

## ORDINANCE NO. 2014-04

### An Ordinance Amending Certain Sections of the Definition Section of the Zoning Code

The Common Council of the City of Cedarburg, Wisconsin, hereby ordains as follows:

SECTION 1. Section 13-1-240(b) of the Municipal Code of the City of Cedarburg is hereby amended as follows:

#### SEC. 13-1-240 DEFINITIONS.

- (a) **General.** For the purpose of this Chapter, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense in this Chapter include the future. The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual. The word "shall" is mandatory; the word "should" is advisory; and the word "may" is permissive. Any words not defined in this Section shall be presumed to have their customary dictionary definitions.
- (b) **Specific Words and Phrases.**
- (1) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
  - (2) Adult Establishments.
    - a. The three (3) types of adult establishments permitted conditionally are adult book stores, adult motion picture theaters, and adult mini-motion picture theaters, defined as follows:
      1. "Adult Book Store." An establishment having a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, or an establishment with a segment or section devoted to the sale or display of such material.
      2. "Adult Motion Picture Theater." An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.
      3. "Adult Mini-Motion Picture Theater." An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by

patrons therein.

- b. For the purposes of the above, the following definitions apply:
  1. "Specified Sexual Activities." Human genitals in a state of sexual arousal or stimulation; acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.
  2. "Specified Anatomical Areas." Less than completely and opaquely covered human genital, pubic region, buttocks, and female breast below a point immediately above the top of the areola and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) Aggrieved Person. One whose application for a permit is denied, one whose permit is revoked, and in some instances, taxpayers. An adjacent property owner is not an aggrieved person unless he is suffering some specific ascertainable damages or is specifically injured by the actions of his neighbor.
- (4) Alley Public. A special public right-of-way affording only secondary access to abutting properties.
- (5) Antenna. A device designed to receive television broadcasts either from over-the-air signals from terrestrial transmitters or microwave signals from earth-orbiting communications satellites. Government-owned or operated antennas are excluded from this definition and the regulations of this Ordinance.
- (6) Antenna, Earth Station Dish. A dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communication satellites. (Also see Section 13-1-25.)
- (7) Arterial Street. (See Street, Arterial.)
- (8) Assembly. When used in describing an industrial or manufacturing operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding, or other similar technique. Assembly shall not include the construction, stamping, or reshaping of any of the component parts.
- (9) Automobile Wrecking Yard. Any premises on which more than one (1) automotive vehicle, not in running or operating condition, is stored in the open.
- (10) A Zones. Areas of potential flooding shown on the City's "Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These zones may be numbered as A0, A1 to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given period.
- (11) Babysitting. The act of providing care and supervision for fewer than four (4) children. This definition does not apply when the babysitter is related to the child or when more than four (4) children in one (1) household are related.
- (12) Basement. That portion of any structure located partly below the average adjoining lot grade.
- (13) Bed and Breakfast Establishment. Any place of lodging that provides four (4) or fewer rooms for rent, is the owner's personal residence, is occupied by the owner at the time of rental, and is licensed pursuant to Chapter 50 of the Wisconsin Statutes **and as regulated under Wisconsin Chapter DHS 197.**
- (14) Boardinghouse. A building other than a hotel or restaurant where meals or

lodging are regularly furnished by prearrangement for compensation for five (5) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

