements under this section are subject to Site Plan Approval in accordance with § **320-126**:

(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 and shall not exceed 50 feet.

(2) Special structures, such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks, shall not exceed in height their distance from the nearest lot line.

(3) Essential services, utilities, water towers, and electric power and communication transmission

lines are exempt from the height limitations of this chapter. All new and replacement electric and telecommunications distribution and service lines shall be located underground when economically feasible.

(4) Communication structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height their distance from the nearest lot line.

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. Fire facilities setback exception. Open or enclosed fire escapes and fire towers may project into a required yard not more than five feet provided that they do not obstruct light and ventilation.

Article III
Zoning Districts

§ 320-12 **Establishment of districts; rezoning.**

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:

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	General Business District
MU-1	Mixed Use Transition District
MU-2	Mixed Use General District
MU-3	Mixed Use Planned District
M-1	Light Industrial District
M-3	Quarrying District
I-1	Institutional 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

§ 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.

§ 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 by the Town Clerk 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, being periodically updated.

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. The boundaries for the C-1 Conservancy District as drawn are intended to represent natural or man-made resources and to protect watercourses, as specified in § **320-29**. Where a question arises as to the exact location of the C-1 Conservancy District boundary, it shall be determined by a designated Town Engineer who may consult with other agencies such as Southeastern Wisconsin Regional Planning Commission, Wisconsin Department of Natural Resources, or Army Corps of Engineers, through the utilization of the best available information such as topographic maps, soil maps, aerial photographs, infield inventories, or other sources of information available which would lend assistance to such a determination and may be finally determined by actual conditions in each specific situation. In the case of a dispute, the matter may be taken to the Town Board for a final determination. Any costs related to professional service review incurred by the Town as part of a requested question, determination, or challenge will be subject to reimbursement under Chapter **21** of the Town Code by the party submitting the question, determination or challenge.

§ 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.

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

A. Purpose Statement. The R-1 Single-Family Residential District is intended to primarily provide for family living in single-family dwellings.

B. Principal uses: one-family dwellings.

C. Accessory uses:

(1) Accessory buildings and structures in accordance with this section and §**320-109**.

(2) Home occupations in accordance with §**320-110**.

(3) Private utilities.

(4) Private roof-mounted solar panels.

D. Conditional uses, subject to the provisions of Article **V** being met:

(1) Accessory buildings in the street yard, see § **320-109**.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) New mobile service support structure and substantial modifications that comply with § **320-107 .**

(5) Private ground-mounted solar panels.

(6) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

E. Lot.

(1) Width: minimum 200 feet.

(2) Area: minimum 80,000 square feet.

(3) Frontage.

(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**.

F. Building area:

(1) Principal structures: minimum 1,800 square feet with at least 1,200 square feet on the first floor of two-story residences.

(2) Accessory structures: aggregate total floor area of 1,000 square feet of detached accessory building space for a substandard lot or a lot with the minimum lot size, plus 100 square feet for each additional 1/4 acre up to an aggregate total floor area of 1,500 square feet.

G. Building height:

(1) Principal structures: maximum 35 feet.

(2) Accessory structures: shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 25 feet. Accessory structures shall not exceed the height of the principal structure.

H. Yard setbacks.

(1) Principal structures.

(a) Street: minimum 75 feet, unless **§184-13(B)11** applies.

(b) Rear: minimum 35 feet.

(c) Side: minimum 35 feet.

(2) Accessory structures.

(a) Street: minimum 75 feet, unless **§184-13(B)11** applies.

(b) Rear and side yard: 25 feet, except as otherwise noted in the Town Code. When located in the side or rear yard only, 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.

I. Private planting strip: A minimum forty-foot-wide private planting strip easement is required for new major land divisions effective June 1, 2022. This easement applies only to land abutting the existing public road frontage at the entrance to the development.

(1) Fences and entrance monuments are permitted in the planting strip with the approval of the Plan Commission and Town Board.

(2) Planting strip material shall be approved as part of the land division approval process by the Plan Commission and Town Board.

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

A. Purpose Statement. The R-2 Single-Family Residential District is intended to primarily provide for family living in single-family dwellings.

B. Principal uses: one-family dwellings.

C. Accessory uses:

(1) Accessory buildings and structures in accordance with this section and §**320-109**.

(2) Home occupations in accordance with §**320-110**.

(3) Private utilities.

(4) Private roof-mounted solar panels.

D. Conditional uses, subject to the provisions of Article **V** being met:

(1) Accessory buildings in the street yard, see § **320-109**.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) New mobile service support structure and substantial modifications that comply with § **320-107.**

(5) Private ground-mounted solar panels.

(6) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

E. Lot.

(1) Width: minimum 150 feet.

(2) Area: minimum 40,000 square feet.

(3) Frontage.

(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**.

F. Building area.

(1) Principal structures: minimum 1,500 square feet with at least 1,000 square feet on the first floor of two-story residences.

(2) Accessory structures: aggregate total floor area of 1,000 square feet of detached accessory

building space for a substandard lot or a lot with the minimum lot size, plus 100 square feet for each additional 1/4 acre up to an aggregate total floor area of 1,500 square feet.

G. Building height:

(1) Principal structures: maximum 35 feet.

(2) Accessory structures: shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 25 feet. Accessory structures shall not exceed the height of the principal structure.

H. Yard setbacks

(1) Principal structures.

(a) Street: minimum 75 feet, unless §**184-13(B)11** applies.

(b) Rear: minimum 25 feet.

(c) Side: minimum 25 feet.

(2) Accessory structures.

(a) Street: minimum 75 feet, unless §**184-13(B)11** applies.

(b) Rear and side yard: 25 feet, except as otherwise noted in the Town Code. When located in the side or rear yard only, 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.

I. Private planting strip: A minimum forty-foot-wide private planting strip easement is required for new major land divisions effective June 1, 2022. This easement applies only to land abutting the existing public road frontage at the entrance to the development.

(1) Fences and entrance monuments shall be approved as part of the land division approval process by the Plan Commission and Town Board.

(2) Planting strip material shall be approved as part of the land division approval process by the Plan Commission and Town Board.

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

A. Purpose Statement. The R-3 Single-Family Residential District is intended to primarily provide for family living in single-family dwellings.

B. Principal uses: one-family dwellings.

C. Accessory uses:

(1) Accessory buildings and structures in accordance with this section and §**320-109**.

(2) Home occupations in accordance with §**320-110**.

(3) Private utilities.

(4) Private roof-mounted solar panels.

D. Conditional uses, subject to the provisions of Article **V** being met:

(1) Accessory buildings in the street yard, see § **320-109**.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) New mobile service support structure and substantial modifications that comply with§ **320-107.**

(5) Private ground-mounted solar panels.

(6) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

E. Lot.

(1) Width: minimum 150 feet.

(2) Area: minimum 40,000 square feet.

(3) Frontage.

(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**.

F. Building area:

(1) Principal structures: minimum 1,200 square feet with at least 1,000 square feet on the first floor of two-story residences.

(2) Accessory structures: aggregate total floor area of 1,000 square feet of detached accessory building space for a substandard lot or a lot with the minimum lot size, plus 100 square feet for each additional 1/4 acre up to an aggregate total floor area of 1,500 square feet.

G. Building height:

(1) Principal structures: maximum 35 feet.

(2) Accessory structures: shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 25 feet. Accessory structures shall not exceed the height of the principal structure.

H. Yard setbacks

(1) Principal structures.

(a) Street: minimum 75 feet unless § **184-13(B)11** applies.

(b) Rear: minimum 25 feet.

(c) Side: minimum 25 feet.

(2) Accessory structures.

(a) Street: minimum 75 feet, unless §184-13(B)11 applies.

(b) Rear and side yard: 25 feet, except as otherwise noted in the Town Code. When located in the side or rear yard only, 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.

I. Private planting strip: A minimum forty-foot-wide private planting strip easement is required for new major land divisions effective June 1, 2022. This easement applies only to land abutting the existing public road frontage at the entrance to the development.

(1) Fences and entrance monuments are permitted in the planting strip with the approval of the Plan Commission and Town Board.

(2) Planting strip material shall be approved as part of the land division approval process by the Plan Commission and Town Board.

§ 320-19 **B-1 Neighborhood Business District.**

A. Statement of purpose. The B-1 Neighborhood Business District is intended to provide for individual or small groups of retail, professional office, 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.

B. Development and design standards. Applicable developments and structures shall comply with the design standards as set forth in § **320-10I** of this chapter and the Site Plan and/or Business Plan of Operation requirements of § **320-126**. The construction of a single-family residence or related accessory structure on an existing lot of record that is approved for single-family residential purposes is not subject to the design or site development requirements specified herein.

C. Principal uses: The following uses are permitted as principal uses, excluding outdoor storage of products or merchandise and individual buildings that exceed 30,000 sq. ft. in size:

(1) Neighborhood compatible retail uses that supply commodities on the premises for persons residing in adjacent residential areas including clothing stores, quilt shops, neighborhood grocery stores, drug stores, confectionaries, florists, music stores, gift stores, hobby shops, photographic supply stores and office supply stores. Smoke and/or tobacco shops are limited to the sale of cigarettes, vaping cartridges, and cigars and the sale of related paraphernalia and such sales shall not exceed 10% of the floor area of the space occupied by the tenant.

(2) Food service. Restaurants and taverns (not including fast-food or fast-casual or drive-throughs), coffee shops, cafes, bakeries, and delicatessens. Bakeries must include at least 25% of retail and food service area, which does not include the production or packaging of baked foods.

(3) Professional office and service establishments. Private athletic clubs, self-service and pick-up laundry and dry-cleaning establishments with no on-site dry cleaning, upholstery and tailor shops, beauty and barber shops and hair salons, art, music, and dance studios, therapeutic offices, and photography studios. Clinics (outpatient only), including medical, dental, optometry, and chiropractic clinics, financial institutions, insurance offices, accounting offices, legal services, and real estate offices. Massage establishments are subject to a license in accordance with Chapter **200**.

(4) Existing and new single-family residential uses, subject to compliance with all provisions of the R-3 Residential District.

(5) A single residential unit to be used by the owner of the building or by the operator of a business in the same building of the business with Town Board approval, following a recommendation of the Plan Commission and subject to the Site Plan requirements of § **320-126**.

D. Accessory uses:

(1) Service buildings and facilities normally accessory to the permitted principal use. Properties within this zoning district with a residential use are allowed accessory structures accompanying the residential use that must follow the regulations of the R-3 Single-Family Residential District.

(2) Home occupations in accordance with §**320-110**.

(3) Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

(4) Essential services and private utilities.

(5) Private roof-mounted solar panels.

(6) Signage in compliance with Article **VIII** of this ordinance.

(7) Shared neighborhood amenities, such as emergency shelters, parks, paths, playgrounds, open space plazas, and bike racks.

E. Conditional uses, subject to the provisions of Article **V** being met:

(1) Accessory buildings in the street yard, see § **320-109**.

(2) Any single structure that exceeds 30,000 sq. ft. in size.

(3) Banquet facilities.

(4) Bed-and-breakfast establishments.

(5) Berms.

(6) Child or adult day care facilities.

(7) Meat and fish markets.

(8) Multiple principal structures in accordance with § **320-10B**.

(9) New mobile service support structure and substantial modifications according to § **320-107**.

(10) Private ground-mounted solar panels.

F. Lot.

(1) Width: minimum 100 feet.

(2) Area: minimum 1/2 acre.

G. Building height: maximum 35 feet for principal and accessory structures that contain a commercial use. Accessory structures cannot exceed the height of the principal structure.

H. Yard setbacks for principal and accessory structures that contain a commercial use.

(1) Street: minimum 25 feet, unless § **184-13(B)11** applies.

(2) Rear: minimum 30 feet.

(3) Side: minimum 15 feet.

§ 320-20 **B-2 General Business District.**

A. Statement of purpose. The B-2 General Business District is intended to provide for the orderly and attractive grouping at appropriate locations of retail, professional office, and customer service establishments serving the daily needs of the surrounding local community area. The size and location of such developments 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.

B. Development and design standards. Applicable developments and structures shall comply with the design standards as set forth in § **320-10I** of this chapter and the Site Plan and/or Business Plan of Operation requirements of § **320-126**. Improvements to existing single-family residential structures or related accessory structures on an existing lot of record are not subject to the design or site development requirements specified herein.

C. Principal uses: The following uses are permitted as principal uses, excluding outdoor storage of products or merchandise and individual buildings that exceed 30,000 sq. ft. in size:

(1) Retail. Clothing stores, quilt shops, grocery stores, supermarkets, drug stores, confectionaries, florists, music stores, gift stores, hobby shops, liquor stores, photographic supply shops, office supply stores, pet shops, bicycle sales and repair, and furniture stores. Smoke and/or tobacco shops are limited to the sale of cigarettes, vaping cartridges, and cigars and the sale of related paraphernalia and such sales shall not exceed 10% of the floor area of the space occupied by the tenant. Hardware and appliance stores and the retail and wholesale sales of electrical and plumbing materials and related services are permitted provided display areas and outdoor storage is limited. Visual screening from adjacent properties and the road may be required.

(2) Food service. Restaurants and taverns (not including fast-food or fast-casual or drive-throughs), coffee shops, cafes, bakeries, delicatessens, and banquet facilities. Bakeries must include at least 25% of retail and food service area, which does not include the production or packaging of baked foods.

(3) Professional office and service establishments. Private athletic clubs, self-service and pick-up laundry and dry-cleaning establishments with no on-site dry cleaning, upholstery and tailor shops, beauty and barber shops and hair salons, art, music, and dance studios, therapeutic offices and photography studios. Clinics (outpatient only), including medical, dental, optometry, and chiropractic clinics, financial institutions, insurance offices, accounting offices, legal services, real estate offices, newspaper office and press room, and radio and television broadcasting studios. Animal hospitals and veterinary clinics are subject to no outdoor kennels or boarding. Massage establishments are subject to a license in accordance with Chapter **200**.

(4) A single residential unit to be used by the owner of the building or by the operator of a business in the same building of the business with Town Board approval, following a recommendation from the Plan Commission subject to the Site Plan requirements of § **320-126**.

(5) Uses similar to the above, but that may not be listed, are subject to approval by the Town Board, following a recommendation of the Plan Commission.

D. Accessory uses.

(1) Only accessory structures and uses normally accessory to the above principal uses are permitted as determined by the Town Board following a recommendation of the Plan Commission.

(2) Properties within this zoning district that have an existing residential use are allowed to make improvements to the residential structure and accessory structures accompanying the residential use, subject to compliance with the regulations of the R-3 Single-Family Residential District.

(3) Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

(4) Essential services and private utilities.

(5) Private roof-mounted solar panels.

(6) Signage in compliance with Article **VIII** of this ordinance.

(7) Shared neighborhood amenities, such as emergency shelters, parks, paths, playgrounds, open space plazas, and bike racks.

E. Conditional uses, subject to the provisions of Article **V** being met:

(1) Any single structure that exceeds 30,000 sq. ft. in size.

(2) Berms.

(3) Child or adult day care facilities.

(4) Drive-in theaters and drive-in establishments selling food and drink.

(5) Drive-through banks.

(6) Funeral homes with no crematories.

(7) Indoor entertainment and recreation facilities, such as bowling alleys and indoor sports simulators.

(8) Meat and fish markets.

(9) Multiple principal structures in accordance with §**320-10B**.

(10) New mobile service support structure according to § **320-107**.

(11) Private ground-mounted solar panels.

(12) Public passenger transportation terminals.

(13) Woodworking provided there is no requirement or installation of outside dust collecting

equipment.

F. Development.

(1) Frontage: minimum 150 feet.

(2) Area: minimum 1/2 acre.

G. Building height: maximum 45 feet for principal and accessory commercial structures. Accessory structures cannot exceed the height of the principal structure.

H. Yard setbacks for principal and accessory commercial structures.

(1) Street: minimum 25 feet, unless § **184-13(B)11** applies.

(2) Rear: minimum 30 feet.

(3) Side: minimum 15 feet.

§ 320-21 **MU-1 Mixed Use Transition District.**

A. Statement of purpose. The MU-1 Mixed Use Transition District is intended to encourage development that promotes a range of compatible land uses typical of a "town center" through appropriate site design. This district allows limited single-family residential development as a transitional land use between existing residential neighborhoods and the "town center" land uses. Development within this district is intended to implement the Town's Comprehensive Plan, as well as the Five Corners Master Plan or other Town Center or area plan, which specifies the creation of a vibrant and pedestrian-friendly "town center," featuring a mixture of uses. Projects will result in orderly and attractive development at appropriate locations and may include a single use or multiple compatible uses, including commercial, governmental, single-family residential, and multi-family residential in buildings with a commercial use occupying the first floor.

B. Development and design standards. Applicable developments and structures shall comply with the design standards as set forth in § **320-10I** of this chapter and the Site Plan and/or Business Plan of Operation requirements of § **320-126**. The construction of a single-family residence or related accessory structure on an existing lot of record that is approved for single-family residential purposes is not subject to the design or site development requirements specified herein.

C. The Town Center Overlay District is available upon application and in accordance with § **320-36.**

D. Principal uses. The following uses are permitted as principal uses, excluding outdoor storage of products or merchandise and individual buildings that exceed 30,000 sq. ft. in size:

(1) Retail. Drug stores, grocery stores, clothing stores, quilt shops, gift stores, hobby shops, music stores, photographic supply stores, office supply stores, bicycle sales and repair, furniture stores, appliance stores, electrical supply, hardware stores, jewelry stores, florists, ice cream shops, and confectionaries. Smoke and/or tobacco shops are limited to the sale of cigarettes, vaping cartridges, and cigars and the sale of related paraphernalia and such sales shall not exceed 10% of the floor area of the space occupied by the tenant.

(2) Food service. Restaurants and taverns (including fast-casual food restaurants but not including fast- food or drive-throughs), banquet facilities, coffee shops, cafes, bakeries, and delicatessens. Bakeries must include at least 25% of the floor area consisting of retail and food service.

(3) Professional office and service establishments. Private athletic clubs, self-service and pick-up

laundry and dry-cleaning establishments with no on-site dry cleaning, upholstery and tailor shops, beauty and barber shops and hair salons, art, music, and dance studios, therapeutic offices, and photography studios. Clinics (outpatient only) including medical, dental, optometry, and chiropractic clinics, financial institutions including banks without drive-throughs, insurance offices, accounting offices, legal services, real estate offices, newspaper office and press room, and radio and television broadcasting studios. Animal hospitals and veterinary clinics are subject to no outdoor kennels or boarding. Massage establishments are subject to a license in accordance with Chapter **200**.

(4) Single-family residential and related accessory structures, subject to the following:

(a) New single-family residential use/lots shall be located at least 400 ft. from the base setback line of STH 60 west of Washington Avenue. New single-family residential use/lots shall be located at least 650 ft. from the base setback line of STH 60 east of Washington Avenue. The minimum density shall be 0.92 acres per living unit and all requirements of § **320-18,** the R-3 Residential District, shall be met.

(b) Existing single family residential use and lots, provided any structural improvements comply with the requirements of § **320-18,** the R-3 Residential District.

E. Accessory uses.

(1) Multi-family residential on upper levels within buildings that contain a commercial use as the principal use on the first floor. A residential unit within a mixed-use building shall contain a minimum of 600 sq. ft. per one-bedroom unit; 700 sq. ft. per two-bedroom unit; 800 sq. ft. per three-bedroom unit; and an additional 100 sq. ft. for each additional bedroom. Off-street parking and loading areas in compliance with Article VII of this ordinance.

(2) Shared neighborhood amenities, such as emergency shelters, parks, paths, playgrounds, open space plazas, and bike racks.

(3) The temporary outdoor sales of products or merchandise and the temporary placement of tents only as approved by the Town Board, following a recommendation from Plan Commission, and subject to a Site Plan and/or Business Plan of Operation in accordance with § **320-126**. The Town Board may place specific limitations on frequency and length of time these uses are allowed, including approval of annual placement of tents that do not need annual consideration if the tent size has not changed. The placement of tents require a building permit and notification to the Fire Department in accordance with § **154-27**.

(4) Essential services and private utilities.

(5) Private roof-mounted solar panels.

(6) Service buildings and facilities normally accessory to the permitted principal use.

(7) Signage in compliance with Article VIII of this ordinance.

(8) Home occupations in accordance with § 320-110.

(9) Off-street parking and loading areas in compliance with Article VII of this ordinance.

F. Conditional uses, subject to the provisions of Article V being met.

(1) Any single structure that exceeds 30,000 sq. ft. in size.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) Child or adult day care facilities.

(5) Commercial outdoor recreation and entertainment.

(6) Community centers, and retirement and senior care facilities.

(7) Drive-in theatres and drive-in establishments selling food and drink.

(8) Drive-through facilities for fast-casual food restaurants, casual food restaurants, coffee shops, and banks. Fast-food restaurants are not permitted.

(9) Funeral homes with no crematories.

(10) Indoor entertainment and recreation facilities, such as bowling alleys and indoor sports simulators

(11) Meat and fish markets.

(12) Multiple principal structures in accordance with § **320-10B**.

(13) New mobile service support structure and substantial modifications according to § **320-107**.

(14) Private ground-mounted solar panels.

(15) Public passenger transportation terminals.

(16) Second single-family dwelling unit.

(17) Micro-breweries and micro-distilleries.

G. Bulk regulations.

(1) Area: minimum 1/2 acre for single-use commercial developments and minimum 1 acre for multi-use developments. New single-family residential lots are subject to the minimum lot size requirements of the R-3 Residential District.

(2) Lot frontage: minimum 100 feet. New single-family residential lots are subject to the minimum lot width requirements of the R-3 Residential District.

(3) Building height.

(a) Principal structure: maximum 35 feet for single-family residential; for all other types of development maximum, no more than three stories above grade, excluding subterranean parking, and 45 feet.

(b) Accessory structure: maximum 25 feet.

(4) Yard setbacks.

(a) Street: minimum 25 feet from interior local streets and private roads and 50 ft. from STH 60. The more restrictive setback established in §**184-13(B)11** does not apply.

(b) Rear: minimum 30 feet.

(c) Side: minimum 15 feet.

(5) Building area for single-family residential units: minimum 1,200 square feet with at least 1,000 square feet on the first floor of a two-story residence.