- (15) Buildable Lot Area. The portion of a lot remaining after required yards have been provided.
- (16) 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.
- (17) Building Area. The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.
- (18) Building Detached. A freestanding building surrounded by open space on the same lot. The building may be a principal building or an accessory building as defined elsewhere in this Section.
- (19) Building Height. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure, or along a line parallel to and not more than three (3) feet from the street yard face of the structure to the highest point of the roof.
- (20) Building Line. A line between any building and any street line. No buildings or parts of buildings may be erected, altered, or maintained or extended beyond said building line. The building line (also called "setback") is provided for in this Chapter.
- (21) Building, Principal. A building in which the principal use of the lot on which it is located is conducted.
- (22) Business (See also Home Occupation). An occupation, employment, or enterprise which occupies time, attention, labor, and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.
- (23) Car Washes. Any facility used for the washing of vehicles requiring the installation of special equipment or machinery and plumbing affixed to or affixed separate of a structure. Said facility shall be installed in such a manner as not to cause spray or runoff water to encroach upon any adjoining properties.
- (24) Channel. Those floodlands normally occupied by a stream of water under average annual highwater flow conditions while confined within generally well-established banks.
- (25) City. The City of Cedarburg, Ozaukee County, Wisconsin.
- (26) City Plan Commission. (See Plan Commission.)
- (27) Clothing Repair Shops. Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.
- (28) Clothing Stores. Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery, and millinery shops.
- (29) Collector Street. (See Street, Collector.)
- (30) Common Council. The Common Council of the City of Cedarburg, Ozaukee County, Wisconsin.
- (31) Community-Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin Statutes: child welfare agencies

under Sec. 48.60, group foster homes for children under Sec. 48.02(7m), and community-based residential facilities under Sec. 50.01; but does not include day-care centers, nursing homes, general hospitals, special hospitals, prisons, and jails. The establishment of a community living arrangement shall be in conformance with Sections 46.03(22), 59.95(15), 62.23(7)(i), and 62.23(7a) of the Wisconsin State Statutes and amendments thereto.

- (32) Comprehensive Plan. (See Master Plan.)
- (33) Conditional Uses. (See Use, Conditional.)
- (34) Corner Lot. (See Lot, Corner.)
- (35) Condominium. A building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all owners on a proportional, undivided basis. It is a legal form of ownership of real estate and not a specific building type or style.
- (36) Day Care Center. An establishment providing care and supervision for four (4) or more persons under the age of seven (7) and licensed by the State of Wisconsin pursuant to Sec. 48.65 of the Wisconsin Statutes.
- (37) Density Net. Density is the area required for a residence divided into an acre [forty-three thousand five hundred sixty (43,560) square feet]. The result is expressed as "dwelling units per acre." Net area, used in computing "net density," is the actual sites devoted to the residential use and consists of the ground floor area of the building plans, the required yards, and open space.
- (38) Density, Gross. Density is the area required for a residence divided into an acre [forty-three thousand five hundred sixty (43,560) square feet]. The result is expressed as "dwelling units per acre." Gross areas, used in computing "gross density" are the net area devoted to the residential use plus the proportionate area devoted to all supporting land uses, including streets, public lands or unusable lands, school sites, and commercial sites in a given property location.
- (39) Development. Any manmade 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.
- (40) District, Basic. A part or parts of the City for which the uniform regulations of this Chapter govern the use and location of land and buildings.
- (41) District, Overlay. Overlay districts allow for superimposing certain additional requirements or uses upon a basic zoning district which are compatible with the basic district. If there are conflicting requirements, those which are stricter shall apply.
- (42) Driveway. Any vehicular access area which is neither a dedicated public alley nor a public street right-of-way.
- (43) Driveway Approach. That portion of a public street right-of-way lying between the street paving and its right-of-way line and allowing for vehicular access to abutting driveways or property.
- (44) Dryland Access. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above the regional flood

elevation and wide enough to accommodate wheeled vehicles.