§ 320-22 **MU-2 Mixed Use General District.**

A. Statement of purpose. The MU-2 Mixed Use General District is intended to encourage development that promotes a range of compatible land uses typical of a "town center" through appropriate site design. Development within this district is intended to implement the Town's Comprehensive Plan, as well as the Five Corners Master Plan or other Town Center or area plan, which specifies the creation of a vibrant and pedestrian-friendly "town center," featuring a mixture of uses. Projects will result in orderly and attractive development at appropriate locations and may include a single use or multiple compatible uses, including commercial, governmental, and residential in buildings with a commercial use occupying the first floor. The non-residential uses may be located in the same building or in separate buildings.

B. Development and design standards. Applicable developments and structures shall comply with the design standards as set forth in § **320-10I** of this chapter and the Site Plan and/or Business Plan of Operation requirements of § **320-126**. Improvements to existing single-family residential structures or related accessory structures on an existing lot of record are not subject to the design or site development requirements specified herein..

C. The Town Center Overlay District is available upon application and in accordance with § **320-36.**

D. Principal uses. The following uses are permitted as principal uses, excluding outdoor storage of products or merchandise and individual buildings that exceed 30,000 sq. ft. in size:

(1) Retail. Drug stores, grocery stores, clothing stores, quilt shops, gift stores, hobby shops, music stores, photographic supply stores, office supply stores, bicycle sales and repair, furniture stores, appliance stores, electrical supply, hardware stores, jewelry stores, florists, ice cream shops, and confectionaries. Smoke and/or tobacco shops are limited to the sale of cigarettes, vaping cartridges, and cigars and the sale of related paraphernalia and such sales shall not exceed 10% of the floor area of the space occupied by the tenant.

(2) Food service. Restaurants and taverns (including fast-casual food restaurants but not including fast-food or drive-throughs), banquet facilities, coffee shops, cafes, bakeries, and delicatessens. Bakeries must include at least 25% of the floor area consisting of retail and food service.

(3) Professional office and service establishments. Private athletic clubs, self-service and pick-up laundry and dry-cleaning establishments with no on-site dry cleaning, upholstery and tailor shops, beauty and barber shops and hair salons, art, music, and dance studios, therapeutic offices, and photography studios. Clinics (outpatient only) including medical, dental, optometry, and chiropractic clinics, financial institutions including banks without drive-throughs, insurance offices, accounting offices, legal services, real estate offices, newspaper office and press room, and radio and television broadcasting studios. Animal hospitals and veterinary clinics are subject to no outdoor kennels or boarding. Massage establishments are subject to a license in accordance with Chapter **200**.

(4) Existing single-family residential and related accessory structures provided any structural improvements comply with the requirements of § **320-18,** the R-3 Residential District.

E. Accessory uses.

(1) Multi-family residential on upper levels within buildings that contain a commercial use as the principal use on the first floor. A residential unit within a mixed-use building shall contain a minimum of 600 sq. ft. per one-bedroom unit; 700 sq. ft. per two-bedroom unit; 800 sq. ft. per three-

bedroom unit; and an additional 100 sq. ft. for each additional bedroom. Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

(2) Shared neighborhood amenities, such as emergency shelters, parks, paths, playgrounds, open space plazas, and bike racks.

(3) The temporary outdoor sales of products or merchandise and the temporary placement of tents only as approved by the Town Board, following a recommendation from Plan Commission, and subject to a Site Plan and/or Business Plan of Operation in accordance with § **320-126**. The Town Board may place specific limitations on frequency and length of time these uses are allowed, including approval of annual placement of tents that do not need annual consideration if the tent size has not changed. The placement of tents may require a building permit and notification to the Fire Department in accordance with § **154-27**.

(4) Essential services and private utilities.

(5) Private roof-mounted solar panels.

(6) Service buildings and facilities normally accessory to the permitted principal use.

(7) Signage in compliance with Article **VIII** of this ordinance.

(8) Home occupations in accordance with § **320-110**.

(9) Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

F. Conditional uses, subject to the provisions of Article **V** being met.

(1) Any single structure that exceeds 30,000 sq. ft. in size.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) Child or adult day care facilities.

(5) Commercial outdoor recreation and entertainment.

(6) Community centers and retirement and senior care facilities.

(7) Drive-in theatres and drive-in establishments selling food and beverages.

(8) Drive-through facilities for fast-casual food restaurants, casual food restaurants, coffee shops, and banks. Fast-food restaurants are not permitted.

(9) Event centers.

(10) Funeral homes with crematories.

(11) Indoor recreation and entertainment facilities, such as bowling alleys and indoor golf simulators.

(12) Meat and fish markets.

(13) Multiple principal structures in accordance with § **320-10B** unless approved as part of a Planned Unit Development Overlay District in accordance with Article IV or a Town Center Overlay District in accordance with § **320-36**.

(14) New mobile service support structure and substantial modifications according to § **320-107**.

(15) Private ground-mounted solar panels.

(16) Public passenger transportation terminals.

(17) Micro-breweries and micro-distilleries.

G. Bulk regulations.

(1) Area: minimum 1/2 acre for single-use commercial developments and minimum 1 acre for multi-use developments.

(2) Lot frontage: minimum 100 feet.

(3) Building height.

(a) Principal structure: maximum 35 feet for single-family residential, all other types of development maximum three stories and 45 feet.

(b) Accessory structure: maximum 25 feet.

(4) Yard setbacks.

(a) Street: minimum 25 feet from interior local streets and private roads and 50 ft. from STH 60. The more restrictive setback established in § **184-13(B)11** does not apply.

(b) Rear: minimum 30 feet.

(c) Side: minimum 15 feet.

§ 320-23 **MU-3 Mixed Use Planned District.**

A. Statement of purpose. The MU-3 Mixed Use Planned District is intended to encourage development that promotes a range of compatible land uses typical of a "town center" through appropriate site design. This district allows and encourages a variety of "town center" land uses. Development within this district is intended to implement the Town's Comprehensive Plan, as well as the Five Corners Master Plan or other Town Center or area plan, which specifies the creation of a vibrant and pedestrian-friendly "town center," featuring a mixture of uses. Projects will result in orderly and attractive development at appropriate locations and encourages multiple compatible uses, including commercial, governmental, multifamily residential and/or senior living, and recreational uses. The uses may be located in the same building or in separate buildings.

B. Development and design standards. Applicable developments and structures shall comply with the design standards as set forth in § **320-10I** of this chapter and the Site Plan and/or Business Plan of Operation requirements of § **320-126**. Improvements to existing single-family residential structures or related accessory structures on an existing lot of record are not subject to the design or site development requirements specified herein..

C. The Town Center Overlay District is available upon application and in accordance with § **320-36.**

D. Principal uses. The following uses are permitted as principal uses, excluding outdoor storage of products or merchandise and individual buildings that exceed 30,000 sq. ft. in size:

(1) Retail. Drug stores, grocery stores, clothing stores, quilt shops, gift stores, hobby shops, music stores,

photographic supply stores, office supply stores, bicycle sales and repair, furniture stores, appliance stores, electrical supply, hardware stores, jewelry stores, florists, ice cream shops, and confectionaries. Smoke and/or tobacco shops are limited to the sale of cigarettes, vaping cartridges, and cigars and the sale of related paraphernalia and such sales shall not exceed 10% of the floor area of the space occupied by the tenant.

(2) Food service. Restaurants and taverns (including fast-casual food restaurants but not including fast-food or drive-throughs), banquet facilities, coffee shops, cafes, bakeries, and delicatessens. Bakeries must include at least 25% of the floor area consisting of retail and food service.

(3) Professional office and service establishments. Private athletic clubs, self-service and pick-up laundry and dry-cleaning establishments with no on-site dry cleaning, upholstery and tailor shops, beauty and barber shops and hair salons, art, music, and dance studios, therapeutic offices, and photography studios. Clinics (outpatient only) including medical, dental, optometry, and chiropractic clinics, financial institutions including banks without drive-throughs, insurance offices, accounting offices, legal services, real estate offices, newspaper office and press room, and radio and television broadcasting studios. Animal hospitals and veterinary clinics are subject to no outdoor kennels or boarding. Massage establishments are subject to a license in accordance with Chapter **200**.

(4) Hotels provided public sewer and water are provided.

E. Accessory uses.

(1) Multi-family residential on upper levels within buildings that contain a commercial use as the principal use on the first floor. A residential unit within a mixed-use building shall contain a minimum of 600 sq. ft. per one-bedroom unit; 700 sq. ft. per two-bedroom unit; 800 sq. ft. per three-bedroom unit; and an additional 100 sq. ft. for each additional bedroom. Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

(2) Shared neighborhood amenities, such as emergency shelters, parks, paths, playgrounds, open space plazas, and bike racks.

(3) The temporary outdoor sales of products or merchandise and the temporary placement of tents only as approved by the Town Board, following a recommendation from Plan Commission and subject to a Site Plan and/or Business Plan of Operation in accordance with § 320-126. The Town Board may place specific limitations on frequency and length of time these uses are allowed, including approval of annual placement of tents that do not need annual consideration if the tent size has not changed. The placement of tents may require a building permit and notification to the Fire Department in accordance with § **154-27**.

(4) Essential services and private utilities.

(5) Private roof-mounted solar panels.

(6) Service buildings and facilities normally accessory to the permitted principal use.

(7) Signage in compliance with Article **VIII** of this ordinance.

(8) Home occupations in accordance with § **320-110**.

(9) Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

F. Conditional uses, subject to the provisions of Article **V** being met.

(1) Any single structure that exceeds 30,000 sq. ft. in size.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) Child or adult day care facilities.

(5) Commercial outdoor recreation and entertainment.

(6) Community centers and retirement and senior care facilities.

(7) Drive-in theatres and drive-in establishments selling food and beverages.

(8) Drive-through facilities for fast-casual food restaurants, casual food restaurants, coffee shops, and banks. Fast-food restaurants are not permitted.

(9) Event centers.

(10) Funeral homes with no crematories.

(11) Indoor recreation and entertainment facilities, such as bowling alleys and indoor sports simulators.

(12) Meat and fish markets.

(13) Multiple principal structures in accordance with § **320-10B**.

(14) New mobile service support structure and substantial modifications according to § **320-107**.

(15) Private ground-mounted solar panels.

(16) Public passenger transportation terminals.

(17) Micro-breweries and micro-distilleries,

G. Bulk regulations.

(1) Area: minimum 1/2 acre for single-use commercial developments and minimum 1 acre for multi-use developments.

(2) Lot frontage: minimum 100 feet.

(3) Building height.

(a) Principal structure: maximum 35 feet for single-family residential, all other types of development maximum three stories and 45 feet.

(b) Accessory structure: maximum 25 feet.

(4) Yard setbacks.

(a) Street: minimum 25 feet from interior local streets and private /roads and 50 ft. from STH 60. The more restrictive setback established in § **184-13(B)11** does not apply.

(b) Rear: minimum 30 feet.

(c) Side: minimum 15 feet.

§ 320-24 **M-1 Light Industrial District.**

A. Statement of purpose. The M-1 Light Industrial District is intended for areas designated for light to medium intensity business uses such as corporate office facilities, light manufacturing, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared material, wholesale, and warehousing with outdoor storage permitted as a Conditional Use Permit. The site development associated with uses permitted in this district shall be restricted so that there are minimal impacts to surrounding districts.

B. Development and design standards. Applicable developments and structures shall comply with the design standards as set forth in § **320-10I** of this chapter and the Site Plan and/or Business Plan of Operation requirements of § **320-126**.

C. The Town Center Overlay District is available upon application and in accordance with § **320-36.**

D. Principal uses. The following uses are permitted as principal uses, excluding outdoor storage of products or merchandise and individual buildings that exceed 30,000 sq. ft. in size.

(1) Automotive body repairs, sales and service.

(2) Upholstery, laundry, and dry cleaning establishments with no on-site dry cleaning.

(3) Animal hospitals and veterinary clinics, subject to no outdoor kennels or boarding.

(4) Pressing and dyeing establishments.

(5) Commercial bakeries, including processing, packaging, and assembling baked goods.

(6) Commercial greenhouses.

(7) Distributors.

(8) Farm machinery sales and service.

(9) Food locker plants.

(10) Laboratories.

(11) Breweries, micro-breweries and distilleries.

(12) Manufacture and bottling of nonalcoholic beverages.

(13) Painting contractor's facility.

(14) Printing.

(15) Publishing.

(16) Pea vineries, creameries, and condenseries.

(17) Tool and dye design and production.

(18) Storage and sale of machinery and equipment. Machinery for sale may be placed outside with

appropriate screening as required by Plan Commission and Town Board.

(19) Business and professional offices.

(20) Trade and contractors' offices with at least 5,000 building square feet per office.

(21) Woodworking shops not requiring outside dust collection equipment.

(21) Warehousing not less than 5,000 square feet building per business.

(22) 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.

(23) 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 pea vining.

(f) Instruments.

(g) Jewelry.

(h) Pharmaceuticals.

(i) Tobacco.

(j) Toiletries.

(24) Wholesaling.

(25) Any use permitted in the business, mixed use, and institutional districts, except that no residential uses are permitted.

E. Accessory uses:

(1) Essential services and private utilities.

(2) Private roof-mounted solar panels.

(3) Service buildings and facilities normally accessory to the permitted principal use.

(4) Signage in compliance with Article **VIII** of this ordinance.

(5) Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

(6) Shared neighborhood amenities, such as emergency shelters, parks, paths, playgrounds, open space plazas, and bike racks.

F. Conditional uses, subject to the provisions of Article **V** being met.

(1) Any single structure that exceeds 30,000 sq. ft. in size.

(2) Any use that is provided as a Conditional Use in the business, mixed use, and institutional districts, except for residential uses (examples of residential uses include bed-and-breakfast establishments and senior living complexes).

(3) Berms.

(4) Funeral homes and crematories.

(5) Multiple principal structures in accordance with §**320-10B**.

(6) New mobile service support structure and substantial modifications that comply with§ **320-107**.

(7) Outdoor storage as a component of any use, provided there is proper screening in place.

(8) Private ground-mounted solar panels.

(9) Public passenger transportation terminals.

G. Lot.

(1) Frontage: minimum 200 feet.

(2) Area: minimum one acre.

H. Building height: maximum 45 feet.

I. Yard setbacks.

(1) Street: minimum 50 feet, unless § **184-13(B)11** applies. The more restrictive setback established in § **184-13(B)11** does not apply.

(2) Rear: minimum 30 feet.

(3) Side: minimum 30 feet.

§ 320-25 **M-3 Quarrying District.**

A. Principal uses: nonmetallic mineral extraction operations and concrete and concrete products

manufacturing that are presently in existence within the Town, subject to the Conditional Use provisions of Article **V**.

B. Conditional uses, subject to the provisions of Article **V** being met.

(1) Berms.

(2) Nonmetallic mineral extraction operations. Operations, including washing, crushing or other processing in the M-3 Quarrying District, provided that they were in existence prior to October 5, 1994

(3) New mobile service support structure and substantial modifications that comply with § **320-107**.

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.

§ 320-26 **I-1 Institutional District.**

A. Statement of purpose. The I-1 Institutional District is intended to accommodate uses and structures that are principally of a public or nonprofit institutional nature, or their principal activity is actively recognized as a public service, such as churches, hospitals, rest homes, public and private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities, and other public services. These uses do not include private commercial enterprises such as clinics, business or trade schools. Any new development, redevelopment or infill taking place within the area designated as the Town Center Overlay District on the Town of Cedarburg Zoning Map is intended to implement the Town Comprehensive Plan, as well as the Five Corners Master Plan or other Town Center Plan or area plan, which specifies the creation of a vibrant and pedestrian-friendly "town center," featuring a mixture of uses. Applicable new developments and/or new structures shall comply with the design standards as set forth in § **320-10I** of this chapter. The Town Center Overlay District is available upon application and in accordance with § **320-36.**

B. Development and design standards. Applicable developments and structures shall comply with the design standards as set forth in § **320-10I** of this chapter and the Site Plan and/or Business Plan of Operation requirements of § **320 -126**.

C. The Town Center Overlay District may be available upon application if the area is designated within the Town Center Overlay District on the Zoning Map and in accordance with § **320-36.**

D. Principal uses. The following uses are permitted as principal uses, excluding outdoor storage of products or merchandise and individual buildings that exceed 30,000 sq. ft. in size:

(1) Religious institutions and seminaries.

(2) Libraries and museums.

(3) Public administrative offices and public service buildings, including fire and police stations, community centers, public emergency facilities.

(4) Public and private schools, colleges, and universities.

(5) Essential services and public utility offices and facilities.

(6) Clubs and meeting places of a noncommercial nature.

(7) Shared neighborhood amenities, such as emergency shelters, parks, paths, playgrounds, open space plazas, and bike racks.

(8) Other permitted uses. Uses similar to those listed in this section, subject to a recommendation of the Plan Commission and a decision by the Town Board that the use is similar to those listed in this section.

E. Accessory uses.

(1) Private utilities.

(2) Private or public roof-mounted solar panels.

(3) Service buildings and facilities normally accessory to the principal permitted use.

(4) Signage in compliance with Article **VIII** of this ordinance.

(5) Off-street parking and loading areas in compliance with Article **VII** of this ordinance.

F. Conditional uses, subject to the provisions of Article **V** being met.

(1) Any single structure that exceeds 30,000 sq. ft. in size.

(2) Berms.

(3) Child or adult day care facilities.

(4) Multiple principal structures in accordance with §**320-10B**.

(5) New mobile service support structures and substantial modifications that comply with § **320-107**.

(6) Private or public ground-mounted solar panels.

(7) Public passenger transportation terminals.

(8) Retirement and senior care facilities.

G. Lot.

(1) Frontage: minimum 200 feet.

(2) Area: minimum one acre.

H. Building height: maximum 45 feet.

I. Yard setbacks.

(1) Street: minimum 50 feet, unless § **184-13(B)11** applies. The increased setback required in § **184-13(B)11** does not apply to structures in the Town Center Overlay District.

(2) Rear: minimum 100 ft. if adjacent to a residential district, otherwise 30 feet.

(3) Side: minimum 100 ft. if adjacent to a residential district, otherwise 15 feet.

§ 320-27 **A-1 Agricultural District.**

A. Statement of purpose. The A-1 District is intended to apply to areas in order to provide for, maintain, preserve and enhance lands historically used for agricultural production but which do not meet the size requirements of the A-2 Prime Agricultural District and which are generally suited for smaller farm units, including horse farming, small dairy farms, orchards, vegetable farms, and other similar agricultural-related farming activities.

B. Principal uses, except that concentrated animal feeding operations (CAFO's) as defined by the Wisconsin Department of Natural Resources are prohibited. Additionally, animal enclosures must be sized appropriately to allow normal plant growth within the fenced in area.

(1) Apiculture

(2) Dairying

(3) Floriculture

(4) Forestry

(5) General farming

(6) Grazing

(7) Greenhouses

(8) Hatcheries

(9) Horticulture

(10) Livestock raising

(11) Nurseries

(12) Orchards

(13) Paddocks

(14) Pasturage

(15) Poultry raising

(16) Stables for personal use

(17) Viticulture

C. Farm dwellings for those resident owners are accessory uses and shall comply with all the provisions of the R-3 Residential District.

D. Accessory uses:

(1) Home occupations in accordance with §**320-110**.

(2) Private utilities.

(3) Private roof-mounted solar panels.

E. Conditional uses, subject to the provisions of Article **V** being met.

(1) Airfields, airports, airstrips and landing fields.

(2) Animal hospitals and veterinary services.

(3) Bed-and-breakfast establishments.

(4) Berms.

(5) Commercial horse boarding, riding arenas, and horse event centers.

(6) Commercial raising, propagation, or butchering of animals, such as mink, rabbits, foxes, goats, and pigs; the commercial production of eggs; and the hatching, raising, fattening or butchering of fowl. The commercial raising and propagation of dogs is prohibited.

(7) Housing for farm laborers and for seasonal and migratory farm workers.

(8) Limited nonagricultural commercial activities that meet applicable regulations pertaining to home occupations/professional home offices as specified in § 320-110, or in the case of utilizing outbuildings, such commercial activities that are low profile in nature, are operated by the owner of the premises, employ no more than two nonresident employees, produce no light or noise, are compatible with the agricultural setting of the area, and are a commercial activity that would not be better suited to be maintained in a traditional commercial setting or business park.

(9) Limited production canning of agricultural crops grown on site or on directly adjoining parcels owned by immediate family members or by one or more business entities controlled by immediate family members, as those terms are defined at Wis. Stats. §§ 97.605(4)(a)1 and 2, for direct sale on site.

(10) Limited processing, limited baking, limited frying and/or limited manufacture of consumable products with off-site ingredients combined with ingredients harvested on site, or on directly adjoining parcels owned by immediate family members, or by one or more business entities controlled by immediate family members, as those terms are defined at Wis. Stats., § 97.605(4)(a)1 and 2, into products for direct sale on site. Processing, baking and/or manufacture of products shall occur in kitchens and equipment meeting Wisconsin Department of Agriculture, Trade and Consumer Protection standards. Direct sale of products shall be limited to seasonal time periods related to the ripeness of the agricultural ingredients.

(11) New mobile service support structures and substantial modifications that comply with § **320-107**.

(12) Pea vineries, creameries and condenseries.

(13) Private ground-mounted solar panels.

(14) Second single-family dwelling unit.

F. Lot.

(1) Frontage: minimum 300 feet. 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**.

(2) Area: minimum five acres.

G. Building height: maximum 50 feet. Except that agricultural structures, such as barns, silos, tanks and windmills, shall not exceed in height their distance from the nearest lot line.

H. Yard setbacks.

(1) Street: minimum 100 feet.

(2) Rear: minimum 100 feet.

(3) Side: minimum 100 feet.

I. Building size restrictions for nonresidential buildings.

(1) On lots less than eight acres, the square footage for nonresidential buildings as of January 1, 2026, shall not exceed the following:

(a) 1,500 square feet on the first floor of each nonresidential building;

(b) 2,500 aggregate square feet inclusive of all new and existing nonresidential buildings, which includes all floors of all nonresidential buildings.

(2) On lots eight acres or greater, there shall be no limit on the square footage allowed for nonresidential buildings on lots eight acres or greater.

(3) Site plan and architectural review for nonresidential buildings. Any individual building, with the exception of a structure used solely for residential purposes, being newly constructed, that is greater than 1,500 square feet shall be subject to architectural design approval and site plan approval by the Town Board, following a recommendation from Plan Commission, in accordance with the Site Plan standards of § **320-126** and the below standards, prior to issuance of a building permit. This process is utilized for the purpose of promoting compatible development, stability of property values, and fostering the functional utility of the town as a place to live and work. An application fee and a fee to reimburse the actual cost to the Town of Cedarburg and/or consultants for professional services per § **21-16** of the Town Code related to the application shall be paid as set in the Town Fee Schedule. One digital and two original hard copies of the building permit application, building plans which must be in their final form prior to being placed on a Town Board agenda, most current or new plat of survey showing the proposed location of the building in relation to other buildings on the property and setbacks to property lines and other buildings, proposed building materials and color elevation drawings with a scaled elevation, and narrative describing proposed use/activities that will occur in the building 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) Notice and Public Hearing. The Plan Commission shall hold a public hearing regarding the proposed building, giving notice of the time and place of the meeting by publication of a

Class 1 notice, under Ch. 985, Wis. Stats. 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 failure of such notice to reach any property owner, provided such failure is not intentional, and shall not invalidate the public hearing or action by the Plan Commission and Town Board.

(b) 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, and welfare 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.

(c) 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 architecturally compatible to other surrounding buildings.

[4] Building location. Consideration shall be given to avoid siting a building in a manner which would adversely affect values incident to ownership of land in the area or which would have an adverse effect on the general enjoyment of existing structures on adjoining properties.

§ 320-28 **A-2 Prime Agricultural District.**

A. Statement of purpose. The A-2 Prime Agricultural District is intended to apply to areas in order to conserve land for ongoing agricultural purposes, to provide for the continuation of general farming and related uses, and to protect agricultural lands from extensive development pressures.

B. Principal uses, except that concentrated animal feeding operations (CAFO's) as defined by the Wisconsin Department of Natural Resources are prohibited. Additionally, animal enclosures must be sized appropriately to allow normal plant growth within the fenced in area.

(1) Apiculture

(2) Dairying

(3) Floriculture

(4) Forestry

(5) General farming

(6) Grazing

(7) Greenhouses

(8) Hatcheries

(9) Horticulture

(10) Livestock raising

(11) Nurseries

(12) Orchards

(13) Paddocks

(14) Pasturage

(15) Poultry raising

(16) Stables for personal use

(17) Viticulture

C. Farm dwellings for those resident owners are accessory uses and shall comply with all the provisions of the R-3 Residential District.

D. Accessory uses:

(1) Home occupations in accordance with §**320-110**.

(2) Private utilities.

(3) Private roof-mounted solar panels.

E. Conditional uses, subject to the provisions of Article **V** being met.

(1) Airfields, airports, airstrips and landing fields.

(2) Animal hospitals and veterinary services.

(3) Bed-and-breakfast establishments.

(4) Berms.

(5) Commercial horse boarding, riding arenas, and horse event centers.

(6) Commercial raising, propagation, or butchering of animals, such as mink, rabbits, foxes, goats, and pigs; the commercial production of eggs; and the hatching, raising, fattening or butchering of fowl. The commercial raising and/or propagation of dogs is prohibited.

(7) Housing for farm laborers and for seasonal and migratory farm workers.

(8) Limited nonagricultural commercial activities that meet applicable regulations pertaining to home occupations/professional home offices as specified in § 320-110, or in the case of utilizing outbuildings, such commercial activities that are low profile in nature, are operated by the owner of the premises, employ no more than two nonresident employees, produce no light or noise, are compatible with the agricultural setting of the area, and are a commercial activity that would not be better suited to be maintained in a traditional commercial setting or business park

(9) Limited production canning of agricultural crops grown on site or on directly adjoining parcels owned by immediate family members or by one or more business entities controlled by immediate family members, as those terms are defined at Wis. Stats. §§ 97.605(4)(a)1 and 2, for direct sale on site.

(10) Limited processing, limited baking, limited frying and/or limited manufacture of consumable products with off-site ingredients combined with ingredients harvested on site, or on directly adjoining parcels owned by immediate family members, or by one or more business entities controlled by immediate family members, as those terms are defined at Wis. Stats., § 97.605(4)(a)1 and 2, into products for direct sale on site. Processing, baking and/or manufacture of products shall occur in kitchens and equipment meeting Wisconsin Department of Agriculture, Trade and Consumer Protection standards. Direct sale of products shall be limited to seasonal time periods related to the ripeness of the agricultural ingredients.

(11) New mobile service support structures and substantial modifications that comply with § **320-107**.

(12) Pea vineries, creameries and condenseries.

(13) Private ground-mounted solar panels.

(14) Second single-family dwelling unit.

F. Lot.

(1) Frontage: minimum 300 feet. 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**.

(2) Area: minimum 35 acres.

G. Building height: maximum 50 feet. Except that agricultural structures, such as barns, silos, tanks and windmills, shall not exceed in height their distance from the nearest lot line.

H. Yard setbacks.

(1) Street: minimum 100 feet.

(2) Rear: minimum 100 feet.

(3) Side: minimum 100 feet.

I. Site plan and architectural review for nonresidential buildings. Any individual building, with the exception of a structure used solely for residential purposes, being newly constructed, that is greater than 1,500 square feet shall be subject to architectural design approval and site plan approval by the Town Board, following a recommendation from Plan Commission, in accordance with the Site Plan standards of § **320-126** and the below standards, prior to issuance of a building permit. This process is utilized for the purpose of promoting compatible development, stability of property values, and fostering the functional utility of the town as a place to live and work. An application fee and a fee to reimburse the actual cost to the Town of Cedarburg and/or consultants for professional services per § **21-16** of the Town Code related to the application shall be paid as set in the Town Fee Schedule. One digital and two original hard copies of the building permit application, building plans which must be in their final form prior to being placed on a Town Board agenda, most current or new plat of survey showing the proposed location of the building in relation to other buildings on the property and setbacks to property lines and other buildings, proposed building materials and color elevation drawings with a scaled elevation, and narrative describing proposed use/activities that will occur in the building 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) Notice and Public Hearing. The Plan Commission shall hold a public hearing regarding the proposed building, giving notice of the time and place of the meeting by publication of a Class 1 notice, under Ch. 985, Wis. Stats. 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 failure of such notice to reach any property owner, provided such failure is not intentional, and shall not invalidate the public hearing or action by the Plan Commission and Town Board.

(b) 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, and welfare 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.

(c) 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 architecturally compatible to other surrounding buildings.

[4] Building location. Consideration shall be given to avoid siting a building in a manner which would adversely affect values incident to ownership of land in the area or which would have an adverse effect on the general enjoyment of existing structures on adjoining properties.

§ 320-29 **C-1 Conservancy District.**

A. Statement of purpose. The C-1 Conservancy District is intended to be used to prevent disruption of valuable natural or man-made resources and to protect watercourses, including the shorelands of navigable waters and areas that are not adequately drained or areas which are subject to periodic flooding, natural drainageways, wetlands, and to preserve, protect, and restore significant woodlands, areas of rough topography (including steep slopes, hillsides, bluffs, etc.), and scenic, historic and scientific areas, where uncontrolled development would result in hazards to health or safety or would deplete or destroy natural resources or be otherwise detrimental to the public welfare.

B. Principal uses.

(1) Fishing.

(2) Hunting.

(3) Preservation and enhancement of scenic, historic and scientific areas.

(4) Private utilities.

(5) Public fish hatcheries.

(6) Soil and water conservation activities.

(7) Stream bank and lake shore protection.

(8) Sustained yield forestry.

(9) Water retention.

(10) Wildlife habitat or preserves.

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

C. Conditional uses, subject to the provisions of Article **V** being met. Except as specified in a conditional use permit, the following uses shall not involve dumping, filling, cultivation, mineral, soil or peat removal or any other use that would permanently disturb the natural fauna, flora, watercourses, water regimen or topography.

(1) Water measurement and water control facilities.

(2) Grazing.

(3) Orchards.

(4) Wild crop harvesting.

(5) New mobile service support structures and substantial modifications that comply with § **320-107**.

(6) New single-family dwelling, compatible with nearby residential zoning districts, shall comply with the provisions of the E-1 Estate District.

D. Structures: None permitted, except accessory to a principal use, or approved conditional use. If the structure is accessory to an approved conditional use, the structure itself shall require a conditional use. Any structures to be located must comply with Ozaukee County's Shoreland and Floodplain Zoning Ordinance, and any other regulatory agencies, if applicable.

§ 320-30 **P-1 Public and Private Park District.**

A. Statement of purpose. The P-1 Public and Private Park District is intended to provide for recreational uses that can be used and enjoyed by the public, whether the park use be public or privately owned. This district is not intended to include private recreational uses that benefit only the property owner and their guests.

B. Principal uses.

(1) Parks.

(2) Arboretums.

(3) Playgrounds.

(4) Fishing.

(5) Wading.

(6) Swimming, pools and splash pads.

(7) Beaches.

(8) Skating.

(9) Sledding.

(10) Sustained-yield forestry.

(11) Wildlife habitat or preserves.

(12) Preservation of scenic, historic, and scientific areas.

(13) Soil and water conservation.

(14) Water retention, measurement and water control facilities.

(15) Hiking trails.

C. Conditional uses, subject to the provisions of Article **V** being met.

(1) Berms.

(2) Emergency shelters.

(3) New mobile service support structures and substantial modifications that comply with § **320-107.**

(4) Public and private commercial recreational uses such as archery ranges, camping, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, horse-back riding, hunting, marinas, governmental buildings for parks and general government, polo fields, skating rinks, stadiums, swimming pools, zoological and botanical gardens, and sports fields.

(5) Private ground-mounted solar panels.

D. Structures: None permitted, except accessory to a principal, or approved conditional use. If the structure is accessory to an approved conditional use, the structure itself shall require a conditional use.

§ 320-31 **E-1 Estate District.**

A. Principal uses: single-family dwellings.

B. Accessory uses: 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) Home occupations in accordance with §**320-110**.

(9) Accessory buildings and structures in accordance with this section and §**320-109**.

(10) Private utilities.

(11) Private roof-mounted solar panels.

C. Lot.

(1) Width: minimum 200 feet.

(2) Area: four acres.

(3) Frontage.

(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**.

D. Building area.

(1) Principal structures: minimum 1,800 square feet with at least 1,000 square feet on the first floor of two-story residences.

(2) Accessory structures: An accessory structure less than 1,500 square feet in size are subject to standard building permit procedures; accessory structures greater than 1,500 square feet in size may be constructed subject to architectural design and site plan approval in accordance with §**320-31G**.

E. Building height.

(1) Principal structures: maximum 42 feet.

(2) Accessory structures: maximum 35 feet.

F. Yard setbacks.

(1) Principal structures:

(a) Street: minimum 75 feet, unless § **184-13(B)11** applies.

(b) Rear: minimum 40 feet.

(c) Side: minimum 40 feet.

(2) Accessory structures.

(a) Street: minimum 125 feet.

(b) Rear: minimum 40 feet.

(c) Side: minimum 40 feet.

G. Site plan and architectural review for nonresidential buildings. Any individual building, with the exception of a structure used solely for residential purposes, being newly constructed that is greater than 1,500 square feet shall be subject to architectural design approval and site plan approval by the Town Board, following a recommendation from Plan Commission, in accordance with the Site Development standards of § **320-126** and the below standards, prior to the any issuance of a building permit. This process is utilized for the purpose of promoting compatible development, stability of property values, and fostering the functional utility of the Town as a place to live and work. An application fee and fee to reimburse the actual cost to the Town of Cedarburg and/or consultants for professional services per § **21-16** of the Town Code related to the application shall be paid as set in the Town Fee Schedule. One digital and two original hard copies of the building permit application, building plans which must be in their final form prior to being placed on a Town Board agenda, most current or new plat of survey (or scaled site plan using Ozaukee County GIS) showing the proposed location of the building in relation to other buildings on the property and setbacks to property lines and other buildings, proposed building materials and color elevation drawings with a scaled elevation, and narrative describing proposed use/activities that will occur in the building 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 and Public Hearing. The Plan Commission shall hold a public hearing regarding the proposed building, giving notice of the time and place of the meeting by publication of a Class 1 notice, under Ch. 985, Wis. Stats. 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 failure of such notice to reach any property owner, provided such failure is not intentional, and shall not invalidate the public hearing or action by the Plan Commission and Town Board.

(2) 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 Board may approve said site plans only after determining that:

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

(b) The dimensional arrangement of buildings and structures conforms 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, and welfare 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.

(3) Architectural review principles and standards. To assist the Plan Commission and Town Board in the architectural review of new accessory structures 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 buildings are built or when existing buildings 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 architecturally compatible to other surrounding buildings.

(d) Building location. Consideration shall be given to siting a building in a manner which would adversely affect values incident to ownership of land in the area or which would have an adverse effect on and general enjoyment of existing structures on adjoining properties.

H. Conditional uses, subject to the provisions of Article **V** being met::

(1) Accessory buildings in the street yard, see §**320-109**.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) New mobile service support structure according to § **320-107**.

(5) Private ground-mounted solar panels.

(6) Second single-family dwelling unit.

(7) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

I. Private planting strip: A minimum forty-foot-wide private planting strip easement is required for new major land divisions effective June 1, 2022. This easement applies only to land abutting the existing public road frontage at the entrance to the development.

(1) Fences and entrance monuments are permitted in the planting strip with the approval of the Plan Commission and Town Board.

(2) Planting strip material shall be approved as part of the land division approval process by the Plan Commission and Town Board.

§ 320-32 **CR-A Countryside Residential A District.**

A. Statement of Purpose.

This zoning district is intended to provide single-family, low-density residential development incorporating permanently protected open space areas as part of a conservation development defined in this ordinance. Land divisions containing five or more lots shall cluster lots, with 50% of the original land area being located in contiguous common open space. Land divisions containing five or more lots having individual lots eight acres or greater in size are exempt from the clustering requirement of this district; in such instances open space may be located on private lots but must be recorded as permanent open space on the plat. Individual lots part of a minor land division containing four or fewer lots shall be a minimum of four acres; the open space related to minor land divisions may be common open space or open space located on private lots but must be noted as permanent open space on the certified survey map.

B. Principal use: single-family detached dwellings.

C. Accessory structures and uses. The following noncommercial accessory uses are permitted by members of the family residing on the property:

(1) Accessory buildings and structures in accordance with this section and §**320-109**.

(2) Home occupations in accordance with §**320-110**.

(3) Private utilities.

(4) Private roof-mounted solar panels.

(5) Man-made recreational or wildlife ponds with a pond permit.

D. Conditional uses, subject to the provisions of Article **V** being met:

(1) Accessory buildings in the street yard, see §**320-109**.

(2) Bed and breakfast establishments.

(3) Berms.

(4) New mobile service support structure and substantial modifications that comply with § **320-107**.

(5) Private ground-mounted solar panels.

(6) 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.

(7) Second single-family dwelling unit.

(8) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

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.

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:

(1) Principal structures: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.

(2) Accessory structures: shall not exceed an aggregate total floor area of 1,000 square feet for the first acre plus 100 square feet for each additional 1/4 acre up to an aggregate total floor area of 1,500 square feet.

I. Building height:

(1) Principal structures: maximum 42 feet.

(2) Accessory structures: shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 35 feet. Accessory structures shall not exceed the height of the principal structure.

J. Minimum frontage for individual lots.

(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**.

K. Minimum average lot width: 150 feet minimum.

L. Yard setbacks.

(1) Principal structures:

(a) Street: 75 feet, unless § **184-13(B)11** applies.

(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.

(2) Accessory structures:

(a) Street: 75 feet, unless § **184-13(B)11** applies.

(b) Rear and side yard: 25 feet, except as otherwise noted in the Town Code. When located in

the side or rear yard only, 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.

M. Private planting strip: A minimum forty-foot-wide private planting strip easement is required for new major land divisions effective June 1, 2022. This easement applies only to land abutting the existing public road frontage at the entrance to the development.

(1) Fences and entrance monuments are permitted in the planting strip with the approval of the Plan Commission and Town Board.

(2) Planting strip material shall be approved as part of the land division approval process by the Plan Commission and Town Board.

N. Bonus lots: The Plan Commission and the Town Board are authorized to grant bonus lots if in their judgment they determine the additional lots are warranted based upon the layout and design of the proposed development. To qualify for bonus lot consideration, all open space must be contiguous and held in common. The maximum number of bonus lots the Plan Commission and Town Board may award is one lot per 25 acres of development area (gross contiguous land owned and a part of the development), with a maximum of four bonus lots for any development. The following criteria may be used when evaluating whether or not bonus lots shall be awarded (other items may be considered):

(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 or applicable Park and Open Space 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, including preservation, enhancement, or the creation of natural areas.

O. Design guidelines and open space. The most current version of the Southeastern Wisconsin Regional Planning Guide No. 7, Rural Cluster Development, original version dated December 1996, provides design guidelines to aid in achieving good design of cluster groups and the proper distribution of open space. This guide, along with the most current version of a conservation subdivision ordinance drafted by the Southeastern Wisconsin Regional Planning Commission, provide ample guidance for the proper design and maintenance of a conservation subdivision. The open space within these subdivisions should be connected.

§ 320-33 **CR-B Countryside Residential B District.**

A. Statement of Purpose. This zoning district is intended to provide single-family, low-density residential development incorporating permanently protected open space areas as part of a conservation development defined in this ordinance. Land divisions containing five or more lots shall cluster lots, with 50% of the original land area being located in contiguous common open space. Land divisions containing five or more lots having individual lots eight acres or greater in size are exempt from the clustering requirement of this district; in such instances open space may be located on private lots but

must be recorded as permanent open space on the plat. Individual lots part of a minor land division containing four or fewer lots shall be a minimum of four acres; the open space related to minor land divisions may be common open space or open space located on private lots but must be noted as permanent open space on the certified survey map.

B. Permitted principal use: single-family detached dwellings.

C. Accessory structures and uses. The following noncommercial accessory uses are permitted by members of the family residing on the property:

(1) Accessory buildings and structures in accordance with this section and §**320-109**.

(2) Home occupations in accordance with §**320-110**.

(3) Private utilities.

(4) Private roof-mounted solar panels.

(5) Stables, grazing, and pasturage of a noncommercial or business use.

(6) Horses are allowed in this district with a limitation of one horse per acre on a lot.

D. Additional accessory structure requirements:

(1) Existing nonconforming accessory structures may house animals, limited to horses and chickens per § **95-24**.

E. Site plan and architectural review for nonresidential buildings. Any individual building, with the exception of a structure used solely for residential purposes, being newly constructed that is greater than 1,500 square feet shall be subject to architectural design approval and site plan approval by the Town Board, following a recommendation from Plan Commission, in accordance with the Site Plan standards of § **320-126** and the below standards, prior to the any issuance of a building permit. This process is utilized for the purpose of promoting compatible development, stability of property values, and fostering the functional utility of the Town as a place to live and work. An application fee and fee to reimburse the actual cost to the Town of Cedarburg and/or consultants for professional services per § **21-16** of the Town Code related to the application shall be paid as set in the Town Fee Schedule. One digital and two original hard copies of the building permit application, building plans which must be in their final form prior to being placed on a Town Board agenda, most current or new plat of survey showing the proposed location of the building in relation to other buildings on the property and setbacks to property lines and other buildings, proposed building materials and color elevation drawings with a scaled elevation, and narrative describing proposed use/activities that will occur in the building 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 and Public Hearing. The Plan Commission shall hold a public hearing regarding the proposed building, giving notice of the time and place of the meeting by publication of a Class 1 notice, under Ch. 985, Wis. Stats. 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 failure of such notice to reach any property owner, provided such failure is not intentional, and shall not invalidate the public hearing or action by the Plan Commission and Town Board.

(2) 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 Board may approve said site plans only after determining that:

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

(b) The dimensional arrangement of buildings and structures conforms 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, and welfare 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.

(3) Architectural review principles and standards. To assist the Plan Commission and Town Board in the architectural review of new buildings 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 buildings are built or when existing buildings 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 architecturally compatible to other surrounding buildings.

(d) Building location. Consideration shall be given to siting a building in a manner which would adversely affect values incident to ownership of land in the area or which would have an adverse effect on and general enjoyment of existing structures on adjoining properties.

F. Conditional uses, subject to the provisions of Article **V** being met.

(1) Accessory buildings in the street yard, see §**320-109**.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) New mobile service support structure and substantial modifications that comply with § **320-107**.

(5) Private ground-mounted solar panels.

(6) 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.

(7) Second single-family dwelling unit.

(8) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

G. 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.

H. 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.

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

J. Building area:

(1) Principal structures: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.

(2) Accessory structures: Accessory structures on lots less than 10 acres in size shall not exceed an aggregate total floor area of 1,500 square feet. Accessory structures on lots 10 acres in size or greater shall not exceed an aggregate total floor area of 1,000 square feet per acre.

K. Building height:

(1) Principal structures: maximum 42 feet.

(2) Accessory structures: shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 35 feet. Accessory structures shall not exceed the height of the principal structure.

L. Minimum frontage for individual lots.

(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**.

M. Minimum average lot width: 150 feet.

N. Yard setbacks.

(1) Principal structures:

(a) Street: 75 feet, unless § **184-13(B)11** applies.

(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.

(2) Accessory structures:

(a) Street: 75 feet, unless § **184-13(B)11** applies.

(b) Rear and side yard: 25 feet, except as otherwise noted in the Town Code. When located in the side or rear yard only, 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.

O. Private planting strip: A minimum forty-foot-wide private planting strip easement is required for new major land divisions effective June 1, 2022. This easement applies only to land abutting the existing public road frontage at the entrance to the development.

(1) Fences and entrance monuments in the planting strip that are approved as part of the land division approval process by the Plan Commission and Town Board.

(2) Planting strip material shall be approved as part of the land division approval process by the Plan Commission and Town Board..