- (45) Dwelling. Any building or portion thereof ~~designed or~~ used exclusively as a residence and having cooking facilities, but not including boarding or lodging houses, motels, hotels, tourist rooming houses, tents, cabins, or mobile homes.
- (46) Dwelling Unit. A group of rooms constituting all or part of a dwelling as defined in #45 above, which are arranged, designed, used, or intended for use exclusively as living quarters for one (1) family.
- (47) Dwelling Efficiency. A dwelling unit consisting of all or part of a dwelling as defined in #45 above consisting of one (1) principal room with no separate sleeping rooms.
- (48) Dwelling Single-Family. ~~A detached building designed for or occupied exclusively by one (1) family.~~ A detached building used exclusively by one (1) family as a dwelling. "Dwelling" is defined in #45 above.
- (49) Dwelling Two-Family. ~~A dwelling containing two (2) separate living units, each unit being designed for exclusive occupancy by one (1) family.~~ A detached building containing two (2) separate living units, each unit being used for exclusive occupancy by one (1) family as a dwelling. "Dwelling" is defined in #45 above.
- (50) Dwelling Multiple-Family. ~~A dwelling designed for occupancy by three (3) or more families, with each family occupying a separate living unit.~~ A building containing three (3) or more separate living units, with each unit being used exclusively as a separate dwelling. "Dwelling" is defined in #45 above.
- (51) 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 sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.
- (52) Family. The body of persons related by blood, marriage, or adoption, or not more than four (4) unrelated persons who live together in one (1) dwelling unit as a single housekeeping entity.
- (53) Family Day Care Home. A dwelling licensed as a day-care center by the State of Wisconsin pursuant to Sec. 48.65 of the Wisconsin Statutes, where care is provided for not more than eight (8) children.
- (54) F.A.R. (See Floor Area Ratio and Lot Coverage.) (Ord. 2004-01)
- (55) Flood. A temporary rise in streamflow or stage in lake level that results in water overtopping the banks and inundating areas adjacent to the stream channel or lake bed.
- (56) Flood Insurance Study. An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mud flow) and/or flood-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

- (57) Flood Profile. A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and manmade features along a stream.
- (58) Flood Protection Elevation. A point two (2) feet above the water surface elevation of the one hundred (100) 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.
- (59) 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.
- (60) Floodlands. For the purpose of this Chapter, the floodlands are all lands contained in the "regional flood" or one hundred (100) year recurrence interval flood. For the purposes of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district, and the floodplain fringe overlay district.
- (61) Floodplain Fringe. Those floodlands, outside the floodway, subject to inundation by the one hundred (100) year recurrence interval flood. For the purpose of this Ordinance, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.
- (62) 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 of 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 of elevation of valuable items; waterproofing, disconnecting, elevation, or removal of all electric equipment; avoidance of the use of flood vulnerable area; temporary removal of waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and flood drain 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 (2) 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.
- (63) Floodway. A designated portion of the one hundred (100) year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.01 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.

- (64) Floor Area -- Business, Manufacturing, and Institutional Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of several 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, such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. 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.
- (65) Floor Area -- Gross. The sum of the gross horizontal areas of all floors measured in square feet, not including basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area of a building includes elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment -- open or closed -- located on a roof or in a basement), penthouses, attic space having headroom of seven (7) feet, ten (10) inches or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses.
- (66) Floor Area Ratio and Lot Coverage. The term "Floor Area Ratio" or "F.A.R." is a mathematical expression determined by dividing the total floor area of a building by the area of the lot on which it is located, as:

$$\frac{\text{Floor Area}}{\text{Lot Area}} = \text{Floor Area Ratio}$$

For example, a two (2) story dwelling with one thousand two hundred (1,200) square feet on the first floor and six hundred (600) square feet on the second floor and a six hundred (600) square foot garage on a twenty thousand (20,000) square foot lot has a floor area ratio of 0.12, also expressed as twelve percent (12%).

Lot Coverage: The measurement of land use intensity that represents the portion of the site occupied by the principal buildings and all accessory buildings, but excluding all other impervious improvements such as sidewalks, driveways, patios, decks and open porches, recreational courts, child play structures, swimming pools, open gazebos, etc.

$$\frac{\text{Lot Coverage} = \text{First Floor Area} + \text{Garage Area} + \text{Accessory Structure Area}}{\text{Lot Area}}$$

For example, a two-story dwelling with one thousand two hundred (1,200) square feet on the first floor, a six hundred (600) square foot garage and a four hundred fifty (450) square foot shed on a twenty thousand (20,000) square foot lot has a lot coverage percentage of 11.3%. (Ord. 2004-01)

- (67) Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Sec. 48.62 of the Wisconsin Statutes and amendments thereto.
- (68) Frontage. The smallest dimension of a lot abutting a public street measured along the street right-of-way line.
- (69) Garage -- Private. A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the family's resident upon the premises. Carports are considered garages.
- (70) Garage -- Public or Commercial. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing, public parking of motor vehicles, snowmobiles, or other recreational vehicles for hire.
- (71) Gasoline Service Station. A place where kerosene, gasoline, or any other automobile engine fuel or lubricating oil or grease for operating motor vehicles is sold directly to the public on the premises and including facilities for greasing, oiling, washing, and minor vehicle repair, but not including automatic car washing, body repair facilities or storage of vehicles for scrap, spare parts, or repair.
- (72) Gift Stores. Retail stores where items such as art, antiques, jewelry, books, and notions are sold.
- (73) Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under Sec. 48.62, Wis. Stats., for the care and maintenance of five (5) to eight (8) foster children.
- (74) Hardware Stores. Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.
- (75) Highwater Mark, Ordinary. The mark left by water at its highest level.
- (76) Home Occupations. A home occupation is an occupation for gain conducted entirely within the principal building by resident occupants, which occupation is clearly incidental to the residential use of the premises. (See Section 13-1-24 for specific requirements.)
- (77) 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 (5) sleeping rooms with no cooking facilities in any individual room or apartment as regulated under Wisconsin Chapter DHS 195.
- (78) Junk or Salvage Yard. An area consisting of buildings, structures, or premises where junk waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking, and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.
- (79) Kennels (Commercial): A use, either indoor or outdoor, in which pets are groomed, boarded, or trained for compensation. Kennels may include facilities that provide services such as pet daycare, overnight boarding, pet training, pet grooming, and sale of pet supplies and accessories.
- (7980) Landowner. Any person holding title to land.
- (801) Landscaping. Living material, such as grass, groundcover, flowers, shrubs, vines,

- hedges, and trees; and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls, and fences, but not including paving.
- (842) Land Use, Agricultural. The use of land for planting, growing, cultivating, and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
- (823) Land Use, Commercial. The use of land for the retail or wholesale sale of goods or services.
- (834) Land User. Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
- (845) Loading Area/Dock. 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.
- (856) Local Street. (See Street, Minor.)
- (867) Lodging House. A building where lodging only is provided for compensation for not more than five (5) persons **as regulated under Wisconsin Chapter DHS 195.**
- (878) Lot. A parcel of land having frontage on a public street, 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 Ordinance.
- (889) Lot, Corner. A lot abutting two (2) or more streets at their intersection, provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.
- (8990) Lot, Double Frontage. A parcel of land, other than a corner lot, with frontage on more than one (1) street or with frontage on a street and a navigable body of water. Double frontage lots, for the purpose of this Chapter, shall be deemed to have two (2) front yards and no rear yard.
- (901) Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines.
- (942) Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- (923) Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, 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 areas, or other open space provisions of this Chapter.
- (934) Lot Coverage. (See Floor Area Ratio and Lot Coverage.) (Ord. 2004-01)
- (945) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (956) Lot of Record. A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Ozaukee County Register of Deeds and which exists as described therein.
- (967) Lot Width. The width of a parcel of land measured at the setback line.
- (978) Machine Shops. Shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used, such as blacksmith, tinsmith, welding, and