P. Bonus lots. The Plan Commission and the Town Board are authorized to grant bonus lots if in their judgment they determine the additional lots are warranted based upon the layout and design of the proposed development. To qualify for bonus lot consideration, all open space must be contiguous and held in common. The maximum number of bonus lots the Plan Commission and Town Board may award is one lot per 25 acres of development area (gross contiguous land owned and a part of the development), with a maximum of four bonus lots for any development. The following criteria may be used when evaluating whether or not bonus lots shall be awarded (other items may be considered):

(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 or applicable Park and Open Space 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, including preservation, enhancement, or the creation of natural areas.

Q. Design guidelines and open space. The most current version of the Southeastern Wisconsin Regional Planning Guide No. 7, Rural Cluster Development, original version dated December 1996, provides design guidelines to aid in achieving good design of cluster groups and the proper distribution of open space. This guide, along with the most current version of a conservation subdivision ordinance drafted by the Southeastern Wisconsin Regional Planning Commission, provide ample guidance for the proper design and maintenance of a conservation subdivision. The open space within these subdivisions should be connected.

§ 320-34 **TR Transitional Residential District.**

A. Statement of Purpose. The TR Transitional Residential Zoning District is intended to provide single-family, low-density residential development incorporating permanently protected open space areas as part of a conservation development as defined herein. The clustering of home sites is encouraged.

B. Principal use: single-family detached dwellings.

C. Accessory structures and uses. The following noncommercial accessory uses by members of the family residing on the property:

(1) Accessory buildings and structures in accordance with this section and §**320-109**.

(2) Home occupations in accordance with §**320-110**.

(3) Private utilities.

(4) Private roof-mounted solar panels.

D. Conditional uses, subject to the provisions of Article **V** being met.

(1) Accessory buildings in the street yard, see §**320-109**.

(2) Bed-and-breakfast establishments.

(3) New mobile service support structure and substantial modifications that comply with § **320-107**.

(4) Private ground-mounted solar panels.

(5) 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.

(6) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

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.

G. Lot size. The minimum lot size shall have a net area of not less than 1 acre.

H. Building area:

(1) Principal structures: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.

(2) Accessory structures: aggregate total floor area of 1,000 square feet for the first acre plus 100 square feet for each additional 1/4 acre up to an aggregate total floor area of 1,500 square feet.

I. Building height:

(1) Principal structures: maximum 42 feet.

(2) Accessory structures: shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 35 feet. Accessory structures shall not exceed the height of the principal structure.

J. Minimum frontage for individual lots.

(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**.

K. Minimum average lot width: 150 feet.

L. Yard setbacks.

(1) Principal structures:

(a) Street: 75 feet, unless § **184-13(B)11** applies.

(b) Rear: 75 feet.

(c) Side: 25 feet.

(2) Accessory structures:

(a) Street: minimum 75 feet, unless §184-13(B)11 applies.

(b) Rear and side yard: 25 feet, except as otherwise noted in the Town Code. When located in the side or rear yard only, 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.

M. Private planting strip. A minimum forty-foot-wide private planting strip easement is required for new major land divisions effective June 1, 2022, when the lots are adjacent to a public road. This easement applies only to land abutting the public road.

(1) Fences and entrance monuments are permitted in the planting strip with the approval of the Plan Commission and Town Board.

(2) The planting strip material shall be approved as part of the land division approval process with the Plan Commission and Town Board.

§ 320-35 **TR-2 Transitional Residential 2 District.**

A. Statement of 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. The clustering of home sites is encouraged.

B. Principal use: single-family detached dwellings.

C. Accessory structures and uses. The following noncommercial accessory uses by members of the family residing on the property:

(1) Accessory buildings and structures in accordance with this section and §**320-109**.

(2) Home occupations in accordance with §**320-110**.

(3) Private utilities.

(4) Private roof-mounted solar panels.

D. Conditional uses, subject to the provisions of Article **V** being met.

(1) Accessory buildings in the street yard, see §**320-109**.

(2) Bed-and-breakfast establishments.

(3) Berms.

(4) New mobile service support structure and substantial modifications that comply with § **320-107**.

(5) Private ground-mounted solar panels.

(6) 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.

(7) Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat.

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.

G. The minimum lot size shall have a net area of not less than one acre.

H. Building area:

(1) Principal structures: minimum 1,500 square feet with at least 1,000 square feet on the first floor of a two-story residence.

(2) Accessory structures: aggregate total floor area of 1,000 square feet for the first acre plus 100 square feet for each additional 1/4 acre up to an aggregate total floor area of 1,500 square feet.

I. Building height:

(1) Principal structures: maximum 42 feet.

(2) Accessory structures: shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 35 feet. Accessory structures shall not exceed the height of the principal structure.

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.

L. Yard setbacks.

(1) Principal structures:

(a) Street: 75 feet, unless § **184-13(B)11** applies.

(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.

(c) Side: 25 feet.

(2) Accessory structures:

(a) Street: minimum 75 feet, unless §184-13(B)11 applies.

(b) Rear and side yard: 25 feet, except as otherwise noted in the Town Code. When located in the side or rear yard only, 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.

M. Private planting strip: A minimum forty-foot-wide private planting strip easement is required for new

major land divisions effective June 1, 2022. This easement applies only to land abutting the existing public road frontage at the entrance to the development.

(1) Fences and entrance monuments are permitted in the planting strip with the approval of the Plan Commission and Town Board.

(2) The planting strip material shall be approved as part of the land division approval process with the Plan Commission and Town Board.

§ 320-36 **TCOD Town Center Overlay District.**

A. Purpose of the Town Center Overlay District (TCOD).

(1) The TCOD is intended to permit developments that will 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 and requirements as set forth in the underlying base zoning district. The TCOD shall be applicable only within the district as depicted as the Town Center Overlay District area on the Zoning Map.

(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.

C. Individual lot sizes, densities, setbacks, yards, dimensional requirements, landscaping requirements, parking requirements, height requirements, signage requirements, and other requirements of the underlying base zoning district may be modified if, in the judgment of the Town Plan Commission and Town Board, the proposed project meets the intent of the TCOD as specified in § **320-36A(1)** and the basis of approval as specified in §**320-36G**.

D. Procedure.

(1) Pre-petition conference with staff. Prior to official submittal of the petition for approval of a proposed project or development for the TCOD, the owner or their agent making such petition shall meet with the Town staff and Town consultants to discuss the scope and proposed nature of the contemplated development. All costs for related Town staff and/or consultants for professional services associated with the potential and actual project will be reimbursed to the Town per § **21-16** of the Town Code.

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

(3) TCOD Application. Following the pre-petition conference and concept site plan review, the owner or their agent shall file a petition with the Town Plan Commission for an approval of a TCOD proposal. At the same time, an application shall be made for Site Plan and/or Business Plan of Operation approval in accordance with § 320-126, if applicable. 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 and any other plans or studies, such as the Five Corners Master Plan or applicable Town Center or area plans, deemed relevant by the Town's consulting planner or engineer 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 or phasing which is planned.

(f) A preliminary plat or certified survey map, if required, depicting any proposed land division. If a condominium plat is proposed, the plat shall be submitted as part of the TCOD petition.

(g) A legal description of the boundaries of lands included in the proposed project.

(h) A description of the relationship between the proposed project and the surrounding areas, including all other areas within the boundary of the TCOD, as requested by Town staff.

(i) The location of roads, driveways, parking facilities, sidewalks, trails, bicycle facilities, and related circulation components.

(j) The size, arrangement and location of any individual building sites and proposed building groups on each individual lot.

(k) The location of recreational and open space areas and areas reserved or dedicated for parks, town squares or town plazas, and drainageways.

(l) The type, size and location of all structures.

(m) Specific landscaping treatment, including detailed street cross sections showing roadside landscaping standards.

(n) Architectural plans, elevations and perspective drawings and sketches illustrating the design and character of proposed structures.

(o) The existing and proposed location of sanitary sewer, water supply facilities and stormwater drainage facilities.

(p) The existing and proposed location of all private utilities or other easements.

(q) Characteristics of soils related to contemplated specific uses.

(r) Existing and proposed topography on site with contours at no greater than two-foot intervals.

(s) Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.

(t) If the development is to be staged or constructed in multiple phases, a staging or phasing plan.

(u) Studies, or other documentation, as deemed necessary by the Town to make their decision. The applicant is required to pay for the cost to complete any study or required documentation.

E. Public Hearing. At such time the petition for a TCOD petition is referred to the Plan Commission for its review and recommendation, the Plan Commission shall hold a public hearing on the petition subject to the notice of hearing being sent to following 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 TCOD project 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 TCOD project has been requested. Such notice shall be deposited in the Unites States mail at least ten days prior to the Town Plan Commission meeting at which such request for a planned development is to be considered. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate the public hearing or the granting of a conditional use.

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

F. Plan Commission Action. Following the public hearing, the Plan Commission shall review the petition and make a recommendation to the Town Board. The Plan Commission may recommend 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 TCOD and other plans and studies, such as the Five Corners Master Plan or applicable Town Center or area plans. Plan Commission shall consider the provisions of §**320-36G** in making its recommendation to Town Board.

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 TCOD 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 Town Board 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. Projects that have access onto State and County highways are subject to any superseding jurisdictional requirements.

(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 Plan Commission shall be required and notice thereof shall be given pursuant to the provisions of this section prior to Town Board consideration.

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) Overlay District

§ 320-37 **Intent; planned unit developments (PUD).**

A. Statement of purpose. The planned unit development is an overlay district intended to permit developments that will 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 working to respect the other purpose, intent, and use requirements as set forth in the underlying 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 as a planned unit development upon specific petition under § **320-41** of this chapter, 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.

§ 320-38 **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 Plan or any adopted component thereof, and shall not be contrary to the general welfare and economic prosperity of the community. Developers shall demonstrate consistency with any applicable design standards.

A. Physical requirements. The lot area, width and dimensional requirements of the underlying zoning district may be modified. The development density for proposed residential planned unit development shall be determined on an individual basis but shall not exceed the provisions of this Article. 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.

B. Ownership and recordation. The planned unit development may be considered as one or multiple tracts, lots or parcels, and the legal description be recorded as such with the County Register of Deeds. All Town ordinance requirements for a land division shall be met.

§ 320-39 **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 or private shared driveways 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. Private water and sewer shall be provided unless public water and sewer facilities are available. If public water and sewer facilities are available, they shall be provided to the site.

§ 320-40 **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.

§ 320-41 **Procedural requirements.**
A. Intent. § **320-37** through **320-40** 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 their agent making such petition shall meet with the Town Administrator, planning consultant, and other Town staff and/or consultants such as engineers and legal counsel to discuss the scope and proposed nature of the contemplated

development. All costs for related Town staff and/or consultants for professional services associated with the potential and actual project will be reimbursed to the Town per § **21-16** of the Town Code.

(2) Site plan review. Following the pre-petition conference, the owner or their agent should meet with the Town Administrator, planning consultant, and other Town staff and/or consultants 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. The owner or their agent can then apply for concept plan review before the Plan Commission to obtain informal feedback on the planned unit development before proceeding with a formal application under (3) below.

(3) Petition for approval. Following the pre-petition conference and site plan review, the owner or their agent may file a petition with the Town for approval of a planned unit development. In addition to submitting an application for a planned unit development, the owner or their agent shall submit a Site Plan application in accordance with § **320-126** and comply with the Site Design requirements of § **320-10I**. Such petition shall be accompanied by a review fee as set by the Town Board as well as incorporate the following information as determined by the Town consulting planner or Town engineer:

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

[1] Total area to be included in the planned unit development, indicating if it is residential, commercial, industrial, or mixed use, 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, including whether the area is subject to stormwater management requirements.

[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 and Public Hearing. 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. The Plan Commission shall hold a public hearing on the petition.

(5) 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 unit 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 unit development has been requested. Such notice shall be deposited in the United States mail at least ten days prior to the Town Plan Commission meeting at which such request for a planned unit development is to be considered. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate the public hearing or the granting of a conditional use.

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

(6) Town Board. Following a public hearing and receipt of the Plan Commission's recommendation, the Town Board shall consider action on the petition, including any conditions or restrictions imposed by the Plan Commission.

§ 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 § **320-38** will be met.

(2) That the applicable physical requirements made and provided in § **320-38** will be met.

(3) That the requirements as to public services and facilities made and provided in § **320-39** will be

met.

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 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 zoning 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 held in common ownership by the lot owners of the development or by dedication to the public or non-profit entity for the purpose of preservation. Primary environmental corridors, floodplain, wetland, and steep topography should be incorporated in these open space areas to the greatest extent possible. An open space management plan shall be submitted as part of the petition that identifies the long-term maintenance responsibilities.

(8) Adequate provision has been made to protect the natural environment, including the conservation of natural features, such as primary environmental corridors, floodplain, and wetland, preservation of open space, preservation of natural terrain, and insuring proper drainage.

(9) 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 of the surrounding neighborhood as demonstrated by any traffic impact analysis required by any applicable jurisdiction, if requested, the cost of which is to be paid by the applicant.

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 of the surrounding neighborhood as demonstrated by any traffic impact analysis required by any applicable jurisdiction, if requested, the cost of which is to be paid by the applicant.

(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 as demonstrated by any traffic impact analysis required by any applicable jurisdiction, if requested, the cost of which is to be paid by the applicant.

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 herein 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.

(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 as

demonstrated by any traffic impact analysis required by any applicable jurisdiction, if requested, the cost of which is to be paid by the applicant.

§ 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 applicant shall give satisfactory proof that he has contracted to install all improvements and shall file a letter of credit or performance bond insuring that such site improvements will be installed within the time required by the Town Board. Depending on the type of public improvements proposed, a Developer's Agreement may be required for review and approval 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 schedule a public hearing at a future Plan Commission meeting, and make its recommendation to the Town Board . Town Board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

§ 320-44 **Reserved.**

Article V
Conditional Uses

§ 320-45 **Statement of purpose.**

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 use that is not listed as a principal or accessory use in a given zoning district classification may be permitted as a conditional use in accordance with the provisions of this article if the use is listed as a conditional use within a given zoning classification.

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

A. Town Board. The Town Board may authorize the Town Administrator, Clerk, or their designee, to issue a conditional use permit after review, public hearing and 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.

B. Plan Commission. Prior to recommending the granting of a conditional use permit, the Plan 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 and review the standards as prescribed in § **320-51** of this article to ensure said standards herein prescribed are being complied with.

C. 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 before the Plan Commission makes its recommendation to the Town Board.

D. Conditions may be required. The Plan Commission may recommend 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. These or other conditions may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this chapter. A conditional use permit may be issued so that it continues to apply to new property owners and operators of the property. The new owner and/or operator is required to submit a certificate in writing to the Town Clerk that all conditions of the existing permit will be complied with. Said certificate shall be accepted by the Town Board at a regular monthly meeting prior to the owner and/or operator transfer taking place.

E. 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.**

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 Clerk, or their designee.

B. Additional information. The Town Board, Plan Commission, Town Staff, Town Attorney, consultants, Fire Department, 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, landscaping, and stormwater facilities; and plans of buildings, signs, sewage disposal facilities, water supply systems and arrangements of operations.

C. Other agencies. The applicant shall apply for and obtain approvals from all other necessary regulatory agencies, such as Ozaukee County, State of Wisconsin, and the U.S. Army Corps of Engineers, and file them with the Town Clerk once obtained.

D. 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. The applicant is also responsible for a fee to reimburse the actual cost to the Town of Cedarburg and/or consultants for professional services related to the application per § **21-16** of the Town Code. The applicant is responsible to pay for any studies requested by the Town.

§ 320-49 **Hearing on application.**
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. The hearing shall be conducted and a record of the proceedings shall be preserved.

§ 320-50 **Notice of hearing; Plan Commission report.**

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 The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate the public hearing or the granting of a conditional use.

B. Report of Plan Commission. The Plan Commission shall make an advisory recommendation to the Town Board within 30 days of the public hearing unless extended by the applicant. 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.

C. Evaluation. 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 in order to ensure the standards of approval of §**320-51** are met.

§ 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. It is the responsibility of the applicant to provide substantial evidence, as defined in this ordinance, that these standards have been met.

(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 and the community for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

(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.

(4) Adequate infrastructure. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(5) Ingress and egress and traffic congestion. Adequate measures have been or will be taken to

reduce traffic related impacts to adjacent properties and roadways and to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The Town has the authority to request a Traffic Impact Analysis to determine compliance with this condition, the cost of which is to be paid by the applicant.

(6) Conform to zoning district regulations. The conditional use application shall conform to all applicable regulations of the district in which it is located.

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).

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.

(9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

§ 320-52 **Denial of application.**
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. The Town Board may make a decision to accept the Plan Commission's recommendation or approve the conditional use application. If the Town Board accepts the Plan Commission's recommendation, it shall also provide the decision to the applicant and enumerate the reasons the Town Board used in making its determination, and can be provided in writing if so requested by the applicant.

§ 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 §**320-46D** and § **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.

(8) Operational control.

(9) Hours of operation.

(10) Traffic circulation and impact.

(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) Stormwater.

(20) Any other requirements necessary to fulfill the purpose and intent of this chapter.

B. Architectural treatment. Proposed architectural treatment will be in general consistency with surrounding uses and the landscape. To this end, the Town Board, following a recommendation from Plan Commission, may require the use of certain general types of exterior construction materials and/or architectural treatment.

C. 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.

D. 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.

§ 320-54 **Approval of permit; term.**

A. Approval. The Town Board, upon recommendation of the Plan Commission, may authorize the Town Administrator, Clerk, or their designee such as a consulting planner, 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.

B. Validity. Where the Town Board has approved or conditionally approved an application for a conditional use, such approval shall become null and void 12 months after 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. Approximately 45 days prior to the automatic revocation of such permit, the Clerk, or their designee, shall notify the holder by certified mail of such revocation. The Board, at its discretion, 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. If at the end of the 90-day extension period, and construction has not commenced, the permit shall be automatically be revoked. If construction has failed to commence, the Board shall not extend such permit beyond the 90-day extension period.

C. Recording. Any conditional use permit granted by the Town Board shall not be valid unless recorded in the office of the Ozaukee County Register of Deeds; recording will be completed by the Town. Any recording fees shall be paid by the applicant. In addition, the Town of Cedarburg shall keep a record of all such conditional uses and permits which shall be available to the public.

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. The application standards of this section shall be met.

D. Termination. Where a conditional use does not continue in conformity with the conditions of the original approval, or where it appears that the information shown on the application was not accurate or complete, 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 any cause based upon consideration for the public welfare, the conditional approval may be terminated by action of the Town Board following referral to the Plan Commission for public hearing and recommendation thereon. Following any such hearing, the decision of the Town Board shall be furnished to the current owner and operator of the conditional use in writing stating the reasons for termination. Violations of the terms of a conditional use permit are subject to the penalties as provided in §320-127.

§ 320-55 **Complaints regarding conditional uses.**

The Town Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Upon receipt of a written and signed 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 § **320-51** will be met, the Town Board may revoke the subject conditional approval and direct 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 thereof.

§ 320-56 **Conditional uses permitted**. Conditional uses are permitted as specified in Article III for each zoning district, provided all standards of this article are met, and provided the building, site plan and plan of operation for any such conditional use are approved in accordance with § **320-126**.

A. Accessory buildings in the street yard are permitted as a conditional use in: R-1, R-2, R-3, B-1, E-1, CR-A, CR-B, TR, and TR-2 Districts, provided the criteria of § 320-109 are met.

B. Airfields, airports, airstrips and landing fields are permitted as a conditional use in: A-1, A-2 Districts. These uses shall be located on a property of at least 20 acres. If an airport, airstrip or landing field is proposed in the A-2 Prime Agricultural District, the facility shall be governmentally owned and operated or used for farm-related operations such as crop dusting.

C. Animal hospitals and veterinary services are permitted as a conditional use in: A-1, A-2 Districts. These uses are only allowed on lots five acres or larger in size. All related uses, including structures and outdoor use shall be located at least 200 feet from a residential district.

D. Any single structure that exceeds 30,000 sq. ft. in size are permitted as a conditional use in: B-1, B-2, MU-1, MU-2, MU-3, M-1, I-1 Districts.

E. Banquet facilities are permitted as a conditional use in: B-1 District.

F. Bed-and-breakfast establishments are permitted as a conditional use in: R-1, R-2, R-3, B-1, MU-1, MU-2, MU-3, A-1, A-2, E-1, CR-A, CR-B, TR, TR-2 Districts.

G. Berms are permitted as a conditional use in all Districts.

(1) Berm defined: As used in this section, the term "berm" shall include any mound or wall of soil extending vertically higher than four feet above the natural grade for the lot. A berm is determined as starting at the base where natural grade changes.

(2) Exceptions: This section would not apply to the following:

(a) Temporary topsoil piles on construction sites.

(b) Mound septic systems.

(c) Landscaping areas less than four feet above the natural grade with a slope not exceeding one foot vertical to three feet horizontal.

(d) Berms under four feet above the natural grade.

(3) Permit required. 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.

(4) Plan and application requirements.

(a) Berm plan depicting location, setbacks, property lines, and proposed and existing grade contours. The Plan Commission shall have the authority to recommend the height, location, slope and landscaping of the berm to the Town Board.

(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.

(e) 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.

(f) Name of the person, firm, corporation, or business locating, erecting, moving, reconstructing, extending, enlarging, reducing, converting, or altering the berm.

(g) Written consent of the owner or lessee of the land upon which the berm is located or proposed to be located.

(h) Additional information as may be required by the Town Director of Public Works or the Town Plan Commission.

(5) Criteria.

(a) The limit of 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.

(d) Slope. All berms shall be constructed such that the slope shall not exceed a slope of one foot vertical to three 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.

(e) Drainage. All berm construction shall not impede surface water drainage or disturb existing drain tile systems.

(f) Erosion control. All berm construction shall adhere to Chapter **110**, Construction Site Erosion Control, of this Code where applicable.

(6) Deadline. All berms shall be completed, including all landscaping, within 18 months of the date of issuance of the conditional use permit or a time period otherwise established by the Plan Commission and Town Board. The applicant shall not have the ability to extend the time period under this section. To receive additional time under this section, the Applicant must seek a new

conditional use permit. Prior to modifying the berm plan; if the Town Director of Public Works, in coordination with the Town Engineer, deem modifications substantial to a degree that alters the approved intent of the berm, they may require the applicant to reappear before the Plan Commission and Town Board to approve the modification through a new conditional use permit application.