- sheet metal shops; plumbing; heating and electrical repair and overhaul shops.
- (989) Manufacturing. When used in describing an industrial operation, the making or processing of a product with machinery.
- (99100) Master Plan. A document or series of documents prepared by the Plan Commission and duly adopted by said Commission setting forth policies for the future development or redevelopment of the City of Cedarburg pursuant to Chapter 62.23 of the Wisconsin Statutes. (See Sec. 2-4-5 re: Master Plan process)
- (1001) Mean Lot Grade. The average grade (elevation) of the lot measured along a vertical plane, such as the plane traversing from one (1) side of a lot to the other along and parallel to a building face.
- (1042) Minor Street. (See Street, Minor.)
- (1023) Minor Structures. Any small, movable accessory erection or construction, such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four (4) feet in height.
- (1034) Motel. A building containing lodging rooms having adjoining individual bathrooms and where each lodging has a doorway opening directly to the outdoors and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days **as regulated under Wisconsin Chapter DHS 195.**
- (1045) Municipal Code. The Code of Ordinances of the City of Cedarburg, Ozaukee County, Wisconsin.
- (1056) Navigable Water. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other water within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. The Wisconsin Supreme Court has declared navigable bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGayner and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1965).] Rivers and streams are presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Ordinance.
- (1067) Nonconforming Uses/Structures. (See Use, Nonconforming and Structure, Nonconforming.)
- (1078) Nursing Home. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.
- (1089) Official Letter of Map Amendment. Official notification from Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.
- (10910) Official Map. That document as described by Chapter 62.23(6) of the Wisconsin Statutes which shows the location of streets, highways, parkways, parks, playgrounds, railroad rights-of-way, waterways, and public transit facilities in the City of Cedarburg.

- (1101) Official Zoning Map. (See Zoning Map.)
- (1142) Open Space. Land areas not occupied by buildings, structures, parking areas, streets, driveways or alleys. Open space shall not include upper floor decks and/or balconies.
- (1123) Ordinary Highwater Mark. The point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (1134) Parking Lot. A structure or premises for the parking of vehicles excluding parking areas accessory to single-family and two (2) family dwelling units.
- (1145) Parking Space. A graded and surfaced area of not less than one hundred eighty (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.
- (1156) Parties in Interest. Any person(s) with incidence of ownership including all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (1167) Party Wall. (See Common Wall.)
- (1178) Permitted Use. (See Use, Permitted.)
- (1189) Plan Commission. The City Plan Commission of the City of Cedarburg, Ozaukee County, Wisconsin.
- (14920) Private Residential Swimming Pool. (See Swimming Pool, Private Residential.)
- (1201) Processing. When used in describing an industrial or manufacturing operation, the series of continuous actions that changes one (1) or more raw materials into a finished product. The process may be chemical, special method, or mechanical.
- (1242) Reach. A longitudinal segment of a stream generally including those floodlands where flood stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.
- (1223) 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 or one of the street yards on a corner lot or opposite the street yard which the principal structure faces and/or is addressed to on a double frontage lot. (Ord. 2006-26)
- (1234) Regional Flood. The regional flood is 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 one hundred (100) years; this means that in any given year there is a one percent ( 1%) change that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six percent (26%) chance of recurrence.
- (1245) Runoff. The rainfall, snowmelt, or irrigation water flowing over the ground surface.

- (1256) Screening. A method of visually shielding or obscuring one (1) abutting or nearby structure or use from another by fencing, walls, earthen berms, or densely planted vegetation.
- (1267) Seat. Furniture upon which to sit having a linear measuring not less than twenty-four (24) inches across the surface used for sitting, intended for use in determining off-street parking requirements.
- (1278) Setback. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Where the street line is an arc, the street yard shall be measured from the arc. Corner lots shall have two (2) such yards.
- (1289) Shopping Center. A group of commercial establishments which is planned, developed, owned, and managed as a unit with customer and employee parking provided on-site.
- (12930) Shoreland. Those lands lying within the following distances from the ordinary highwater mark of navigable waters: one thousand (1,000) feet from a lake, pond, or flowage; and three hundred (300) feet from a river or stream, or to the landward side of the floodplain as designated on the adopted City of Cedarburg Zoning Map, whichever distance is greater. Shorelands shall not include those adjacent to farm drainage ditches where:
- a. Such lands are not adjacent to a navigable stream or river;
  - b. Those parts of such drainage ditches adjacent to such land were non-navigable streams before ditching or had no previous stream history; and
  - c. Such lands are maintained in nonstructural agricultural use.
- (1301) 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.
- (1342) Signs. Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- (1323) Site. The entire area included in the legal description of the land on which a land disturbing or land development activity is proposed in a permit application.
- (1334) Story. That portion of a principal building included between the surface of any floor and the surface of the next floor above or, if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.
- (1345) Story, Half. A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent dwelling unit.
- (1356) Street. A public right-of-way not less than fifty (50) feet wide providing primary access to abutting properties.
- (1367) Street, Arterial. A public street or highway used or intended to be used primarily for fast or heavy through traffic as defined in the adopted City master plan or component thereof. Arterial streets and highways shall include freeways and