(7) Maintenance. Maintain all road drainage systems, stormwater drainage systems, best management practices and other facilities identified in the berm plan; and

(8) Town Access. Allow Town personnel or their designee 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.

(9) Inspection. The permittee shall notify the Director of Public Works within two working days of commencing any land development and land disturbing activity, and at the completion of berm construction but prior to planting the berm to allow inspection of the berm. If berm development or berm activities are being carried out without a permit, Town personnel or their designee shall enter the land pursuant to the provisions of § 66.0119, Wis. Stats.

H. Child or adult day care facilities are permitted as a conditional use in: B-1, B-2, MU-1, MU-2, MU-3, I-1 Districts.

I. Commercial horse boarding, riding arenas, and horse event centers are permitted as a conditional use in: A-1, A-2 Districts.

J. Commercial outdoor recreation and entertainment are permitted as a conditional use in: MU-1, MU-2, MU-3 Districts.

K. Commercial raising, propagation, or butchering of animals, such as mink, rabbits, foxes, goats, and pigs; the commercial production of eggs; and the hatching, raising, fattening or butchering of fowl are permitted as a conditional use in: A-1, A-2 Districts. The commercial raising and propagation of dogs is prohibited.

L. Community centers and retirement and senior care facilities are permitted as a conditional use in: MU-1, MU-2, MU-3, I-1 Districts. See **Subsection JJ.** for restrictions related to retirement and senior care facilities. Community centers are allowed as a principal use in the IN District and do not require a conditional use permit.

M. Conservancy and related Conservancy District uses are permitted as a conditional use in: C-1 District. The following uses are allowed as conservancy uses provided all county, state, and federal permits are obtained, if applicable, and shall not involve dumping, filling, cultivation, mineral, soil, or peat removal or any other use that would permanently disturb the natural fauna, flora, watercourses, water regimen or topography, unless approved as part of the conditional use permit:

(1) Water measurement and water control facilities.

(2) Grazing.

(3) Structures accessory to conservancy related uses.

(4) Orchards.

(5) Wild crop harvesting.

(6) New single-family dwelling and residential accessory structures, compatible with nearby residential zoning districts, shall comply with the provisions of the E-1 Estate District.

N. Drive-in theaters and drive-in establishments serving food or beverages for consumption outside the structure are permitted as a conditional use in: B-2, MU-1, MU-2, MU-3 Districts. The drive-in theater screen, parking area, and other related improvements shall be substantially screened on any side abutting a residential district and access is limited to a county, state trunk or U.S. numbered highway. Access shall not be provided directly to any local road.

O. Drive-through banks are permitted as a conditional use in: B-2 District, MU-1, MU-2, MU-3.

P. Drive-through facilities for fast-casual food, casual food, and coffee shops are permitted as a conditional use in: MU-1, MU-2, MU-3. Fast-food restaurants are not allowed.

Q. Emergency shelters are permitted as a conditional use in: P-1 District.

R. Event centers are permitted as a conditional use in: MU-1, MU-2, MU-3 Districts.

S. Funeral homes are permitted as a conditional use in: B-2, MU-1, MU-2, MU-3, M-1 Districts. All principal structures and uses shall be located at least 25 feet from any lot line. Crematoriums within a funeral home are permissible only in the M-1 Industrial District and MU-2 Mixed Use Planned District.

T. Housing for farm laborers and for seasonal and migratory farm workers is permitted as a conditional use in: A-1 and A-2 Districts.

U. Indoor entertainment and recreation facilities, such as bowling alleys and indoor sports simulators, are permitted as a conditional use in: B-2, MU-1, MU-2, MU-3 Districts.

V. The following are allowed in the A-1 and A-2 districts.

(1) Limited nonagricultural commercial activities that meet applicable regulations pertaining to home occupations as specified in § **320-110**, or in the case of utilizing outbuildings, such commercial activities that are low profile in nature, are operated by the owner of the premises, employ no more than two nonresident employees, produce no light or noise, are compatible with the agricultural setting of the area, and are a commercial activity that would not be better suited to be maintained in a traditional commercial setting or business park.

(2) Limited production canning of agricultural crops grown on site or on directly adjoining parcels owned by immediate family members or by one or more business entities controlled by immediate family members, as those terms are defined at Wis. Stats. §§ 97.605(4)(a)1 and 2, for direct sale on site.

(3) Limited processing, limited baking, limited frying and/or limited manufacture of consumable products with off-site ingredients combined with ingredients harvested on site, or on directly adjoining parcels owned by immediate family members, or by one or more business entities controlled by immediate family members, as those terms are defined at Wis. Stats., § 97.605(4)(a)1 and 2, into products for direct sale on site. Processing, baking and/or manufacture of products shall occur in kitchens and equipment meeting Wisconsin Department of Agriculture, Trade and Consumer Protection standards. Direct sale of products shall be limited to seasonal time periods related to the ripeness of the agricultural ingredients.

W. Outdoor storage is permitted as a conditional use in: M-1 District. Outdoor storage as a component of any use, provided there is proper screening in place.

X. Meat and fish markets are permitted as a conditional use in: B-1, B-2, MU-1, MU-2, MU-3 Districts.

Y. Nonmetallic mineral extraction operations. Operations, including washing, crushing or other processing in the M-3 Quarrying District, provided that they were in existence prior to October 5, 1994.

(1) 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.

(2) Reclamation plan. Reclamation plans shall be regulated by Ozaukee County's applicable reclamation ordinance: Chapter XI, Nonmetallic Mining Reclamation, Ch. NR 135, Wis. Adm. Code, and Chapter 295, Wis. Stats.

(3) Validity.

(a) 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.

(b) 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.

Z. Multiple principal structures in accordance with § **320-10B**, unless otherwise approved as part of a Planned Unit Development Overlay District, Town Center Overlay District, or Condominium Plat, are permitted as a conditional use in: B-1, B-2, MU-1, MU-2, MU-3, M-1, I-1 Districts.

AA. New mobile service support structure and substantial modifications that comply with § **320-107** are permitted as a conditional use in: all districts**.**

BB. Pea vineries, creameries, and condenseries are permitted as a conditional use in: A-1, A-2 Districts.

CC. Private ground-mounted solar panels are permitted as a conditional use in: R-1, R-2, R-3, B-1, B-2, MU-1, MU-2, MU-3, M-1, I-1, A-1, A-2, P-1, E-1, CR-A, CR-B, TR, TR-2 Districts.

DD. Public ground-mounted solar panels (I-1District).

EE. Public and private commercial recreational uses such as archery ranges, camping, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, horse-back riding, hunting, ice boating, marinas, polo fields, skating rinks, stadiums, swimming pools, zoological and botanical gardens, and sports fields are permitted as a conditional use in: P-1 District.

FF. Public passenger transportation terminals, such as heliports and bus and rail depots are permitted as a conditional use in: B-2, MU-1, MU-2, MU-3, M-1, I-1 Districts. All principal structures and uses shall be located at least 100 feet from any residential district boundary.

GG. Public utilities. All structures and uses shall be located at least 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 as part of the development approval process. 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 verification, conditional use permit or certificate of compliance.

HH. Public utility transmission and distribution lines, poles and other accessories are permitted as a conditional use in: CR-A, CR-B, TR, TR-2 Districts. 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.

II. Recreational uses. The following public and private recreational facilities shall be conditional uses and may be permitted as specified in the P-1 Park District: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, hiking trails, commercial hunting, ice boating, marinas, music halls, polo fields, public swimming pools, commercial horse riding, academies, skating rinks, stadiums, zoological and botanical gardens provided that the lot area is not less than five acres and all structures are not less than 100 feet from any district boundary.

JJ. Retirement and senior care facilities are permitted as a conditional use in: MU-1, MU-2, MU-3, I-1. These facilities are limited to eight persons per acre unless municipal sewer and water are available and provided. If independent living units are proposed, the units are subject to the density standards of the underlying zoning district. Subject to compliance with the provisions of Wis. Stats. § 62.23(7)(i)3., community living arrangements having a capacity for eight or fewer persons are entitled to locate in any residential zone without a conditional use permit subject to the restrictions and limitations contained in Wis. Stats. § 62.23(7)(i).

KK. Second single-family dwelling units are permitted as a conditional use in: MU-1, A-1, A-2, CR-A, CR-B, and E-1 Districts.

(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 MU-1, 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 quarters with a closet 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 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) Only one second dwelling unit may be allowed per lot. Only one driveway access for the primary dwelling and the second dwelling unit may be allowed from any public road.

(b) 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.

(c) 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.

(d) 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.

(e) All second dwelling units shall be limited to one story and a maximum height of 20 feet, but in no event may it exceed the height of the primary dwelling unit.

(f) All second dwelling units shall have a minimum building wall separation from the primary dwelling unit of 20 feet.

(g) 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 street yard of a lot.

(h) 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 Wisconsin Administrative Code SPS 383, as regulated by Ozaukee County.

(i) Adequate off-street parking shall be available for the second dwelling unit.

(j) Construction of all second dwelling units shall comply with applicable building codes.

(k) 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.

(l) In the event these standards or the applicable terms of a conditional use permit are violated as discovered by the Building Inspector, or the Town is made aware by a written and signed complaint and verified by the Building Inspector, the owner will have 90 days to correct the violation. If the violation is cured within 90 days, the Building Inspector will issue any necessary building permits and occupancy. If the violation is not cured within 90 days, the

property owner will be required to appear before the Plan Commission for a recommendation on potential revocation of the conditional use permit, and the Town Board will take final action on a potential revocation of the conditional use permit.

(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 with the Ozaukee County Register of Deeds, 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.

LL. Shared neighborhood amenities such as emergency shelters, parks, paths, pools, playgrounds, and private clubhouse type structures reviewed and approved as part of a land division, unless otherwise approved as part of a Planned Unit Development or Condominium Plat, are permitted as a conditional use in: R-1, R-2, R-3, E-1, CR-A, CR-B, TR, TR-2 Districts.

MM. Woodworking is permitted as a conditional use in: B-2 District. Woodworking is limited to operations that have no requirement or installation of outside dust collecting equipment.

NN. Micro-breweries and micro-distilleries are permitted as a conditional use in: MU-1, MU-2, MU-3, and M-1 districts.

OO. Breweries and distilleries are permitted as a conditional use in the M-1 district.

Article VI
Nonconforming Uses, Structures and Lots

§ 320-57 **Reserved.**
§ 320-58 **Reserved.**
§ 320-59 **Reserved.**
§ 320-60 **Reserved.**
§ 320-61 **Reserved.**
§ 320-62 **Reserved.**
§ 320-63 **Reserved.**

§ 320-64 **Regulation of legal nonconforming use of structure and lands.** The nonconforming use of a structure, building, or premises 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, provided all of the following standards are met: and the alteration of, or addition to, or repair shall not exceed 50% of its equalized assessed value of any non-shoreland existing building, premises, structure, or fixture for the purpose of carrying on a nonconforming use. Any structure located within the shoreland jurisdictional area, as determined by Ozaukee County, is subject to the regulations of Ozaukee County for nonconforming uses.

A. No such legal nonconforming use shall be expanded or enlarged. Once a legal nonconforming use has been reduced, it cannot be expanded again to its prior form.

B. No legal nonconforming use of a lot, premise, or site shall be moved in whole or in part to any other portion of the lot, premise, or site and/or structure than was occupied upon the effective date of this section.

C. A structure with a legal nonconforming use shall not be reconstructed or relocated, except as stated in § **320-65.B(1)**. Any vertical or lateral expansion shall obtain Town Board approval, following a recommendation from the Town Plan Commission, and shall be limited in size to accomplish one or more of the following and subject to the expansion complying with all other standards of this ordinance:

(1) The expansion is limited and necessary to comply with applicable state and federal requirements.

(2) The expansion is limited to improving the exterior façade of the structure or to accommodate additional mechanical equipment required for the operation. No other structural improvement shall result in the structure occupying a greater area of the lot or site area.

D. A legal nonconforming use that is operating with an existing conditional use permit may continue to operate in accordance with the provisions of the conditional use permit. Any expansion or change in the use shall require the applicant or holder of the conditional use permit and the property owner to apply for and receive approval of a new conditional use permit in accordance with the provisions of Article **V**.

E. A legal nonconforming use may be documented at the request of an applicant as part of a legal nonconforming use conditional use permit in accordance with the provisions of Article V.

F. Discontinued use.

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

(2) The property owner has the burden of proving that the nonconforming use has been continuously maintained over time. Potential forms of documentation include but are not limited to utility bills, tax records, business licenses, listing in telephone or business directories, advertisements in dated publications, permits, insurance policies, photographs, leases, dated aerial photographs, or land use and development inventories prepared by a government agency.

§ 320-65 **Legal nonconforming structures which contain a permitted use.**

A. A legal nonconforming structure may be repaired, maintained, renovated, remodeled, or reconstructed within the same three-dimensional envelope without limitation based on cost. No person shall relocate or vertically or laterally expand such structure except in conformity with the regulations of this chapter, as allowed by state law, or as specified in this section.

(1) Vertical and lateral expansions to a legal nonconforming structure are permitted if the vertical and lateral expansion complies with the regulations of this chapter, including dimensional and area regulations.

(2) Vertical and lateral expansions to a legal nonconforming structure may be permitted if the vertical and lateral expansion do not comply with the dimensional or area regulations of this chapter only if the expansion does not increase the nonconformity of the structure and is approved by the Town Board, following a recommendation from the Town Plan Commission as part of a Site Plan Approval in accordance with §**320-126**. The vertical and lateral expansion shall not extend any closer to a lot line than the existing legal nonconforming structure if the structure is nonconforming to that lot line.

B. Nonconforming structures, or structures with a nonconforming use, that are damaged or destroyed

may be restored if the structure will be restored to the size, unless an increase in size is required to comply with applicable state or federal requirements, location, and use that it had immediately before the damage or destruction occurred, with no limit on the costs of the repair, reconstruction, or improvement if all of the following apply:

(1) The use of the building or structure which is nonconforming was not discontinued for a period of 12 months or more; and

(2) The damage or destruction was caused by a natural event, including but not limited to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

C. Permit and Fee Requirements. An application fee and a fee to reimburse the actual cost to the Town of Cedarburg and/or consultants for professional services per §Section 21-16 of the Town Code related to the application shall be paid as set in the Town Fee Schedule. All appropriate building permits shall be obtained from the Building Inspector prior to commencement of the addition and/or enlargement.

§ 320-66 **Floodland nonconforming uses and structures.**
Any use or structure located within a regulated floodplain shall comply with any and all Ozaukee County Floodplain Ordinance regulations, regulated and enforced by Ozaukee County.

§ 320-67 **Wetland nonconforming uses.**
The repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure in the C-1 Conservancy District shall comply with the standards of §**320-65(A)** and be subject to approval by the Town Board, following a recommendation from the Town Plan Commission as part of a Site Plan Approval in accordance with §**320-126**, and all other county, state, and federal regulatory agencies.

§ 320-68 **Legal nonconforming substandard lots.**
The following provisions apply to existing legal lots recorded as such in the Register of Deeds of Ozaukee County before the effective date of the Zoning Code of the Town.

A. The size and shape of a legal nonconforming substandard lot shall not be altered in any way which would increase the degree of nonconformity to the applicable district regulations.

B. Any site or building development of a legal nonconforming substandard lot shall comply with the regulations of the district in which they are located.

§320-69 **Reserved.**

Article VII
Traffic Visibility, Loading, Parking and Access

§ 320-70 **Traffic visibility.**
Statement of Purpose. The purpose of this section is to alleviate or prevent congestion of public and private rights-of-way so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of vehicular visibility. The requirements of this section shall apply to all new developments.

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

Use	Floor Area (square feet)	Loading Space
	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. Applicable new developments and/or new structures shall also comply with the loading design standards as set forth in § **320-10I** of this chapter.

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.

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 an individual lot provided that the following conditions are fulfilled:

(1) Each 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 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.

§ 320-72 **Parking requirements.**
Statement of Purpose: The purpose of this section is to alleviate or prevent congestion of public rights-of-way so as to promote the safety and general welfare of the public by establishing minimum standards for the provision of off-street parking.

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, as part of a Site Plan application in accordance with § **320-126**. 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. Except for single family and two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway that is wide enough and designed to provide a safe and efficient means of vehicular access to the parking space without directly backing or maneuvering a vehicle onto a public street. All off-street parking and traffic circulation areas shall be designed in a manner which least interferes with traffic movements including access openings and associated paved aprons, which shall comply with the same standards as § **279-6**.

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 to require any vehicle to back into a public street. Screening of parking adjacent to residential uses shall be approved by the Town Board with a recommendation from the Plan Commission as part of overall development or Site Plan application review. Applicable developments shall also comply with the parking design standards as set forth in § **320-10I** of this chapter.

C. Location.

(1) Off-street parking is permitted in all yards of all districts except in the street yards of single-family residence districts and as specified in **§ 320-10I**. 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 street yard in the driveway and within 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 business, industrial, institutional, and mixed use districts but shall not be closer than 15 feet to any public right-of-way and shall comply with the standards of § **320-10I**.

D. Surfacing. All new and expanded off-street parking areas for more than 10 vehicles shall be surfaced with 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 if paved with

asphalt or concrete. Compacted stone or gravel may be used with the approval of the Town Board and would not require marked parking spaces due to the type of surface.

E. Landscaping.

(1) All public and private off-street nonresidential parking areas are regulated by § **320-10I**. Such parking areas are not required to follow the standards if the work is maintenance or resurfacing and does not expand the parking area.

(2) Location and management. The Town Board, following a recommendation by the Plan Commission, as part of the Site Plan application shall review and approve the location of landscape areas, plant materials and methods used to protect the landscape areas, including curbing and provision for maintenance by the property owner.

(3) Plans. All plans for such proposed parking areas, at the discretion of the Plan Commission and 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.

(4) Special residential requirements. Adjacent residential properties shall be screened with dense landscaping such as tree plantings, shrubs, garden walls, hedges, fences and berms. Trees shall be at least two-inch caliper and four feet tall at planting, and shrubs at least three feet tall at planting. Screening shall be approved by the Town Board with a recommendation from the Plan Commission. If a solid fence is not proposed, parking shall be no closer than 20 ft. from the lot line adjoining the residential use.

F. 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.

G. 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.

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

I. 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, multifamily	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	1 stall for each guest room plus 1 stall for each 3

Use	Minimum Parking Required
	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)	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

J. 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.

K. 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.

L. 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.

M. Changes in buildings or use. Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

N. Off-lot parking.

(1) Required off-street parking spaces for nonresidential districts 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 a nonresidential 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.

O. Adjustments to required parking.

(1) Purpose. The purpose of this subsection **O** 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 and Town Board may reduce the minimum number of required off-street parking spaces in specific cases as described in this subsection.

(2) Adjustments. In all 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 applicant for such an adjustment shall show to the satisfaction of the Plan Commission and Town Board 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 applicant shall submit written documentation and data to the satisfaction of the Plan Commission and Town Board that the operation will require less parking than the Zoning Code requires.

(b) Availability of shared parking. The applicant shall submit written documentation to the satisfaction of the Plan Commission and Town Board 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 applicant shall submit written verification that such parking is available and shall include copies of any contracts, joint lease agreements, purchase agreements, and other such 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 and Town Board that effective alternative transportation to the automobile will occur, the Plan Commission and Town Board may reduce parking requirements. Alternative transportation may include, but is not limited to, bus transit, van pool operations, carpool/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 carpools/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.

§ 320-75 **Storage and parking of recreational vehicles.**

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.

B. Permitted parking or storage of recreational vehicles. In all residential, agricultural 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 only if a residence exists on the property, unless the property is zoned commercial and there is a permitted principal structure on the property, and in the following

manner:

(1) Parking is permitted inside any enclosed structure, as well as seasonal tent sheds, 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 closer 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 door.

(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 **Reserved.**

Article VIII
Signs

§ 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. Applicable new developments and/or new structures shall also comply with the sign design standards as set forth in § **320-10I** of this chapter.

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) Complementary 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.

§ 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.

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 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, event 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, structures and property lines.

(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. The Building Inspector 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 the Building Inspector's 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 their denial.

(b) If the proposed sign complies with all dimensional and location 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, they 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 make a recommendation with or without modifications to the Town Board, who will take final action to approve 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, they 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 that require Plan Commission review and Town Board approval.

(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 Clerk or Deputy Clerk on behalf of 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. The applicant shall be responsible to pay a fee equal to the actual cost to the Town and/or consultants for related professional services per §Section **21-16** of the Town Code.

§ 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 Town 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. This does not apply to advertising vehicles as specified in § **320-88D**.

C. Signs which are attached or otherwise affixed to rocks, trees, or other living vegetation.

D. Signs which imitate, interfere with, obstruct the view of, or can be confused with any official traffic control sign, signal, or other device.

E. Flashing or rotating signs, message crawl signs, signs containing moving parts, and signs containing reflective elements which sparkle or twinkle in the sunlight.

F. Banners, pennants, streamers, balloons, and other gas-filled figures, except as may be provided for in other provisions of this article.

G. Billboards and off-premises signs, except Town Board-approved temporary off-premises signs to identify businesses during road construction, off-premises seasonal signs pursuant to § **320-88D, and** temporary off-premises signs pursuant to § **320-88F**. Official Town bulletin boards are also allowed off premises.

H. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises.

I. 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 Recreation Committee, if the sign is proposed to be located within a Town-owned park or preserve.

J. Projecting signs that are not at least eight feet above a pedestrian walkway or 15 feet above a driveway.

K. Portable and wheeled signs.

L. Signs or other advertising painted directly on walls unless specifically approved by the Town Board, following a recommendation from the Plan Commission.

M. Inflatable signs and tethered balloons.

N. 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.

O. 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.

P. 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.

Q. A sign extending above the top or 10 inches beyond the side of the exterior wall to which such sign is attached.

R. Signs and associated lighting fixtures which project more than 10 inches from the exterior wall to which they are attached.

S. Signs entirely supported by a parapet wall.

T. Signs, cards, 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.

U. Outdoor advertising, 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 non-advertising signs as may be erected for the public safety.

(6) One sign not to exceed 20 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.

(13) Banners and signs placed on Town-owned property are limited to Town programming, program sponsors, and Fire Department events. These banners and signs are exempt from permit fees.

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 multifamily residential zoned areas, temporary "For Sale" real estate signs shall not exceed 32 square feet in gross surface area, and temporary "For Lease" or "For Rent" real estate signs shall not exceed 20 square feet in gross surface area. Exception: Where vacant land in business and multifamily residential zoned areas is for lease or for rent, a freestanding real estate sign, not exceeding 32 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 outside of the road right-of-way. Temporary "For Lease" or "For Rent" real estate signs for business shall be attractively designed and located on or within 20 feet of the existing business's freestanding sign . 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 Director of Public Works may waive and/or modify location requirements in writing if such requirements would result in a visual hindrance due to existing vegetation on a Town road in relation to Town road right-of-way.

[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 a modified 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 the base of the sign to the highest point on the sign or supporting structure. 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 the base of the sign to the highest point on the sign or supporting structure.

(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. Exterior 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 Board following a recommendation of the 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 ground-mounted freestanding signs, a landscape plan must also be submitted when the sign permit application is submittal to the Building Inspector.

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 unless otherwise specified in this article.

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 their 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 the base of the sign to the highest point on the sign or supporting structure.

(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 the base of the sign to and the highest point on the sign or supporting structure.

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 exceed six feet as measured from the base of the sign to the highest point on the sign or supporting structure.

(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 neon signs 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 Town Board approval, following a recommendation from the Plan Commission.

(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) Digital electronic signs. Digital electronic message signs are permitted in any business zoning district, or government, institutional or religious use in any zoning district, as follows

(a) The maximum size shall be 32 square feet per face.

(b) Messages other than time and/or temperature can change once per day.

(c) Animation, flashing, or scrolling is prohibited; only one color is allowed.

(d) Digital electronic signs shall be part of a permanent sign, and its area shall be included in the calculation of the maximum allowable permanent sign size.

(e) Digital electronic signs shall be limited to one per site.

(f) Digital electronic signs indicating the current time and/or temperature are allowed to change once every 30 seconds.

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 exceed six feet as measured from the base of the sign to the highest point on the sign or supporting structure.

(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 exceed six feet as measured from the base of the sign to the highest point on the sign or supporting structure.

(e) Temporary signs and banners shall be attached to ground posts. These signs are limited to 48 square feet. 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. Temporary signs and banners may not be displayed for more than 30 consecutive days and shall be limited to no more than four events per year. There may be no more than one temporary sign or banner erected per property at one time unless the property is located on a corner lot or has multiple road frontages. In those instances, one temporary sign or banner for each side of the property abutting the road may be permitted.

D. Seasonal sign. "Seasonal sign" shall be defined as any sign meeting the criteria below and referring to agricultural activities. Seasonal signs may be on-premises or off-premises directional signs for the purpose of announcement of an agricultural seasonal event and may be permitted for a limited period of time in any district in accordance with § **320-80** of this article and subject to the following:

(1) A sign permit application shall be submitted to the Building Inspector, showing the specific design, appearance and location of the sign and meeting other application criteria as stated in § **320-80**. The Building Inspector may require the application shall be reviewed by the Town Board upon recommendation of the Plan Commission based upon the character of the area, the type and purpose of sign and the length of time permitted.

(2) Where the sign is to be located on the premises involved, such sign may be permitted for a period up to six months.

(3) Where the sign is not to be located on the premises involved, such sign may be permitted for a period not to exceed four months. If an off-premises sign is sought to be located on a permanent basis, such applications require Town Board approval following a recommendation from the Plan Commission.

(4) In no case shall seasonal signs be greater than four feet in height above road level or greater than 24 square feet.

(5) Seasonal signs shall not be posted on any signs or posts owned by any government entity or utility.

(6) Seasonal signs shall be located off of the Town public right-of-way. Signs classified as a public

nuisance or a threat to public safety by the Building Inspector or Director of Public Works shall be removed as required under § **320-91** of this article.

(7) Seasonal advertising vehicles shall be defined as signs placed on or affixed to farm implements which are parked on private property where the apparent purpose is to advertise a seasonal agricultural product or direct people to a seasonal agricultural business or activity. Vehicles with signage advertising activities other than seasonal agricultural activities are regulated under § **320-83**.

E. A-frame, sandwich board, sidewalk, or curb signs. For the sake of this section, "sandwich board" shall refer to a portable hinged or unhinged A-frame, sandwich board, sidewalk or curb sign. These signs shall be subject to the following criteria below:

(1) A sign permit application shall be submitted to the Building Inspector for approval, showing the specific design, appearance, materials and location of the sandwich board sign and meeting other application criteria as stated in § **320-80**. The Building Inspector may require the application be reviewed by the Town Board upon recommendation of the Plan Commission based upon the character of the area, the type and purpose of the sign.

(2) The sandwich board sign is to be permitted for an indefinite period, so long as a near original appearance is maintained.

(3) The colors, materials and lighting of every sandwich board sign shall be restrained and harmonious with the structure and site to which it principally relates.

(4) In no case shall sandwich board signs be greater than four feet in height or greater than eight square feet.

(5) Sandwich board signs shall be located off of the Town public right-of-way. Such signs classified as a public nuisance or a threat to public safety by the Building Inspector or other public official shall be removed as required under § **320-91** of this article.

(6) Sandwich boards must be displayed within 125 feet of a doorway. Under no circumstance should such sign be placed on a public pathway, on a corner in such a way as to impede or interfere with pedestrians crossing the street, or in a space designated for parking.

(7) A sandwich board sign can only be displayed during the business hours of the entity it represents, or until dusk, whichever is earlier.

(8) All sandwich board signs shall be constructed of such a material and posted so as to remain in place under all weather conditions which are reasonably likely to occur during the time which the sign is posted. The following materials are prohibited: paper, reflective materials, or cork board.

(9) Sandwich board signs shall be used to display prices, descriptions or business-related messages in relation to the goods or services provided by said business.

(10) If a business chooses to have a temporary sign or banner, they cannot have their sandwich board sign up during the duration of their usage of the temporary sign or banner. Both signs cannot be up at the same time. Once the temporary sign or banner is down, the sandwich board sign can be put back up.

(11) Sandwich board signs can only be placed within the linear building frontage of the business or entity it represents and can only advertise that business.

(12) Sandwich board signs must have identifiable information including the name, address and

telephone number of the business advertised permanently inscribed or attached to the inside of the sign.

F. Grand opening banners, signs, and other banners, and temporary off-premises signs other than those addressed by Sec. 320-88 D. The following signs are allowed for business uses only, unless otherwise specified.

(a) Grand opening banners and signs. One grand opening banner or sign not exceeding 48 square feet may be displayed for a maximum of 60 days.

(b) Horizontal banners. A horizontal banner may be allowed subject to the following:

[1] Banner size is limited to 48 square feet maximum.

[2] Banners may not be displayed for more than 30 consecutive days.

[3] There may be no more than one horizontal banner erected per property at one time unless the property is located on a corner lot or the lot has multiple road frontages. In this case, one horizontal banner for each side of the property abutting the road will be permitted, with size limits as described in subsection **F(b)(1)**.

[4] The owner of property displaying any banner shall be required to properly maintain the appearance of all parts and supports of the sign as directed by the Town. In the event that the banner is not properly maintained, it is subject to removal as provided in § **320-91B**.

(c) Feather banners. Feather banners may be allowed subject to the following:

[1] Feather banner size is limited to 30 square feet each.

[2] The number of feather banners is limited to no more than one feather banner per business located on the property.

[3] Feather banners may be placed up to the property line subject to meeting setback requirements with other applicable jurisdictions.

§ 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 or need for a new sign face due to its condition 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 Town Board approval, following a recommendation from the Plan Commission.

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 Town Board upon recommendation from 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. Business logos or symbols may be allowed but shall be included in the total sign calculation.

(3) Sign content. 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. 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 Building Inspector or Constable, 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 30 days after written notification from the Town Attorney the sign owner fails to comply with such notice the Town Building Inspector of Constable 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 30 days of notice to the owner by the Town Building Inspector or Constable. In the event that the owner of such sign is not issued a proper permit or fails to remove said sign, the Town Building Inspector or Constable 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 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.

(3) In the event that the owner of an illegal sign cannot be ascertained by the Town, then notice as indicated in subsection **B(1)** 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 30 days of notice from the Town Attorney, then such sign may be removed by the Town Building Inspector or Constable. 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 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.

(4) If a permit is denied, the Town shall issue a 30 day removal notice. If the sign is not removed within the 30 day period, the sign may be removed by the Town of Cedarburg Building Inspector or Constable. 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 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.

(5) The cost of removing any signs located in the Town road right-of-way at the time the road is widened shall be paid by the sign owner.

§ 320-92 **Exemptions.**
The Town Board may, in its judgment, grant an exemption 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 exemption may be based on, among other things, site-specific hardships such as topographic aberrations, visual encumbrances, or to ensure aesthetic quality, such as proportionate and adequate wayfinding signage.

§ 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 Attorney, upon direction of the Town Board, 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. No activity 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

B. 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 shall emit vibrations which are discernible without instruments outside its premises.

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 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 their 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. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code. 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, business or industrial lot and at least 25 feet from any property line. Placement of a satellite dish in a business or industrial district shall be addressed during the applicable development approval process.

(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 under Sec. 320-102 E. For corner lots, a side yard is only a yard that does not face a public street.

(c) No dish shall be placed in the street 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. Exceptions for Satellite Earth Stations. Requests for exceptions from the standards established by this section for Satellite Earth Stations may be made to the Plan Commission pursuant to § **320-126** 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. The Town Board determines if a violation exists, and if so, they shall direct the Town Attorney regarding enforcement action.

(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 **Wind energy systems.**

A. Statement of purpose. The purpose of this ordinance is to provide a regulatory scheme for the construction and operation of wind energy systems in the Town of Cedarburg, Ozaukee County, Wisconsin. This ordinance is adopted pursuant to § 66.0401, Wis. Stats., and Ch. PSC 128, Wis. Adm. Code, and pursuant to the Town's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

B. State Requirements. Section 66.0401 of the Wisconsin Statutes and Chapter PSC 128 of the Wisconsin Administrative Code are adopted and incorporated by reference, including but not limited to the owner requirements specified in Chapter PSC 128.

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

SMALL WIND ENERGY SYSTEM

A wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

WIND ENERGY SYSTEM

Has the meaning given in § 66.0403(1)(m), Wis. Stats., and is used to convert wind energy to electrical energy.

OTHER DEFINITIONS

The remaining definitions set forth in § PSC 128.01, Wis. Adm. Code, are incorporated by reference as though fully set forth herein.

D. Permit required. No wind energy system shall be installed, constructed or expanded in the Town without a wind energy system permit granted pursuant to this ordinance. Wind energy systems shall be reviewed and approved as a conditional use.

E. Application. Every application for a wind energy system permit shall be made in writing accompanied by the fees as set by the Town Board. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § 21-16 of the Town Code. The application shall include the following information:

(1) Wind energy system description and maps showing the locations of all proposed wind energy facilities.

(2) Technical description of wind turbines and wind turbine sites.

(3) Timeline and process for constructing the wind energy system.

(4) Information regarding anticipated impact of the wind energy system on local infrastructure.

(5) Information regarding noise anticipated to be attributable to the wind energy system including options considered to eliminate noise, GIS maps showing noise levels surrounding wind turbines, computer modeling of noise impacts, information on ground absorption coefficients used to model noise, measures used to address low frequency noise and infrasound, and any other information necessary for the Town to assess noise impacts.

(6) Information regarding shadow flicker anticipated to be attributable to the wind energy system including alternate turbine locations considered by the applicant that would eliminate shadow flicker, GIS maps showing shadow flicker zones for each turbine, shadow flicker computer monitoring results, and any other information necessary for the Town to assess shadow flicker impacts.

(7) Information regarding the anticipated effects of the wind energy system on existing land uses within 0.5 mile of the wind energy system.

(8) Information regarding the anticipated effects of the wind energy system on airports and air space.

(9) Information regarding the anticipated effects of the wind energy system on line-of-sight communications.

(10) A list of all state and federal permits required to construct and operate the wind energy system, copies of all correspondence with state and federal agencies, statements as to whether each permit has been approved or denied, and, for those permits that have not yet been obtained, the anticipated timeline for obtaining the permit.

(11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and decommissioning of the wind energy system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.

(12) A copy of all emergency plans developed in collaboration with appropriate first responders under § PSC 128.18(4)(b), Wis. Adm. Code. An owner may file plans using confidential filing procedures as necessary.

(13) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with § PSC 128.19, Wis. Adm. Code.

(14) A representative copy of all notices issued under §§ PSC 128.105(1)(a) and 128.42(1), Wis. Adm. Code.

(15) Certification that the preapplication notice requirements of § PSC 128.105(1), Wis. Adm. Code, were met, including a list of all landowners who received pre-application notices under § PSC 128.105(1)(a), Wis. Adm. Code, and the date that the landowners were provided pre-application notices. The application shall also include the names and addresses of residents and property owners located within one mile of the proposed location.

(16) Information regarding any additional turbines that may be added to the project in the future.

(17) Copies of all correspondence to or from Town residents.

(18) Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.

F. Accuracy of information. The owner shall certify that the information contained in an application is accurate. The Town may reject or deny the application if it contains false, misleading, or inaccurate information.

G. Duplicate copies. The applicant shall file an original and three hard copies of the application with the Town. An electronic copy shall also be supplied. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

H. Notice to property owners and residents.

(1) On the same day an owner files an application for a wind energy system, the owner shall, under § 66.0401(4)(a)3., Wis. Stats., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy of the written notice shall be provided to the Town. The notification shall include all of the following:

(a) A complete description of the wind energy system, including the number and size of the wind turbines.

(b) A map showing the locations of all proposed wind energy system facilities.

(c) The proposed timeline for construction and operation of the wind energy system.

(d) Locations where the application is available for public review.

(e) Owner contact information.

(2) After the Town receives an application for a wind energy system, the Town shall publish the notice required by § 66.0401(4)(a)(1), Wis. Stats., which shall include a brief description of the proposed wind energy system and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

I. Public participation.

(1) The Town shall make a copy of an application for a wind energy system available for public review at a local library and at the Town Hall or location where the Town maintains records for public access, and it may make an application available on the Town website.

(2) The Town shall accept written public comments on an application for a wind energy system filed with the Town Clerk and shall make them part of the record at the public hearing held pursuant to subsection L.

(3) The Town shall hold at least one public meeting to obtain comments on and to inform the public about a proposed wind energy system.

J. Joint application review process. If a wind energy system is proposed to be located in the Town and at least one other municipality with jurisdiction over the wind energy system, the Town may participate in the joint application review process set forth in § PSC 128.30(7), Wis. Adm. Code.

K. Application completeness.

(1) Complete applications.

(a) An application is complete if it meets the filing requirements set by this ordinance and § PSC 128.50(1), Wis. Adm. Code.

(b) The Town consulting planner or their designee shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies the Town in writing that all the application materials have been filed. If the Town determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.

(c) The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that an owner may refile an application. For incomplete applications, the owner shall provide additional information as specified in the notice under subsection **(1)(b)**.

(d) An additional forty-five-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice under subsection **(1)(b)**.

(e) If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.

(2) Requests for additional information. The Town may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.

L. Owner requirements. Pursuant to § PSC 128.10(1), Wis. Adm. Code, the Town incorporates by

reference all owner requirements set forth in Subchapter II of Ch. § PSC 128, Wis. Adm. Code, (and all subsequent amendments thereto) to their fullest extent. (For example all permissive provisions are mandatory and all quantifiable standards are adopted in their most stringent form.)

M. Review Process.

(1) The Town Board shall have 90 days from the date that the Town consulting planner or their designee notifies the owner that the application is complete in which to recommend to approve or disapprove the application, unless the time is extended in accordance with § 66.0401(4)(e) of the Wisconsin Statutes.

(2) The Plan Commission shall hold a public hearing on the proposed wind energy system in accordance with Article V Conditional Uses.

(3) Following the public hearing, the Town Board shall consider Plan Commission's recommendation and shall issue a written decision to grant or deny a conditional use permit for a wind energy system and any conditions of approval as outlined in subsection **N** below.

N. Written decision.

(1) The Town shall issue a written decision to grant or deny an application. The written decision shall include findings of fact, supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. The Town shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Town approves an application for a wind energy system, the Town shall provide the owner with a duplicate original of the decision. If an application is approved, the Town will issue a written permit with conditions.

(2) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Ozaukee County, Wisconsin.

(3) The Town shall keep a complete written record of its decision-making relating to an application for a wind energy system. The record of a decision shall include all of the following:

(a) The approved application and all additions or amendments to the application.

(b) A representative copy of all notices issued under §§ PSC 128.105(1)(a), 128.30(5) and 128.42(1), Wis. Adm. Code.

(c) A copy of any notice or correspondence that the Town issues related to the application.

(d) A record of any public meeting under § PSC 128.30(6)(c), Wis. Adm. Code, and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.

(e) Copies of any correspondence or evidentiary material that the Town considered in relation to the application, including copies of all written public comments filed under § PSC 128.30(6)(b), Wis. Adm. Code.

(f) Minutes of any Town Board or commission meetings held to consider or act on the application.

(g) A copy of the written decision under § PSC 128.32(3)(a), Wis. Adm. Code.

(h) Other materials that the Town prepared to document its decision-making process.

(i) A copy of any Town ordinance cited in or applicable to the decision.

(4) If the Town denies an application, the Town shall keep the record for at least seven years following the year in which it issues the decision.

(5) If the Town approves an application, the Town shall keep the record for at least seven years after the year in which the wind energy system is decommissioned.

(6) The Town may deny without a hearing an application for approval of a wind energy system with a nominal capacity of at least one megawatt if the proposed site of the wind energy system is in an area primarily designed for future residential or commercial development as shown on a map adopted as part of the Town's comprehensive plan or on such maps adopted by the Town under § 66.1001(2)(i), Wis. Stats.

O. Effect of ownership change on approval. Approval of a wind energy system remains in effect if there is a change in ownership of the wind energy system. However, a wind energy system owner must provide notice within 30 days to the Town of any change of ownership of the wind energy system.

P. Fees.

(1) The applicant shall deposit an application fee of $15,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of professional services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be billed against the deposit throughout the application process. The applicant shall maintain a minimum of $5,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below $5,000, the applicant shall deposit additional money to bring the account balance to $10,000 within five business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

(2) The Town's fee or reimbursement requirement under subsection **P(1)** is based on the actual and necessary cost of the review and processing of the wind energy system application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

Q. Additional requirements. The Town requires the following as conditions for approval of an application to construct a wind energy system:

(1) Information. The owner shall inform the Town in writing whether the owner has consulted with and received any nonbinding recommendations for constructing, operating or decommissioning the wind energy system from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the wind energy system.

(2) Studies. The owner shall cooperate with any study of the effects of wind energy system coordinated by a state agency. The applicant is responsible to pay for any studies requested by the Town.

(3) Monetary compensation. The owner of a wind energy system shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be $600. For two

turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be $800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be $1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in the year 2014. For agreements entered into in the year of 2015 and thereafter, the initial annual amounts shall increase each year by the greater of 2% or the increase in the Consumer Price Index, as described in § 196.374(5)(bm)2.b., Wis. Stats., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under § PSC 128, Wis. Adm. Code, and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under § PSC 128, Wis. Adm. Code.

(4) Aerial spraying. The owner of a wind energy system shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:

(a) Substantial evidence of a history, before the wind energy system owner gives notice under § PSC 128.105(1), Wis. Adm. Code, of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, sweet corn or other crops on all or part of a farm field located within 0.5 mile of a constructed wind turbine.

(b) A material reduction in potato, pea, snap bean, sweet corn or other crop production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

(5) Permits. The owner shall submit to the Town copies of all necessary county, state, and federal permits and approvals.

(6) Annual reports. The owner shall file an annual report with the Town's consultants and Town Clerk documenting the operation and maintenance of the wind energy system during the previous calendar year. The annual report must be filed on or before the anniversary date of the issuance of the owner's permit.

(7) Emergency Training. An owner of a wind energy system shall provide annual training for any fire, police, or other first responder identified in the owner's emergency plans. An owner shall provide at least eight hours of training during each calendar year and is responsible for all direct training costs.

(8) Financial Responsibility.

(a) An owner with a nameplate capacity of one megawatt or larger shall provide the Town with financial assurance of the owner's ability to pay the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities throughout the expected life of the wind energy system and through to completion of the decommissioning activities.

(b) An owner shall provide the Town with three estimates of the actual and necessary cost to decommission the wind energy system. The cost estimates shall be prepared by third parties agreeable to the owner and the Town. The amount of financial assurance required by the Town will be the average of the three estimates.

(c) An owner shall establish financial assurance that is acceptable to the Town and that places the Town in a secured position. The financial assurance must provide that the secured funds may only be used for decommissioning the wind energy system until such time as the Town determines that the wind energy system has been decommissioned, as provided for in PSC

128.19(5)(b), or the Town approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Town may access the funds for the purpose of decommissioning the wind energy system if the owner does not decommission the system when decommissioning is required.

(d) The Town may periodically request information from the owner regarding industry costs for decommissioning the wind energy system. If the Town finds that the future anticipated cost to decommission the wind energy system is at least 10 percent more or less than the amount of financial assurance provided under this section, the Town may correspondingly increase or decrease the amount of financial assurance required.

(e) The Town may require an owner to submit a substitute financial insurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.

R. Post-construction filing requirement. Within 90 days of the date a wind energy system commences operation, the owner shall file with the Town an as-built description of the wind energy system, an accurate map of the wind energy system showing the location of all wind energy system facilities, geographic information system information showing the location of all wind energy system facilities and current information identifying the owner of the wind energy system. An owner shall in the filings under this section label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under § PSC 128.18(1)(g), Wis. Adm. Code.

S. Signal Interference.

(1) An owner shall use reasonable efforts to avoid causing interference with commercial and personal communications in use when the wind energy system begins operation to the extent practicable.

(2) An owner shall use reasonable and commercially available technology to mitigate interference with personal communications that were in use when the wind energy system began commercial operations. An owner shall also use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial operations, if the wind energy system is causing the interference and the interference occurs at a location at least one-half mile from a wind turbine.