expressways as well as arterial streets, highways, and parkways.

- (1378) Street, Collector. A street used, or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.
- (1389) Street, Minor. A street used, or intended to be used, primarily for access to abutting properties.
- (1394) Street Yard. (See Setback.)
- (1401) Structural Alterations. 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.
- (1412) Structure. Any constructed, erected or placed material or combination of matter in or upon the ground, including buildings, towers, sheds, signs, poles, decorations, and carports but not including driveways or at-grade patios.
- (1423) Structure, Nonconforming. A building or structure lawfully existing at the time of enactment of this Chapter or amendments thereto that does not comply with all of the applicable area, height, and placement regulations of this Chapter. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure.
- (1434) Structure, Substandard. (See Structure, Nonconforming.)
- (1445) Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either:
- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
  - b. Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places.
- Ordinary maintenance repairs are not considered structural repairs, modifications, or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other structural components.
- (1456) Substantially Damaged. Damage sustained by a structure whereby the cost of repairing or restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- (1467) Sustained Yield Forestry. Management of forested lands to provide annual or, periodic crops of forest products.
- (1478) Swimming Pool Private Residential. An outdoor structure containing a body of water in a receptacle or other container having a depth for water of eighteen (18) inches or more with a minimum surface of forty-eight (48) square feet, located above or below the surface of ground elevation and includes all structural facilities, appliances, and appurtenances, equipment and other items used and

intended to be used for the operation and maintenance of a private residential swimming pool.

(149) Tourist Rooming House. All lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients as regulated under Wisconsin Chapter DHS 195.

(150) Tourist or Transient. A person who travels to a location away from his or her permanent address for a period of time for vacation, pleasure, recreation, culture, business or employment. A tourist or transient is a person away from his or her permanent address regardless if the tourist or transient is there for the season, the month, a week, a day or less.

(14851) Use. The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

(14952) Use, Accessory. A subordinate use on the same lot which is incidental and customary in connection with the principal use.

(1503) Use, Conditional. A use of a special nature as to make impractical their predetermination as a permitted use in a district.

(1514) Use Permitted. A use by right which is specifically authorized in a particular zoning district.

(1525) Use, Principal. The main use of land or building as distinguished from a subordinate or accessory use.

(1536) Use, Nonconforming. Any use of a building or premises which the effective date of this Chapter does not, even though lawfully established, comply with all of the applicable use regulations of the zoning district in which such building or premises is located.

(1547) Utilities. Public and private facilities, such as water wells, sanitary sewers, storm sewers, water mains, water and sewage pumping stations, water storage tanks, water purification facilities, power and communication transmission lines, electrical power stations and substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas-regulating stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

(1558) Wetland. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

(1569) Yard. (Also see Side Yard and Setback.) An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.

(15760) Zoning Permit. The permit required by Article B prior to the erection, reconstruction, enlargement, or moving of any building or structure, or use of a structure, land, or water where such erection or use complies with all provisions of this Chapter.

SECTION 2. This ordinance shall take effect upon its passage and publication as provided by law.

Passed and adopted this 10<sup>th</sup> day of March, 2014.

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Chris Reimer, Acting Mayor

Countersigned:

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Constance K. McHugh, City Clerk

Approved as to form:

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Kaye K. Vance, City Attorney