(3) An owner shall use reasonable and commercially available technology to mitigate interference caused by a wind energy system with commercial communications in use when a wind energy system begins operation.

(4) Before implementing mitigation measures, the owner shall consult with the affected parties regarding the preferred mitigation solution for personal and commercial communications interference problems. Except as provided in the following paragraph **S.(5)**, an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

(5) An owner shall, under protocol established by Section PSC 128.50(2), implement a new technology solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under Section PSC 128.16(2) and (3) and for which the original mitigation solution is only partially effective.

T. Modifications to an approved wind energy system.

(1) Material change.

(a) An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Town, unless the Town automatically approves the material change by taking either of the steps specified in § PSC 128.32(2)(b)1. or 2., Wis. Adm. Code.

(b) An owner shall submit to the Town an application for a material change to an approved wind energy system.

(2) Review limited.

(a) The Town, upon receipt of an application for a material change to a wind energy system may not reopen the merits of the earlier approval but may consider only those issues relevant to the proposed change.

(b) An application for a material change in subject to §§ PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34, Wis. Adm. Code.

(c) An application for a material change shall contain information necessary to understand the material change as determined by the Town.

(d) The Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

U. Monitoring compliance.

(1) Monitoring procedure. The Town may establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy system facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this ordinance. The owner shall cooperate with the Town during its monitoring.

(2) Third-party inspector during construction. The Town may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Town regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

V. Notice of complaint process.

(1) Notice of process for making complaints. Before construction of a wind energy system begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any wind energy system facility. An owner shall include in the notice the requirements under § PSC 128.40(1), Wis. Adm. Code, for submitting a complaint to the owner, a petition for review to the Town, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.

(2) Notice to Town. An owner shall provide a copy of the notice provided under subsection **(1)** to the Town, and the owner shall keep the contact person and telephone number current and on file with the Town.

W. Small wind energy systems.

(1) All of the provisions of this ordinance apply to small wind energy systems except for provisions adopted under the following subsections of Ch. PSC 128, Wis. Adm. Code, §§ 128.14(4)(d), 128.15(1)(c), (3)(b) to (e), and (5), 128.16(2) to (4), 128.18(1)(g), (2)(b) and (c), (3)(am), (b) and (c), and (4)(b) to (f), 128.19(1)(c) to (e), (3), and (4), 128.30(2)(L) and (m), 128.33(1) to (3m) and (5), 128.34(3), 128.36, 128.40(2)(b) to (e), 128.41, and 128.42.

(2) The standards in this ordinance applicable to wind energy systems are modified for small wind energy systems as follows:

(a) The preapplication notice shall be filed at least 60 days before an owner files an application to construct a small wind energy system and the notice shall be provided only to adjacent landowners and the Town.

(b) Setback distances for small wind energy systems are as set forth in § PSC 128.61(3), Wis. Adm. Code.

(c) An Owner shall provide notice of the requirements of § PSC 128.14, Wis. Adm. Code, only to each adjacent nonparticipating residence or occupied community building before the initial operation of the small wind energy system.

(d) For purposes of § PSC 128.19(1), Wis. Adm. Code, a small wind energy system is presumed to be at the end of its useful life if it generates no electricity for a continuous five-hundred-forty-day period.

(e) For purposes of § PSC 128.30(2)(g), Wis. Adm. Code, the information regarding the anticipated effects of the small wind energy system on existing land uses shall be only for parcels adjacent to the wind energy system.

(f) Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the small wind energy system.

(g) Under § PSC 128.30(6)(c), Wis. Adm. Code, the Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed small wind energy system.

(3) The applicant of a small wind energy system shall deposit an application fee of $4,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum of $2,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below $2,000, the applicant shall deposit additional money to bring the account balance to $4,000 within five business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

X. Revocation and enforcement. Any permit granted for the installation, construction or expansion of a wind energy system may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provision of this ordinance or the provisions of a wind energy system permit granted pursuant to this ordinance. Violations of this ordinance are also punishable by forfeitures of not less than $200 and not more than $500 per violation plus costs and attorneys' fees. Each day a violation exists constitutes a separate offense. The Town Board may direct the Town Attorney to seek equitable and injunctive relief in the event of a violation. Further, the Town may deny a pending application in the event of the applicant's failure to comply with the provisions of this ordinance.

Y. Severability. If any section, subsection, sentence or phrase of this ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

Z. Relationship of parties. By filing an application, the owner agrees that neither the owner nor the Town is an agent, employee, contractor, vendor, representative, or partner of the other and that neither shall owe a fiduciary duty to the other or hold itself out to third parties that it is capable of binding the other party to any obligation or liability. The Town's approval of an application does not create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Town and the owner.

AA. Interpretation. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, to the extent allowed by law the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance, or covenant impose greater restrictions than the provisions of this ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance or covenant shall prevail. All references to statutes and regulations in this ordinance refer to the current version of the statute or regulation referenced, as amended from time to time.

BB. Guaranty/warranty. Nothing in this ordinance may be interpreted as guaranteeing or warrantying that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Town official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk.

§ 320-104 through § 320-106. **(Reserved)**

§ 320-107 **Mobile tower siting and collocation.**

A. Statement of Purpose. The purpose of this ordinance is to regulate (1) the siting and construction of any new mobile service support structure and mobile service facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

B. Authority. The Town Board has the specific authority under §§ 60.62, 62.23, and 66.0404, Wis. Stats., to adopt and enforce this section. Nothing herein is intended to regulate or authorize the regulation of Mobile Service Facilities in a manner that is preempted or prohibited by Wis. Stats. §66.0404 or other applicable laws.

C. Definitions. All definitions contained in § 66.0404(1) are hereby incorporated by reference.

D. Siting and new construction or substantial modification of any mobile service support structure and support facilities (Class 1 Collocation).

(1) Application process.

(a) A Town conditional use permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new or substantially modified mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.

(b) A written conditional use permit application must be completed by any applicant and

submitted to the Town. The application must contain the following information:

[1]The name and business address of, and the contact individual for, the applicant.

[2] The location of the proposed or affected support structure.

[3] The location of the proposed mobile service facility.

[4] If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

[5] If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

[6] If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

[7] Plans for any proposed fencing, screening, lighting, and other applicable plans.

[8] Letter of property owner's authorization or lease agreement that specifies ability to construct the improvements.

(c) A conditional use permit application will be provided by the Town upon request to any applicant.

(d) If an applicant submits to the Town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Town shall consider the application complete. If the Town consulting planner or their designee does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(e) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the ninety-day period:

[1] Hold a public hearing and follow the Conditional Use Permit process as outlined in Article **V** of this chapter.

[2] Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this section, zoning

ordinances.

[3] Make a final decision whether to approve or disapprove the application.

[4] Notify the applicant, in writing, of its final decision.

[5] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

(f) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under subsection **(b)(6)**.

(g) If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.

(h) The fee for the permit shall be paid according to the Annual Fee Schedule established by the Town Board. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code, with the exception of travel expenses.

(2) General Standards.

(a) Communication towers shall be erected and installed in accordance with the state and federal codes, and Chapter **108** of the Town Code.

(b) Placement Requirements.

[1] All communications towers shall, at a minimum, meet the required setbacks for a principal structure of the underlying zoning district and shall meet all applicable building code requirements.

[2] Communication towers with guyed wires shall comply with the required setbacks for a principal structure of the underlying zoning district in which the tower is located.

[3] The placement of towers on the roof of existing buildings must maintain a setback that is the same as the building setback required for new buildings and cannot exceed a maximum of 200 feet above grade.

[4] Height. Communication towers shall be restricted to 200 feet and underlying zoning district height restrictions shall not apply to communication towers.

[5] Advertising Prohibited. Besides the customary manufacturer identification plat, no form of advertising, sign or mural is allowed on the tower.

[6] Fencing. A communication tower shall be enclosed by security fencing not less than 6 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 areas.

(3) Abandonment.

(a) For all new towers, the applicant shall provide a written agreement stating that if the tower or transmitters are unused for a period exceeding 12 months, the applicant shall remove the tower or transmitters upon written request from the consulting planner or their designee within 60 days of said request.

(b) If unused facilities are not removed within 60 days of such notification, the Town may remove the items at the expense of the holder of the conditional use permit. Within 30 days of the date on which the tower use ceases, the permit holder shall provide the commission written notice of the cessation of use.

(4) Additional Conditions Required by Plan Commission. Plan Commission may require additional conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, and other requirements as deemed appropriate by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this section; subject to the limitations of Wis. Stat. 66.0404(4).

E. Class 1 collocation.

(1) Application process.

(a) A Town conditional use permit is required for a class 1 collocation.

(b) A written conditional use permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:

[1] The name and business address of, and the contact individual for, the applicant.

[2] The location of the proposed or affected support structure.

[3] The location of the proposed mobile service facility.

[4] If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

[5] If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

[6] If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

(c) A conditional use permit application will be provided by the Town upon request to any

applicant.

(d) If an applicant submits to the Town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Town shall consider the application complete. If the Town consulting planner or their designee does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(e) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the ninety-day period:

[1] Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this section, zoning ordinances.

[2] Make a final decision whether to approve or disapprove the application.

[3] Notify the applicant, in writing, of its final decision.

[4] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

(f) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph (2)(f).

(g) If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.

(h) The fee for the permit shall be paid according to the Annual Fee Schedule established by the Town Board. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code, with the exception of travel expenses.

F. Class 2 collocation.

(1) Application process.

(a) A Town building permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the Town but still requires the issuance of a Town building permit.

(b) A written building permit application must be completed by any applicant and submitted to the Town Building Inspector. The application must contain the following information:

[1] The name and business address of, and the contact individual for, the applicant.

[2] The location of the proposed or affected support structure.

[3] The location of the proposed mobile service facility.

(c) A building permit application will be provided by the Town upon request to any applicant.

(d) A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.

(e) If an applicant submits to the Town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Town shall consider the application complete. If any of the required information is not in the application, the Town Building Inspector shall notify the applicant in writing, within five days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(f) Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the forty-five-day period:

[1] Make a final decision whether to approve or disapprove the application.

[2] Notify the applicant, in writing, of its final decision.

[3] If the application is approved, issue the applicant the relevant permit.

[4] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

(2) The fee for the permit shall be paid according to the Annual Fee Schedule established by the Town Board. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code, with the exception of travel expenses.

G. Penalty provisions. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than $100 nor more than $500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may direct the Town Attorney to seek injunctive relief from a court of record to enjoin further violations.

H. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

I. Limitations Upon Authority. The Town is limited in their ability to regulate cell towers according to State law. Under State law, the Town may not do any of the following with regard to the construction of a new cell phone tower or a class 1 or class 2 collocation.

(1) Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.

(2) Enact an ordinance imposing a moratorium on the permitting, construction, or approval of such

activities.

(3) Enact an ordinance prohibiting the placement of a cell phone tower in particular locations within the Town.

(4) Charge a cell phone service provider a fee in excess of one of the following amounts:

(a) For a permit for a class 2 collocation, the lesser of $500 or the amount charged by the political subdivision for a building permit for any other type of commercial development or land use development.

(b) For a permit for construction of a new tower or a class 1 collocation, $3,000.

(5) Charge a cell phone service provider any recurring fee for a project covered by the law.

(6) Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of cell phone service permits or applications.

(7) Disapprove an application based solely on aesthetic concerns.

(8) Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.

(9) Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the Town which fall into disuse. The law is a rebuttable presumption that a surety requirement of $20,000 or less complies with this limitation.

(10) Prohibit the placement of emergency power systems.

(11) Require that a cell phone tower be placed on property owned by the Town.

(12) Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.

(13) Condition approval of such activities on the agreement of the owner of the facilities to provide space on or near the structure for the use of or by the Town at less than the market rate, or to provide the Town other services via the structure or facilities at less than the market rate.

(14) Limit the duration of any permit that is granted.

(15) Require an applicant to construct a distributed antenna system instead of either constructing a new tower or using collocation.

(16) Disapprove an application based on an assessment by the Town of the suitability of other locations for conducting the activity.

(17) Require that a mobile cell phone tower or facilities have or be connected to backup battery power.

(18) Impose a setback or fall zone requirement for a cell phone tower that is different from a requirement that is imposed on other types of commercial structures.

(19) Consider an activity to be a substantial modification if the project adds more than 20 feet to the

height of a tower that is not more than 200 feet tall but the greater height is necessary to avoid interference with an existing antenna.

(20) Consider an activity to be a substantial modification if the project adds 20 feet or more to the diameter of the tower but the greater diameter is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.

(21) Limit the height of a cell phone tower to under 200 feet.

(22) Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the Town in connection with the Town's exercise of its authority to approve the application.

(23) Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the Town to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a Town or an entity in which a political subdivision has a governance, competitive, economic, financial or other interest.

Article XI
Accessory Uses and Structures, Fences and Hedges

§ 320-108 **Principal use to be present.**
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, unless provided herein. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

If a property is divided, all existing accessory structures shall remain on the same lot as the principal structure and all setbacks must be met from any newly created lot lines, and no principal structure shall be razed without razing the existing accessory structures, unless the existing accessory structures will remain without a principal structure on a temporary basis with approval by the Town Board, following a recommendation from the Town Plan Commission. The Town Board has the authority to place timeline restrictions and require a financial assurance for the cost to remove the accessory structures in the event a principal structure is not constructed within the specified timeframe. An existing accessory structure may only remain on a lot permanently without a principal structure if the Town Board determines that the accessory structure provides historical value, following a recommendation from the Town Plan Commission. An accessory structure requiring approval under this section shall be considered as part of a land division application process under Chapter **184**, or if not part of a land division application process, applicants must submit an application for Site Plan Approval in accordance with § 320-126.

§ 320-109 **Placement restrictions in residential districts.**
An accessory use or structure may be established subject to the following regulations:

A. Location.

(1) Accessory uses and detached accessory structures are limited to the rear and side yard only, unless the structure is proposed on a corner lot. A detached accessory structure is allowed by-right in the street yard on a corner lot provided all zoning district dimensional requirements are met that would otherwise apply to a principal structure. Separately and for non-corner lots, an applicant may apply for a conditional use permit in accordance with Article **V** to allow for the placement of an accessory structure in the street yard of a lot where the placement of an accessory structure could only be located in the street yard based on at least one of the following criteria being met:

(a) There is no other feasible location for the accessory structure based on features such as private sewerage systems, wells, steep slopes, and natural resources.

(b) The principal structure on the lot has an extraordinarily deep setback from the street.

(2) Side and rear yard. Accessory buildings shall not be closer than 25 feet to a lot's side and rear yard, except as otherwise noted in the Town Code, except for the following:

(a) Accessory structures 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.

(b) When located in the side or rear yard only, 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.

(3) Separation from principal structure. Accessory buildings shall not be closer than 10 feet to a principal structure, measured overhang to overhang.

B. Size.

(1) Lots zoned R-1, R-2 and R-3 single-family residential are allowed an aggregate total floor area of 1,000 square feet of detached accessory building space for a substandard lot or a lot with the minimum lot size allowed in the zoning district plus 100 square feet for each additional 1/4 acre up to an aggregate total floor area of 1,500 square feet . For newly created lots in any district, existing accessory buildings that have been deemed by the Town Board, following a recommendation from Plan Commission, as part of the land division review process to be of historic or preservative value, may exceed the size limitations of this section. A deed restriction for such structure shall be recorded with the Ozaukee County Register of Deeds.

(2) Attached garage size. Attached residential garages must be of less square footage than the principal structure interior living space of the first story and shall conform architecturally and visually to the principal structure.

C. Height. Detached accessory structures in R-1, R-2, and R-3 Residential Zoning Districts shall not exceed 15 feet in height unless constructed so that the pitch of the roof of the accessory structure matches the pitch of the roof of the principal structure, with maximum height being 25 feet. All detached accessory structures in any residential zoning district shall not exceed the height of the principal structure.

D. Use restrictions. Accessory uses or structures shall not involve the conduct of any business, trade or industry, except for home occupations as defined and specified herein under this chapter. Such accessory structures shall not be occupied as a dwelling unit, may have a kitchen or kitchenette, but shall not have sleeping quarters or rooms with closets that could function as sleeping quarters. Plumbing is limited to toilets and sinks. Showers and bathtubs are prohibited.

E. Landscaping and decorative uses. Certain structures and vegetation including walks, paved terraces, flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, water fountains, statuary, little libraries, trees, shrubs, flowers and gardens, may be placed in any required yard areas without a permit provided they are located on private property outside of the road right-of-way and provided no adverse drainage is caused on adjacent properties.

F. Retaining walls shall comply with the standards of § **320-113**.

G. Bees and bee hives may be permitted as an accessory use on residential zoned properties per a license issued under § **95-23**.

H. The keeping of chickens may be permitted as an accessory use on nonagricultural zoning properties in accordance with § **95-24**.

I. The use of shipping containers as accessory structures or storage units is prohibited in all districts.

§ 320-110 **Home occupations.**

A. Standards. In addition to all of the standards applicable to the district in which it is located, the following specific standards shall be used for home occupations located as accessory uses in all specified districts:

(1) Persons operating a home occupation shall be carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building or accessory building thereto.

(2) Persons operating a home occupation shall employ no more than one nonresident employee on the premises.

(3) In connection with a home occupation, there shall be no exterior signs, exterior display, or outside 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.

(4) A home occupation use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not exceed 25% of the floor area of the living space of the dwelling unit.

(5) 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.

(6) No material or equipment shall be stored outside the confines of the home.

(7) No mechanical equipment may be used which creates an excessive disturbance, such as noise, dust, odor or electrical disturbance.

(8) The home may not be altered to give the appearance of a business.

(9) In connection with a home occupation, no motors shall be utilized which exceed two horsepower each and not exceeding five horsepower in total, such activity being deemed a public nuisance.

(10) The volume of vehicular or pedestrian traffic or parking shall not result in congestion or be in excess of what is compatible with the neighborhood. Necessary off-street parking shall be provided to accommodate customer traffic.

(11) A home occupation shall meet fire and building safety requirements. A home occupation shall comply with all State Statutes and Ozaukee County regulations.

(12) If a home occupation to be located in a rental dwelling unit shall require written consent by the owner of the property.

(13) No home occupation shall create a public nuisance. If a written and signed complaint is received

by the Town Clerk or Building Inspector, a nuisance determination shall be made by the Town Board.

(14) Permitted home occupations:

(a) Professional office.

(b) Tailoring, dressmaking, and sewing.

(c) Typing, transcribing, word processing, telephone answering, preparing mailing and similar business services, including computer programing.

(d) Painting, sculpturing, weaving, quilting, printmaking, ceramics, writing and similar artistic endeavors and making of home crafts.

(e) Manufacturer representatives and sales representatives.

(f) Drafting and graphic services.

(g) Music and dance instruction, limited to two pupils at a time, except for an occasional group.

(h) Tutoring, limited to two pupils at a time, except for an occasional group.

(i) Repairing small electronic home appliances, watches and clocks.

(j) Building tradespeople such as carpenters, painters, electricians, plumbers, masons, and wallpapering.

(k) Service providers such as lawyers, architects, engineers, ministers, accountants, realtors, insurance agents or brokers, investment advisors, and other similar state-licensed professions.

(l) State-licensed family child care centers up to eight children.

B. Any use as a home occupation not specified hereinabove shall be considered prohibited and a violation of this chapter.

§ 320-111 **Reserve.**

§ 320-112 **Outdoor lighting.**

Outdoor lighting installations on any property in the Town 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 with the issuance of a building permit; provided, however, that no individual wall shall exceed four feet in height without engineer review and approval, 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. Engineer-certified plans may be required at the discretion of the Building Inspector, Director of Public Works, or Town Engineer. Costs related to engineering reviews will be charged back to the party or property owner to reimburse the Town for professional services per § **21-16** of the Town Code.

§ 320-114 **Private recreational uses.**

A permit is not required for 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.), and such uses 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. Street yard. No person shall store firewood in the street yard on residentially zoned property, except that firewood may be temporarily stored in the street 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.

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.**

A. Fences defined. For the purpose of this section, "fence" is herein defined as a barrier which may consist of plastic, composite, wood, stone or metal intended to prevent ingress or egress. For the purpose of this section, the term "fence" shall not include plantings, such as hedges and shrubbery. No fence shall be constructed of unsightly or dangerous materials that would constitute a nuisance.

B. Height. Fences in residentially zoned districts located in the side and rear yard shall not, in any case, exceed a height of six feet four inches total, not including a finial or decorative cap; if a fence in the side or rear yard includes a decorative finial or cap, total fence height cannot exceed six feet eight inches total. Fences shall not exceed a height of four feet four inches in the street yard, not including a finial or decorative cap; if a fence in the street yard includes a decorative finial or cap, total fence height cannot exceed four feet eight inches and shall not be closer than two feet to any public right-of-way. The height of a fence will be measured on the lot on which the fence is located and shall be measured as the vertical distance from the top of the fence to the legally compliant grade level of the ground. If a fence is constructed on a berm or retaining wall, the allowable vertical height of the fence shall include the height of the berm or retaining wall.

C. Security fences. In nonresidential zoning districts, security fences are permitted but shall not exceed 10 feet in height, unless approved as a condition of a conditional use permit. Barbed wire on security fences may be used in industrially zoned areas if the devices securing the barbed wire to the fence are at least eight feet above the ground in height and project toward the fenced property.

D. Prohibited fences. No residential fence shall be constructed which is a dangerous condition, or which conducts electricity or is designed to electrically shock, or which uses barbed wire.

E. Fences to be repaired. All fences shall be maintained and kept safe and in a state of good repair.

F. 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.

G. Nonconforming fences. Any legal nonconforming fence existing on the effective date of this ordinance 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 their 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 of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall be not less than four feet in height and not exceed six feet four inches total, not including a finial or decorative cap; if a swimming pool fence or wall includes a decorative finial or cap, total fence/wall height cannot exceed six feet eight inches total, 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. The height of a fence/wall will be measured on the lot on which the fence/wall is located, and shall be measured as the vertical distance from the top of the fence/wall to the legally compliant grade level of the ground. If a fence/wall is constructed on a berm or retaining wall, the allowable vertical height of the fence/wall shall include the height of the berm or retaining wall. 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 or covered shall comply with the fencing or covering requirements of this section or when water is placed in the pool.

§ 320-118 **Ponds.**

A. Authority. This ordinance is adopted pursuant to authority conferred by Chapter 60, Wis. Stats, and the Town Board exercising village powers by Ch. 61, Wis. Stats.

B. Pond Permit. No pond shall be constructed, altered or extended in any zoning district unless a Town of Cedarburg permit is obtained and posted. Except as otherwise provided herein for shared ponds, man-made 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. A pond permit from the Town shall not be required for the following:

(1) Wildlife ponds/wetland scrapes constructed with the assistance and approval 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.

(3) Storm water ponds approved by the Town in connection with a required stormwater retention or drainage plan for a land division, subdivision, or site plan development.

C. 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 15% of the total lot area, nor more than 5 acres in total size per individual pond.

D. Hearing. A public hearing shall be held by the Plan Commission before any permit is issued. A Class 2 legal notice shall be published in the qualified newspaper, and at least 10 days prior to the hearing a notice sent to owners of record of property within 1,000 feet of the proposed pond or pond to be altered or extended. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate the public hearing or the granting of the permit. The Plan Commission and Town Board should take into consideration citizen input at the hearing. The Town Board shall also take into consideration 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.

E. 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. Any new pond or enlargement of any pond resulting in a total pond size of 1 acre or greater shall require plans prepared by a State of Wisconsin licensed civil engineer. The plans shall address seepage, liners, landscaping, subsidence, embankment strength, surface water drainage in the pool area, erosion control and be certified by the engineer. 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.

F. Fees. A fee as set by the Town Board as part of the annual fee schedule shall be submitted with the permit application to help defray the cost of processing the application and the cost of the public hearing. The applicant is also responsible for reimbursement to the Town for all professional services fees and costs, geotechnical and other study costs, fees and other expenses incurred by the Town as part of the pond permit application, including instances where the Town is made aware of unpermitted activity.

G. 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. An as-built survey must be provided to the Town upon completion of the construction for the Town Engineer or Director of Public Works to verify construction compliance with the approved plans.

H. Shared ponds. The Plan Commission and Town Board shall review pond permit applications for ponds proposed to cross lot lines on an individual basis. Examples include stormwater and recreational ponds created as an amenity of a land division.

§ 320-119 **Privies.**
Permanent privies shall be constructed and maintained in the manner described in Wisconsin Department of Safety and Professional Services specifications for a sanitary privy. Privies shall be permitted only in A-1 Agricultural, P-1 Public and Private Park and M-3 Quarrying 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, unless a designee such as the Constable or consulting planner as provided in §320-122.B. is assigned. Certain considerations, such as granting of site plan and business plan of operations, town center overlay district projects, conditional uses, 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.

§ 320-122 **Building Inspector.**
The Town Board shall designate a Town official or hired contractor/consultant 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 Constable or 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 Constable or Town Attorney as deemed necessary.

B. The Building Inspector shall coordinate their efforts with the Constable, Town Director of Public

Works ,Consulting Planner, and Town Attorney 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 as specified in this ordinance 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 and other adopted ordinances and plans. Recommendations shall be in writing if requested. 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 on any matter requiring their review.

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 Plan Commission or Board, has ultimate authority to grant site plan and business plan of operations, 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.

§ 320-124 **Zoning verification.**

Zoning verification 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 the Building Inspector verifying that the zoning provisions of this chapter are met.

§ 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, Consulting Planner, or designee. Such certificate shall show that the structure, premises or use is in conformity with the provisions of this chapter.

B. Existing uses. Upon written request from the property 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.

§ 320-126 **Site plan and business plan of operation approval.**

A. Site plan approval required. Any construction, reconstruction, expansion or conversion of a property or its structures, shall require site plan approval by the Town Board, following a recommendation from Plan Commission, in accordance with the requirements of this section. Applicable developments shall also comply with the design standards as set forth in § **320-10I** of this chapter. Site improvements on properties zoned single-family residential or agricultural are exempt from this section unless otherwise stated in this chapter.

(1) Requirements. All site plan applications shall be submitted to the Town as part of an application

form prescribed by the Town. Applications shall be made to the Clerk, or their designee. Application fees for site plan 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. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code. An application shall include the following information on a site or building plan unless otherwise deemed unnecessary by the consulting planner:

(a) A site plan with the property boundary dimensions and lot area. The site plan shall include the location of all structures, parking areas, lighting, signage, and other physical features.

(b) For any new structures or change in topography, existing and proposed grades and drainage systems with topographic contours at intervals not exceeding two feet. The topographic contours shall extend a minimum of 25 feet outside the property boundaries.

(c) The shape, size, location, height, and floor area of all structures and the floor area and finished ground and basement floor grades.

(d) Location and species of all trees over four inches in diameter at a height of five feet from the ground. The plan shall include the location, type, and size of any tree proposed to be removed.

(e) Landscape plan showing all new plantings and retained existing plant materials. The landscape plan shall include the number, species, time of installation, and size of materials at installation.

(f) Natural features such as wood lots, drainage ways, streams, and lakes or ponds and manmade features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.

(g) Adjacent properties and their uses shall be identified.

(h) Proposed streets, driveways, parking spaces, sidewalks, and other pedestrian or vehicular circulation facilities, with indication of direction of travel for one-way streets and drives and inside radii of all curves. The width of streets, driveways, and sidewalks and the total number of parking spaces shall be shown.

(i) Architectural plans and general floor plans shall be provided for all new buildings. These drawings and plans should show sufficient detail to indicate the architectural design of the proposed buildings.

(j) A colored rendering for new buildings and additions, or photos of the existing principal buildings showing colors and materials or a live material board.

(k) The location, general design, and dimension of all signs, including ground signs, wall signs, roof signs, and directory signs.

(l) The location, height, design, and power of all exterior lighting.

(m) The location, type, and volume of outside storage, if proposed, and type of machinery operated on-site.

(m) The size and location of all existing and proposed public and private utilities on the site.

(n) A vicinity sketch showing the location of the site in relation to the surrounding street system.

(o) The name, address, and telephone number of the owner, developer and designer.

(p) For residential projects, the number and size of dwelling units and anticipated resident.

(q) Written documentation from all other regulatory agencies that the proposed project complies with county, state, and federal requirements to be filed with the Town Clerk.

(r) Any other information necessary to establish compliance with this chapter and other applicable Town ordinances. The applicant is responsible to pay for any studies requested by the Town.

(2) Criteria. In acting on any site plan, the Plan Commission and Town Board shall consider the following:

(a) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas to ensure:

[1] Promotion of public health, safety, morals, comfort, and general welfare of the citizens of the Town.

[2] Enhancement of the values of property throughout the Town.

[3] Prevention of deterioration of the general appearance of buildings, structures, landscaping, and open areas.

[4] Encouragement and promotion of the efficient use of the land.

[5] Assurance that site development takes into account the efficient provision of vehicular and pedestrian access, public utilities, stormwater management facilities, and other elements of public infrastructure and public facilities.

[6] Encouragement and promotion of acceptability, attractiveness, cohesiveness, and compatibility of new buildings, development, remodeling, and additions.

[7] Preservation and protection of the appearance and aesthetic quality of the Town.

(b) 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.

(c) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.

(d) The landscaping and appearance of the completed site. The Plan Commission or Town Board 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 and Town Board may, besides obtaining advice from consultants at the cost of the applicant to be reimbursed to the Town, secure such advice as may be deemed necessary from the Town

Director of Public Works or other municipal officials or their designee, 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.

(3) Exceptions. Minor exterior alterations such as painting, re-siding, re-roofing, window replacement, replacement of dead landscaping with similar plantings, and other repairs to the exterior of a structure that do not alter the color, size, shape or architectural character of the property are exempt from the provisions of this section. The Building Inspector or consulting planner will make this determination.

B. Business Plans of Operation. No person shall operate a commercial enterprise, industry, home occupation, church, school, or nonprofit organization, except as authorized by a plan of operation approved by the Town Board, following a recommendation from Plan Commission, under this section.

(1) Requirements. An application for all business plan of operations, including an alteration or modification of an existing business plan of operation, shall be filed on a form prescribed by the Town. Applications for shall be made to the Clerk, or their designee. Application fees for business plan of operation 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. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code. An application shall include the following information unless otherwise deemed unnecessary by Town staff or the consulting planner:

(a) Name, type, and address of the business or institution.

(b) Name and address of the property owner.

(c) Name and address of the operational manager, if other than the owner.

(d) The proposed hours of operation.

(e) The number of full-time and number of part-time employees.

(f) Plot plan of building for multitenant buildings, if applicable, including location of tenant space.

(g) Interior floor plan of tenant space, if applicable.

(h) Site Plan of property, including the location of road rights-of-ways, easements, structures, parking, signage, and any other relevant information.

(i) A narrative explaining the operation, including types of indoor and outdoor uses, products, or services offered.

(2) Criteria for business plan of operation approval. The following criteria shall be used in reviewing applications for business plan of operation permits.

(a) Compliance with the use provisions of the applicable zoning district and proximity to residential neighborhoods and the potential for disturbing and disrupting residential uses.

(b) Adequacy of the principal building and other structures on the site for the proposed activity. Business plan of operation permits will only be issued to businesses to be conducted in

permanent structures. Temporary plan of operation permits may be issued, at the discretion of the Town Board, following a recommendation from Plan Commission, for temporary structures or facilities not on a permanent foundation, such as wheeled trailers, tents, vendor carts, and season stands, to include duration of the temporary permit.

(c) Availability of adequate parking to meet the needs of employees and customers.

(d) Adequacy of street access.

(3) Amendments. An amendment to an existing plan of operation requires approval by the Town Board, following a recommendation from the Plan Commission if a business or institution increases the amount of employees, changes the nature of the product or service, or extends the hours of operation beyond those shown on the existing plan of operation.

(4) Exceptions. An amendment to an existing plan of operation may be approved by the consulting planner, or their designee, upon a change limited to property ownership, business ownership, or operator name. An amendment approved under this provision shall be reported to the Town Board and Plan Commission at the meetings following the approval.

§ 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, Constable, or their designee, 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 may direct 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, Constable, or their designee, 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 Town 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 Clerk.

(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 included as part of a narrative letter.

(c) Specify the proposed use, if applicable.

(d) Attach a fee receipt from the Town in the amount as set by the Town Board as part of the Fee Schedule. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code.

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

(a) Complete the application for rezoning completely.

(b) List the reasons justifying the petition, included as part of a narrative letter.

(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] Identify the existing zoning district and proposed zoning district on the application.

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

B. Plan Commission Recommendation. The Town Clerk 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 after conducting a public hearing as specified in this section. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation.

C. Public Hearing. 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. For any zoning map amendment that affects a particular property, 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 premises involved in the zoning map amendment request. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate the action by the Plan Commission and Town Board.

D. Town Board's action. Following a public 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. The Town Board may conduct its own public

hearing on the proposed amendment(s).

§ 320-131 **Down-zoning.**
Per § 66.10015(3)(a) of the Wisconsin Statutes, a zoning amendment only requires approval by a simple majority of a quorum of the members-elect. However, a two-thirds vote is required by the Town Board for a down zoning ordinance pursuant to Wis. Stat. § 66.10015(3)(b), except when the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.

Article XIV
Appeals

§ 320-132 **Zoning Board of Appeals.**

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 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 as part of the Annual Fee Schedule. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code.

(2) Such appeals shall be filed with the Town Clerk within 30 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) Plat of survey prepared by a professional land surveyor showing all of the information required for a building permit.

(b) Additional information required by the Town Plan Commission, 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 their 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, consulting planner or engineer, or other Town Staff or officers.

(2) Variances. To hear and grant appeals for variances in accordance with the procedures and

requirements of § **320-135**. Use variances as defined by §59.694(7) of the Wisconsin State Statutes shall not be granted.

(3) 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.**
The Zoning Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper as a Class 2 notice, under Ch. 985, Wis. Stats., 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. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate the public hearing or the granting of a conditional use.

§ 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, the Building Inspector, the Plan Commission, and Town Board.

B. Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.

C. Validity. Variances, or other 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/her unnecessary 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.

(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. A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this paragraph, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

B. Application for variation. The application for variation shall be filed with the Town Clerk . 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.

(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, Zoning Board of Appeals or Building Inspector.

(6) Fee receipt in the amount as set by the Town Board. The applicant is also responsible for a fee to reimburse the actual cost to the Town and/or consultants for professional services related to the application per § **21-16** of the Town Code.

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 as a Class 2 notice, under Ch. 985, Wis. Stats and shall give due notice to the parties in interest, the Building Inspector, Plan Commission and Town Board. 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, Plan Commission and Town Board. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate the public hearing or the granting of a conditional use.

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.**
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. Properties separated by a public right of way shall not be considered abutting.

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.

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 multifamily 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.

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.

ASSESSED VALUE
The assessed value as determined by the Town Assessor and listed on the most recent property tax bill.

BANQUET FACILITY
A building or room for the purpose of hosting and catering of parties, banquets, weddings and other receptions, meetings, additional restaurant seating or other social events and activities subject to the terms of a conditional use permit.

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 AND BREAKFAST

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. 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.

BOARDING HOUSE

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.

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.

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.

CONDITIONAL USES

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

CONSERVATION DEVELOPMENT

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.

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 their needs in developing their 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.

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.

DEVELOPMENT REGULATIONS

The part of the Zoning Ordinance that applies to elements including setback, height, lot coverage, and side yard.

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.

DOWNZONING

The rezoning of land to a less intensive use. For example, commercial land may be rezoned for residential use, or residential land may be rezoned to a less dense residential category.

DWELLING

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

DWELLING, EFFICIENCY

A dwelling unit consisting of one principal room with no separate sleeping rooms.

DWELLING, MULTIFAMILY

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.

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.

EQUALIZED ASSESSED VALUE

The value of a property, either the improvements on the property or the land or both, which is calculated by dividing the assessed value of the subject property established by the Town Assessor by the assessment ratio established for the community. This value is indicated on the tax roll and is an expression of the current market value of the subject land or improvement or both. For the purposes of this ordinance, the valuations utilized will be the valuation of the improvements.

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.

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.

FAST-CASUAL RESTAURANT

A restaurant that combines elements of fast-food service such as counter ordering without full table service, with other elements, such as made-to-order food, that are typical of a full-service restaurant (see zoning district to determine if fast-casual and drive-through windows are permitted).

FAST-FOOD RESTAURANT

A quick-service restaurant that serves fast-food cuisine and has minimal table service. Menu items are typically not customizable. Fast-food restaurants often include and rely on drive-through windows (see zoning district to determine if fast-food and drive-through windows are permitted).

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

The sum of the horizontal areas of all floors of a building, measured from the exterior faces of the exterior walls. Floor area shall include all above grade levels of a building, interior balconies and mezzanines, elevator shafts, stairwells at each story, floor space used for mechanical equipment and storage with structural headroom of five feet or more, and usable attic space providing structural headroom of five feet or more.

FLOOR AREA – FOR THE PURPOSE BUSINESS AND MANUFACTURING BUILDING PARKING

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 specifically permitted business or profession carried on only by a member of the 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. Home occupations are governed as specified under § **320-110** of this chapter.

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.

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 (RESIDENTIAL)

The area of a lot occupied by the principal building or buildings and accessory buildings.

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.

NONCONFORMING STRUCTURE

A dwelling or other building that existed lawfully before the current Zoning Ordinance was enacted or amended but that does not conform with one or more of the development regulations in the current Zoning Ordinance.

NONCONFORMING USE

A use of land, a dwelling, or a building that existed lawfully before the current Zoning Ordinance was enacted or amended but that does not conform with the use restrictions in the current ordinance.

NURSERY

Any parcel of land used to cultivate, grow, raise, harvest trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants in the outdoors or in greenhouses and for sale to retail or wholesale outlets or garden centers, and for the on-site sale of nursery products raised or transported onto the site.

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, massage therapist, personal trainer, or other recognized trade. When established in a residential or agricultural 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. Professional offices in residential or agricultural districts are governed as specified under § **320-110** of this chapter.

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.

SETBACK

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

SHIPPING CONTAINER

A standardized, reusable steel box designed for securely storing and transporting goods across multiple modes of transport—ships, trains, and trucks—without unloading the cargo.

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**.

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 multifamily 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, 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.

SUBSTANTIAL EVIDENCE

Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons meet would accept in support of a conclusion.

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.

WAREHOUSING

The use of a building to store or keep in reserve raw materials, finished merchandise, or goods, before sale, distribution or shipment to retailers, wholesalers, or contractors or to industrial, commercial, agricultural, institutional or professional businesses. Warehousing includes order processing, packing and shipping of such materials, finished merchandise or goods, but excludes storage or self-storage buildings or spaces therein offered for rent, lease or sale used primarily for the storage of household or business goods or wares.

WHOLESALING

A business use or place of business primarily engaged in selling merchandising to retailers; to industrial, commercial, institutional, or professional offices, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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.

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.

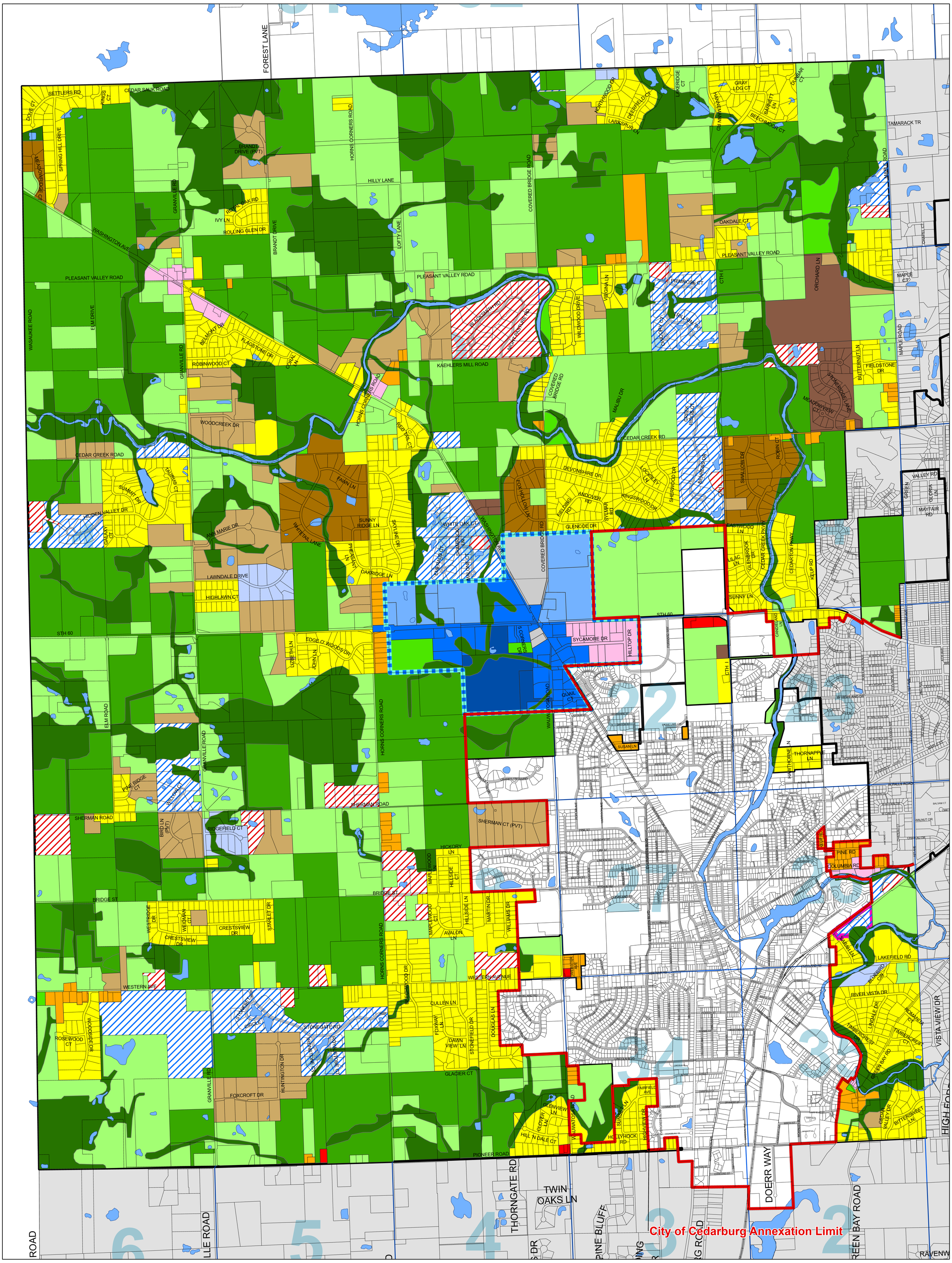
ZERO LOT LINE

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 chapters.

TOWN of CEDARBURG



- TCOD Town Center Overlay
- C-1 Conservancy
- A-1 Agricultural
- A-2 Prime Agricultural
- B-1 Neighborhood Business
- B-2 General Business
- CR-A Countryside Residential A
- CR-B Countryside Residential B
- E-1 Estate Residential
- I-1 Institutional
- M-1 Light Industrial
- M-3 Quarrying
- MU-1 Mixed Use Transition
- MU-2 Mixed Use General
- MU-3 Mixed Use Planned
- P-1 Public & Private Park
- PUD Planned Unit Developments
- R-1 Single Family Residential
- R-2 Single Family Residential
- R-3 Single Family Residential
- TR Transitional Residential
- TR-2 Transitional Residential 2

Proposed Zoning Districts

October 19th, 2026

0 0.23 0.45 0.9 1.35 1.8 Miles

The data is provided without warranty of any representation of accuracy, timeliness, or completeness. It is the responsibility of the requestor to determine accuracy, timeliness, completeness and appropriateness of its use. The Town makes no warranty, expressed or implied to the use of the mapped data.

N W E S

Certification:
I, the undersigned, Town Chairman of the Town of Cedarburg, Ozaukee County, Wisconsin, do hereby certify that the Zoning Map, Town of Cedarburg, Ozaukee County, Wisconsin on . Changes thereafter shall not be effective until entered and attested on the certified copy.

Attestation

David Salvaggio, Town Chairman Date:

Sara Jacoby, Clerk Date: