

**TITLE 13**

Zoning Code

Chapter 1 Zoning Code

**CHAPTER 1**

Zoning Code

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## ARTICLE A

### Introduction

#### **SEC. 13-1-1 AUTHORITY.**

This Chapter is adopted under the authority granted by Sections 62.23(7), 62.231, 62.2345, 87.30, and 144.26 of the Wisconsin Statutes and amendments thereto.

#### **SEC. 13-1-2 TITLE.**

This Chapter shall be known and may be cited as the "Zoning Ordinance of the City of Cedarburg, Wisconsin" and is hereinafter referred to as the "Ordinance" or "Chapter."

#### **SEC. 13-1-3 PURPOSE.**

The purpose of this Zoning Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the City of Cedarburg, Wisconsin, and its residents.

#### **SEC. 13-1-4 INTENT.**

It is the general intent of this Zoning Ordinance to regulate and restrict the use of all structures, lands, and waters with a view to conserving the value of buildings and encouraging the most appropriate use of land. Such regulations shall be made in accordance with a comprehensive plan and shall be designed to regulate lot coverage, size, and location; population density and distribution; parking, loading, and access and uses of land, structures, and water in order to:

- (a) Prevent and eliminate overcrowding of land and undue concentration of population.
- (b) Provide adequate sunlight and air.
- (c) Facilitate the adequate provision of transportation, water, sewerage, drainage, schools, parks, and other public services.
- (d) Lessen congestion in the streets and promote safe and efficient use of streets and highways.
- (e) Secure safety from fire, panic, flooding, pollution, contamination, and other hazards.
- (f) Stabilize and protect property values.
- (g) Preserve the beauty of the City of Cedarburg.
- (h) Provide for a variety of suitable commercial and industrial sites.
- (i) Prevent and control erosion, sedimentation, and pollution of the surface and subsurface waters.
- (j) Prevent flood damage to persons and property and minimize the costs of flood relief and flood control projects.
- (k) Aid in the implementation of municipal, county, watershed, and regional comprehensive plans, or components of such plans, adopted by the City of Cedarburg.

- (1) Maintain safe and healthful water conditions.

- (m) Provide for the administration and enforcement of this Chapter and provide penalties for the violation of this Chapter.

**SEC. 13-1-5 INTERPRETATION AND APPLICATION.**

The interpretation and application of this Chapter shall be as follows:

- (a) **Construction.** This Chapter shall be liberally construed in favor of the City of Cedarburg and shall not be deemed a limitation on any power possessed by the City of Cedarburg.
- (b) **Administrative Standards.** This Chapter shall be considered minimum requirements adopted for the purposes set forth above. Whenever in the course of administration and enforcement of this Chapter it is necessary or desirable to make any administrative decision, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Chapter or injurious to the surrounding neighborhood, unless other standards are expressly provided in this Ordinance.
- (c) **Conflict with Other Laws.** Whenever the regulations in this Chapter are either more or less restrictive than regulations or restrictions imposed by statute, other ordinances of the City of Cedarburg or other regulations, the regulations which are more restrictive or which impose higher standards or requirements shall govern.
- (d) **Application.** No structure shall be constructed, erected, placed, or maintained and no land or water use commenced or continued within the City of Cedarburg, except as specifically or by necessary implication, authorized by this Chapter.

**SEC. 13-1-6 REPEAL**

All other ordinances or parts of ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, are hereby repealed.

**SEC. 13-1-7 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection provided by the Chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by manmade or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this Chapter does not imply that areas outside of the delineated floodplain or land uses permitted within the floodplain will be totally free from flood and associated flood damages. Nor shall this Chapter create a liability on the part of or a cause of action against the City of Cedarburg or any office or employee thereof for any flood damages that may result from reliance on this Chapter.

**SEC. 13-1-8 SEVERABILITY.**

If any Section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby. 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.

**SEC. 13-1-9 MUNICIPALITIES AND STATE AGENCIES REGULATED.**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Chapter and obtain all required permits. State agencies are required to comply if Sec. 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when Sec. 30.12(4)(a) of the Wisconsin Statutes applies.

**SEC. 13-1-10 THROUGH SEC. 13-1-19 RESERVED FOR FUTURE USE.**

## ARTICLE B

### General Provisions

#### **SEC. 13-1-20 JURISDICTION.**

The jurisdiction of this Chapter shall include all lands, water, and air within the corporate limits of the City of Cedarburg, Wisconsin. The regulations contained in this Zoning Code shall apply to all property situated either wholly or partly within the boundaries of the City of Cedarburg, Wisconsin, and its extraterritorial limits in accordance with Section 62.23(7) and Chapter 236 of the Wisconsin State Statutes. (Ord. 2005-18)

#### **SEC. 13-1-21 COMPLIANCE.**

No structure, land, water, or air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit, unless otherwise specifically exempted by Article K and without full compliance with the provisions of this Chapter and all other applicable local, county, and state regulations.

#### **SEC. 13-1-22 USE RESTRICTIONS.**

Only the following uses shall be permitted in any district:

- (a) Principal permitted uses specified for a district and its essential services.
- (b) Accessory uses and structures, which are permitted in any district as follows, but not until their principal structure is present or under construction:
  - (1) Residential accessory uses shall not involve the conduct of any business, trade, or industry, except for permitted home occupations as defined and regulated in this Chapter. Residential accessory uses include incidental repairs, storage, parking facilities, gardening, private swimming pools, private emergency shelters, and servant's, owner's and caretaker's quarters not for rent.
  - (2) Gasoline service station accessory uses are limited to lubrication; changing oil and filters; changing and repair of tires and tubes; engine tune-up; hand washing and polishing without automatic equipment; transmission, chassis or engine repairs; and replacement of light bulbs, windshield wiper blades and other small parts, and do not include body repairs and painting.
- (c) Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval in accordance with Article K. When a use is classified as a conditional use at the date of adoption of this Chapter, it shall be considered a legal conditional use without further action. Confirmation of a pre-existing conditional use may be approved by the Plan Commission at the request of a property owner. In such cases, the Plan

Commission may confirm such preexisting conditional uses without implementing the conditional use application and approval procedures as defined in Section 13-1-226. The Plan Commission may allow the preparation of the necessary conditional use documents and permits, and recordation of such documentation by the City Clerk. Changes to or substitution of conditional uses shall be subject to review and approval in accordance with Section 13-1-226. Conditional uses are granted for the real property. (Ord. 91-31)

- (d) Uses not specified in this Chapter and which are found to be similar in character to principal uses permitted in the district may be permitted by the City Plan Commission.
- (e) Uses not specified in this Chapter and which are found by the Plan Commission to be similar in character to conditional uses permitted in the district may be permitted by the Common Council after review, public hearing, and approval in accordance with Section 13-1-226.
- (f) Temporary uses, such as food sales, nursery stock sales, fireworks sales, and real estate sales, and field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted with conditions and/or restrictions established by the City Plan Commission after review and approval.
- (g) Performance standards listed in Article H shall be complied with by all uses in all districts.
- (h) Stormwater control detention/retention related uses shall be permitted in all zoning districts except in the C-1 Shoreland Wetland/Conservancy District and floodplain districts subject to the review and approval of the City Plan Commission with recommendation from the Director of Engineering and Public Works.

### **SEC. 13-1-23 SWIMMING POOLS.**

Private residential swimming pools are permitted as accessory uses in any residential district provided that all applicable requirements of this Chapter are met and that a permit be obtained pursuant to Section 13-1-227. The Building Inspector shall not issue a permit for the construction of any private residential swimming pool or for any alterations, additions, remodeling, or other improvements (not including repairs) to an existing private residential swimming pool unless the following construction requirements are observed in such construction, alteration, addition, remodeling, or other improvements.

- (a) **Construction Approval.** All materials and methods of construction in the construction, alteration, addition, remodeling, or other improvements of private residential swimming pools shall be approved by the Building Inspector.
- (b) **Plumbing Code Compliance.** All plumbing as defined in Sections DILHR 80 to 84 of the Wisconsin State Plumbing Code in relation to swimming pool installation shall be in accord with the City of Cedarburg Plumbing Code.
- (c) **Drainage System.** Every private residential swimming pool shall be provided with a suitable draining method, and in no case shall waters from any pool be drained into the sanitary sewer system or with detriment onto lands of other property owners.
- (d) **Fencing; Security; Screening.**
  - (1) Every private residential swimming pool in the ground or with sides less than four (4)

feet high shall be completely enclosed by a fence or wall not less than four (4) feet in height, but not to exceed six (6) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension, except for doors and gates. A residence or accessory buildings may be used as part of such enclosure. All gates or doors opening through such enclosure shall be equipped with self-closing and self-locking 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.

- (2) Above-ground pools with sides greater than four (4) feet high which are not enclosed by a suitable fence, herein described, and using a ladder for ingress or egress shall have this ladder removed or flipped up when the pool is not in use.
  - (3) The requirements of this Section shall be applicable to all private swimming pools, whether constructed before or after the effective date of this Chapter, except in the case of any pool where the Building Inspector finds that there are special circumstances existing that prevent such pool from being a safety hazard. Pools erected on top of the surface of the ground shall have the pool construction completely screened from the view of the abutting property by means of combined fence and landscape screen approved by the Plan Commission.
- (e) **Recirculation and Purification System.** All private residential swimming pools having a capacity in excess of one hundred fifty (150) cubic feet shall be equipped with a satisfactory recirculation and purification system that is in good operating condition and which shall be used when the swimming pool is in use. The owner of the parcel shall secure adequate instruction from the installing contractor or other qualified source with respect to the system's proper maintenance. Such instruction shall include the use of high-test calcium hypochloride (dry chlorine carrier) or sodium hypochloride (liquid chlorine), or an equally effective germicide and algaecide, and the importance and procedure for maintaining proper Ph (alkalinity and acidity) control.
- (f) **Electrical Service Standards.** Service from electrical service systems must comply with all applicable local, state and national electric codes and:
- (1) No attachment from plug receptacles shall be installed within ten (10) feet horizontally from the inside walls of a portable or permanent swimming pool.
  - (2) Clearance of electric service drops to residences or any other overhead electrical wires shall be a minimum of ten (10) feet horizontally from any portion of portable or permanent pools and their pertinent equipment, such as diving boards, ladders, ramps, platforms, etc., which may be part of the pool.
  - (3) The requirements of this Subsection shall be applicable to all private swimming pools whether constructed before or after the effective date of this Chapter, except in the case of an existing pool where the Electrical Inspector finds that there are special circumstances existing that prevent such pool from being a safety hazard.
  - (4) All horizontal measurements mentioned in the above shall be measured at right angles from the nearest outside pool wall and away from the main body of water.

- (g) **Location.** Swimming pools shall be erected and constructed only in the rear yard of a lot, unless a variance is granted from the Zoning Board of Appeals. No swimming pool shall be erected or constructed on an otherwise vacant lot.
- (h) **Side Yard and Rear Yard Requirements.** No swimming pool shall be located, constructed, or maintained closer to any side or rear lot line than ten (10) feet from a lot line unless a variance is granted from the Zoning Board of Appeals.
- (i) **Area.** The area occupied by an outdoor pool shall not exceed thirty percent (30%) of the available rear yard in which it is located.

**SEC. 13-1-24 HOME OCCUPATIONS.** (Ord. 97-10)

- (a) **Standards.** In addition to all of the standards applicable to the district in which it is located, home occupations shall comply with the following standards:
  - (1) Persons operating a home occupation shall employ no more than one (1) nonresident employee.
  - (2) There shall not be conducted on the premises the direct sales of merchandise, supplies or products from display shelves, except that orders previously made by telephone or at a sales party may be picked up on the premises.
  - (3) No alteration of the principal building shall be made which changes the character thereof as a dwelling.
  - (4) No more than a combined total of 20% of the area of any dwelling unit as defined in Section 13-1-240(b)(3)(46), inclusive of the garage area or the area in one (1) accessory building, shall be devoted to the home occupation.
  - (5) There shall be no outdoor operations, no outdoor storage of equipment or materials used in the home occupation, and no outdoor display of merchandise.
  - (6) The volume of vehicular or pedestrian traffic or parking shall not result in congestion or be in excess of what is compatible with the residential neighborhood.
  - (7) All authorized home occupations shall meet fire and building safety requirements.
  - (8) Persons conducting home occupations must furnish such information as required by municipal officials with respect to procedures and processes, equipment, materials, chemicals, and any other items utilized in the home occupation.
  - (9) Any authorized home occupations which require plumbing, electrical or structural changes, when such changes are not dictated by the primary residential use, shall be prohibited.
  - (10) No signs shall be permitted in conjunction with any home occupation.
  - (11) Not more than 2 home occupations may be operated from any one dwelling unit.
  - (12) No vehicle larger than a one ton capacity truck or van that is used in conjunction with a home occupation shall be stored on the premises or parked on adjacent residential streets. This prohibition shall also include trailers or other specialized mobile equipment.
  - (13) No home occupation shall create a public nuisance. No home occupation or its

related equipment shall create any offensive noise, vibration, smoke, dust, electronic interference, odors, heat or glare, or electrical interference. Such impacts shall not emanate from the dwelling or from the garage accessory thereto.

- (b) **Permitted Home Occupations.** Customary home occupations include the following list of occupations; provided, however, that each listed occupation shall be subject to the requirements of Subsection (a) above as well as to any limitations specifically imposed on such occupation by this section. Home occupations proposed in a rental dwelling unit shall require written consent by the owner of the property, or his agent, prior to commencing operations.
- (1) Dressmaking, tailoring, and sewing.
  - (2) Music and dance instruction, provided that the instruction shall be limited to 2 pupils at a time, except for occasional groups.
  - (3) Painting, sculpturing, weaving, printmaking, lapidary work, ceramics, writing and similar artistic endeavors and home crafts.
  - (4) Typing, transcribing, word processing, telephone answering, preparing mailing and similar business services, including computer programming and similar computer-based services.
  - (5) Service providers such as lawyers, architects, engineers, accountants, realtors, insurance agents, brokers and members of similar professions.
  - (6) Building tradespeople such as carpenters, painters, electricians, plumbers, masons and wallpapering.
  - (7) Constructing models, yard novelties and similar woodworking projects.
  - (8) Manufacturers representatives and sales representatives.
  - (9) Drafting and graphic services.
  - (10) Tutoring, provided that the instruction shall be limited to 2 pupils at a time, except for occasional groups.
  - (11) Repairing small home appliances, watches and clocks.
- (c) **Prohibited Home Occupations.** The following are prohibited as home occupations, even if the conditions of Subsection (a) are met:
- (1) Medical or dental services, chiropractic services, therapeutic massage.
  - (2) Personal services such as barbershops, beauty parlors, tanning parlors, tattooing, and similar personal services.
  - (3) Photographic studios.
  - (4) Pet boarding.
  - (5) Motor vehicle repair, service or storage.
  - (6) Repair services, except as allowed in (b)(11) above.
  - (7) Welding.
  - (8) Furniture stripping and/or refinishing.
  - (9) Manufacturing items for sale from components not made on the premises.
  - (10) Pet grooming.
- d) **Unspecified Home Occupations.** Any proposed home occupation that is neither permitted

nor specifically prohibited by this Section shall be considered a conditional use and be granted or denied at the discretion of the City Plan Commission and upon consideration of those standards contained in Subsection (a) above and as outlined in Section 13-1-226.

- (e) **Deed Restrictions.** Any home occupation may be subject to deed restrictions or covenants which may be applicable to the subject premises.

#### **SEC. 13-1-25 ANTENNAS.**

The City of Cedarburg recognizes that the development of various antennas, including earth station dish antennas, and their increasing uses by members of the public poses questions of regulation not previously contemplated by the municipal zoning code. In implementing appropriate regulation, the interest of the antenna owner in the use of the device must be balanced with the interest of adjoining landowners and the general public so as to protect the health and safety of all citizens, as well as the aesthetic values embodied in this Zoning Code. To this end, the following regulations are adopted. Antennas are permitted as accessory uses subject to the following regulations:

- (a) **Installation.** All antennas, and the construction and installation thereof, shall conform to applicable City Building Code and Electrical Code regulations and requirements or U.L. code, as may be applicable.
- (b) **Size.** Earth station dish antennas shall not exceed ten (10) feet in diameter.
- (c) **Construction and Location Standards.**
  - (1) All freestanding antennas shall be located in rear yards in any residential district and in the side and rear yards in any business, industrial, and institutional or park district, but not until their principal structure is present or under construction and provided that all applicable requirements of this Chapter are met. In the event the property owner of a parcel located in a residential district believes that the placement of an antenna in a rear yard would prevent its use for its intended purpose, the property owner may apply to the Zoning Board of Appeals for a variance to allow the installation of the antenna in a side yard or roof location. Owners of parcels of land within three hundred (300) feet of the site of any such freestanding antenna for which a variance is requested shall be notified of the date and time of the Zoning Board of Appeals meeting at which the application for a variance will be considered.
  - (2) Freestanding and roof-mounted terrestrial antennas used for residential purposes shall meet the height requirements for the district in which they are located. Earth station dish antennas shall not exceed ten (10) feet in height. Commercial, industrial, or institutional antennas shall comply with the height requirements of Section 13-1-100(d) of this Chapter. (See Illustration No. 1.)
  - (3) Freestanding and roof-mounted terrestrial antennas shall be set back from any lot line one (1) foot for each one (1) foot of antenna height above surrounding grade. Earth station dish antennas shall be set back a minimum of ten (10) feet from any lot line. (See Illustration No. 1.)
  - (4) Not more than one (1) terrestrial antenna structure and one (1) earth station dish per

dwelling unit shall be permitted on a lot or parcel of land in a residential zoning district.

- (5) Antennas shall be located and designed to minimize their visual impact on the surrounding properties. No form of advertising or identification may be displayed on the dish or framework other than the customary manufacturer's identification plates.
- (6) Antennas shall be constructed and mounted in accordance with the manufacturer's specifications. All such installations shall be constructed of noncombustible and corrosive-resistant materials.
- (7) Antennas that cause any interference with radio and/or television broadcasting or reception on adjacent properties shall be governed in accordance with the Federal Communication Commission's rules and regulations.
- (8) The storage of antennas shall not be permitted on public property, public street rights-of-way, or in the street yard of any business district. Display for sale of antennas shall be permitted in the street yard of any business district only upon the granting of a conditional use permit for such use. Such permit shall not be unreasonably withheld.
- (9) Portable or trailer-mounted antennas are not allowed, with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed seven (7) days at any one (1) location.

#### **SEC. 13-1-26 DISPLAY OF VEHICLES FOR SALE.**

Except as otherwise provided in this Chapter, it shall be unlawful for any person or entity to display for sale purposes any motor vehicle, recreational vehicle, or item of recreational equipment on property located within the City of Cedarburg. The provisions of this Section shall not apply to the display of no more than one (1) motor vehicle, recreational vehicle, or item of recreational equipment at any one (1) time, provided such vehicle or equipment is owned by the owner or occupant of the real property on which it is displayed or by an immediate family member of the owner of the real property who shall reside on the premises on which the vehicle is displayed for sale.

#### **SEC. 13-1-27 SITE RESTRICTIONS.**

- (a) **Site Suitability.** No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography or low 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 City Plan Commission, in applying the provisions of this Section, 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 City Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

- (b) **Public Street Frontage.** All lots shall abut upon a public street, and each lot shall have a minimum frontage of thirty (30) feet. This requirement does not apply to City of Cedarburg public utilities. (Ord. 2004-20)
- (c) **One (1) Principal Structure Per Lot.** All principal structures shall be located on a lot; and only one (1) principal structure shall be located, erected, or moved onto a lot in single-family residence districts. The City Plan Commission may permit more than one (1) principal structure per lot in other districts where more than one (1) principal structure is needed for the orderly development of the parcel. When additional structures are permitted, the City Plan Commission may impose additional site requirements, including, but not limited to, yard requirements, landscaping requirements, open space, or parking requirements, and may require minimum separation distance between structures, or setback requirements. All principal structures shall be provided with access driveways per Section 13-1-84 of the Cedarburg Zoning Code requirements for driveways.
- (d) **Full Street Width Dedication.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (e) **Nonresidential Lots Abutting More Restrictive District.** Nonresidential lots abutting more restrictive boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The setbacks on the less restrictive district shall be modified for a distance of not more than sixty (60) feet from the district boundary line so as to equal the average of the street yards required in both districts.

#### **SEC. 13-1-28 REDUCTION OR JOINT USE.**

No lot, yard, parking area, driveway, 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, driveway, or other space required for a structure or use shall be used for any other structure or use not otherwise authorized by this Chapter.

#### **SEC. 13-1-29 BERM REGULATIONS.** (Ord. No. 2001-13)

- (a) **Purpose.** This Ordinance regulates the location, design and visual appearance of new berms to discourage excessive length and height, provide for ease of maintenance, assure proper stormwater drainage, avoid interfering with safe visual sight distance for motorists, and promote the attractive aesthetic appearance of areas where berms are located.
- (b) **Berm Defined.** A berm is a man-made landscape feature consisting of mounded soil. Rock or concrete rubble may be included in a berm if completely covered with topsoil.
- (c) **Applicability.** These requirements shall not apply to the following:
  - (1) Minor berms not vertically higher than three (3) feet above the average ground grade along both sides of the berm.
  - (2) Landscape areas lower than three (3) feet in height.

- (3) Landscape areas not meeting the berm definition in (b) above.
- (4) Temporary topsoil or fill piles on active construction sites.
- (d) **Plan Commission Approval Required for Berms Exceeding Three (3) Feet in Height.**
  - (1) Plan Commission Approval Required. Berms exceeding three (3) feet in vertical height above the average grade of the ground along both sides of the berm shall require review and approval by the Plan Commission prior to any construction or alteration thereof.
- (e) **Application.** Applications to construct or alter a berm shall be made on forms provided by the City and shall include the following information:
  - (1) Name, address and telephone number of the applicant, and location of building, structure, or lot where the berm is to be constructed.
  - (2) Name of person, firm, corporation, or business that is constructing or altering the berm.
  - (3) Written consent of the owner or lessee of the land upon which the berm is proposed to be located.
  - (4) Plans and Attachments.
    - a. Berm plan depicting its location, setbacks, property lines, proposed and existing grade contours, any related drainage facilities, and any existing easements on the subject property.
    - b. Proposed type of fill material and cover material.
    - c. Landscaping plan including grasses or groundcover, shrubbery, and tree types specifying the spacing and size of all plantings.
    - d. Proposed schedule for all phases of work.
  - (5) Additional information as may be required.The application and fee shall be submitted to the Engineering Department.
- (f) **Design Requirements.**
  - (1) Location.
    - a. Berms shall not be located within any existing or future public road right-of-way. Berms shall be located at least five (5) feet from a road right-of-way line, and at least six (6) feet from a side or rear lot line. The offset requirements from a side or rear lot line may be waived where a berm is being constructed jointly by adjacent property owners.
    - b. Minor berms less than three (3) feet high may be located within five (5) feet of a road right-of-way line if integral with peripheral edge landscape screening.
    - c. Berms shall not be constructed to obstruct the view of vehicular traffic for ingress and egress to any public or private road, private driveway, walkway or bike trail.
    - d. Berms shall not be placed in drainageways, floodplains, wetlands, or conservancy-zoned areas.
    - e. Berms shall not be located within any drainage or utility easement.

- (2) **Slope, Shape, Measurement, and Maximum Height.** All berms shall be constructed such that their side slopes shall not exceed a slope of one (1) foot vertical to three (3) feet horizontal. The vertical height shall be measured from an average of the existing ground grade along both sides of the berm. Berms must be mowable with a riding lawn mower. Berms shall be designed and graded to have an undulating and serpentine shape, and long continuous straight berms may not be acceptable. The width and length of berms shall be measured along their base line or toe of slope. The maximum height of berms shall be determined by the Plan Commission on a case-by-case basis.
- (3) **Landscaping.** Berms shall be covered with at least six (6) inches of topsoil, and shall be landscaped with turf or groundcover. In addition, it is recommended that landscape plantings be spaced randomly on the berm to enhance its appearance.
- (4) **Drainage.** All berm construction shall not impede surface water drainage or disturb existing drain tile systems. The provisions of Section 6-1-5 shall apply to prevent berms from interfering with surface drainage and public utility easements.
- (5) **Fencing.** Fencing shall not be placed on a berm unless approved by the Plan Commission.
- (6) **Erosion Control.** All berm construction shall adhere to the City's construction and erosion control ordinance where applicable.
- (7) **Completion.** All berms shall be completed, including all landscaping, in accordance with the schedule approved by the Plan Commission.
- (8) **Approval Conditions.** Approval conditions shall require the applicant to:
  - a. Notify the City when the berm is final graded, but prior to installing any landscaping to provide for a pre-final inspection of the berm.
  - b. Obtain approval from the Plan Commission to modify the berm after completion.
  - c. Maintain all road drainage systems, stormwater drainage systems, best management practices and other facilities identified in the berm plan.
- (g) **Inspection.** Berms shall be inspected by the City Engineer and City Forester. If berm development or berm activities are being carried out without a permit, City personnel shall enter the land pursuant to the provision of Wis. Stats. Sections 66.122 and 66.123.
- (h) **Fees.** Fees referred to in this Ordinance shall be the fee for an "Accessory or Minor Structure Review" [see Section 13-1-230(15)].
- (i) **Grandfather Clause.** Berms existing prior to the adoption of this Amendment that do not comply with the requirements in this Amendment shall be considered a non-conforming berm. Such non-conforming berms may be maintained and continued, but any changes or substitutions thereto shall comply with the provisions in this Amendment. The provisions in Article G apply to non-conforming berms.

**SEC. 13-1-30 NONMETALLIC MINING RECLAMATION ORDINANCE.** (Ord. 2006-13)

- (a) **Purpose.** The purpose of this Nonmetallic Mining Reclamation Ordinance (Ordinance) is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the City of Cedarburg after the effective date of this Ordinance, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.
- (b) **Statutory Authority.** This Ordinance is adopted under authority of Section 62.11(3) and 295.14(1), Wisconsin Statutes, and Section NR 135.32, Wisconsin Administrative Code.
- (c) **Restrictions Adopted Under Other Authority.** The purpose of this Ordinance is to adopt and implement the uniform statewide standards for nonmetallic mining required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this Ordinance repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.
- (d) **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this Ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this Ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.
- (e) **Severability.** Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.
- (f) **Applicability.**
  - (1) **Overall Applicability.** The requirements of this Ordinance apply to all operators of nonmetallic mining sites within the City of Cedarburg operating on or commencing to operate after August 1, 2001 and as provided in Section NR 135.02(1) and (2), Wisconsin Administrative Code except where exempted in Sec. 13-1-30(f)(2).
  - (2) **Exemptions.** This Ordinance does not apply to the exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.
- (g) **Administration.** The provisions of this Ordinance shall be administered by the City of Cedarburg.
- (h) **Effective Date.** The provisions of this Ordinance shall take effect on April 14, 2006.
- (i) **Definitions.** All definitions for the purpose of this Ordinance are those contained in Section NR 135.03, Wisconsin Administrative Code.

**SEC. 13-1-31 STANDARDS.** (Ord. 2006-13)

- (a) **Standards.** All nonmetallic mining sites subject to this Ordinance shall be reclaimed in conformance with the standards contained in SubOrdinance II of Chapter NR 135, Wisconsin Administrative Code.

**SEC. 13-1-32 PERMITTING.** (Ord. 2006-13)

(a) **Nonmetallic Mining Reclamation Permit Application.**

- (1) **Required Submittal.** The operator of all nonmetallic mining sites that operate on or after April 14, 2006 shall apply for a reclamation permit from the City of Cedarburg. All reclamation permit applications under this section shall be accompanied by the information required by Section NR 135.18(3), Wisconsin Administrative Code.
- (2) **New Mines.** The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining shall submit an application that meets the requirements of Section NR 135.18(2), Wisconsin Administrative Code and the submittals required under Sec. 13-1-32(a)(1) to the City of Cedarburg prior to beginning operations.

(b) **Reclamation Plan.**

- (1) **Reclamation Plan Requirements.** All operators of nonmetallic mining sites subject to this Ordinance shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.
- (2) **Existing Plans and Approvals.** To avoid duplication of effort, the reclamation plan required by Sec. 13-1-32(b)(1) may, by reference, incorporate existing plans or materials that meet the requirements of this Ordinance.
- (3) **Approval of Reclamation Plan.** The City of Cedarburg Common Council, following referral to and recommendation from the Plan Commission, shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance pursuant to Sec. 13-1-32(e)(3). Conditional approvals of reclamation plans shall be made according to Sec. 13-1-32(e)(3), and denials of reclamation plans made according to Sec. 13-1-32(f). The operator shall keep a copy of the reclamation plan required by this section, once approved by the City of Cedarburg under this Ordinance, at the mine site or, if not practicable, at the operator's nearest office or place of business.

(c) **Financial Assurance.**

- (1) **Financial Assurance Requirements.** All operators of nonmetallic mining sites in the City of Cedarburg shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section NR 135.40, Wisconsin Administrative Code.

- (2) **Existing Mines.** The operator of any nonmetallic mining site that received a permit from the Town of Cedarburg or Ozaukee County shall submit or transfer the financial assurance required by Sec. 13-1-32(c)(1) to the City of Cedarburg.
- (3) **Public Nonmetallic Mining.** The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.
- (d) **Public Notice and Right of Hearing.**
  - (1) **New Mines or Existing Mines that have been newly annexed into the City.** The City of Cedarburg shall provide public notice and the opportunity for a public informational hearing as set forth in Section NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies Sec. 13-1-32(a)(1) is received.
  - (2) **Local transportation-Related Mines.** No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to Sec. 13-1-32(e)(4).
- (e) **Issuance of a Nonmetallic Mining Reclamation Permit.**
  - (1) **Permit Required.** Every operator of a nonmetallic mining site in the City of Cedarburg who engages in or plans to engage in nonmetallic mining on or after April 14, 2006 shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this Ordinance as provided in Sec. 13-1-30(f)(2). No person may engage in nonmetallic mining or nonmetallic mining reclamation after April 14, 2006 without a reclamation permit issued pursuant to this Ordinance.
  - (2) **Permit Issuance.** Applicants for reclamation permits for nonmetallic mining sites that satisfy Sec. 13-1-32(a)(1) shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms to Sec. 13-1-32(b)(1), and provisions by the applicant of financial assurance that conforms to Sec. 13-1-32(c)(2) payable to the City of Cedarburg prior to beginning mining.
  - (3) **Permit Conditions.** Permits issued under this section may include conditions as provided in Section NR 135.21(3), Wisconsin Administrative Code.
  - (4) **Automatic Permit for Local Transportation-Related Mines.** The City of Cedarburg shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally administrated transportation project that meets the criteria in Section NR 135.21(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Section 135.23(1)(b) through (j), Wisconsin Administrative Code.
- (f) **Permit Denial.** An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exists.
- (g) **Alternate Requirements**

- (1) **Scope of Alternative Requirements Approvable.** An operator of a nonmetallic site may request an alternative requirement to any reclamation standard established in Sec. 13-1-31. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.
- (2) **Procedures.** The operator of a nonmetallic mining site requests an alternate requirement in Sec. 13-1-32(g)(1) shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the City of Cedarburg Board of Appeals appointed pursuant to Section 62.23, Wisconsin Statutes.
- (3) **Transmittal of Decision on Request for Alternate Requirements.** The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.
- (4) **Notice to Wisconsin Department of Natural Resources.** The City of Cedarburg shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code.
- (h) **Permit Duration.** A nonmetallic mining reclamation permit issued under this Ordinance shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to Sec. 13-1-34(b)(2), or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner.
- (i) **Permit Transfer.** A nonmetallic mining reclamation permit issued under this Ordinance shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.
- (j) **Permit Transfer Notice.** When a nonmetallic mining permit is proposed to be transferred to a new owner or operator, the permit holder shall notify the City of Cedarburg of such a transfer at least 30 days prior to the transfer to the new owner. Such notice shall be by certified mail.
- (k) **Review.** Any permitting decision or action made by the City of Cedarburg under this Ordinance may be reviewed as set forth in Section NR 135.30, Wisconsin Administration Code.

#### **SEC. 13-1-33 ADMINISTRATION** (Ord. 2006-13)

- (a) **Permit Modification.**
  - (1) **By the City of Cedarburg.** A nonmetallic mining reclamation permit issued under this Ordinance may be modified by the City of Cedarburg if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this Ordinance. Such modification shall be by an order conforming with the procedures in Sec. 13-1-34(b) and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

- (2) **At the Operators Option.** If the operator of any nonmetallic mine that holds a valid reclamation permit issued under this Ordinance desires to modify such permit or reclamation plan approved under this Ordinance, it may request such modification by submitting a written application for such modification to the City of Cedarburg. The application for permit of plan modification shall be acted on using the standards and procedures of this Ordinance.
  - (3) **Required by the Operator.** The operator of any nonmetallic mine that holds a reclamation permit issued under this Ordinance shall request a modification of such permit if required under the circumstances set out in Section NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this Ordinance.
  - (4) **Review.** All actions on permit modifications requested or initiated under this section are subject to review under Sec. 13-1-32(k).
- (b) **Permit Suspension or Revocation**
- (1) **Grounds.** The City of Cedarburg may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this Ordinance if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.
  - (2) **Procedures.** If the City of Cedarburg finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in Sec. 13-1-33(c)(1), it may issue a special order suspending or revoking such permit as set forth in Sec. 13-1-34(b)(2).
  - (3) **Consequences.** The consequences of a reclamation permit suspension or revocation order under Sec. 13-1-33(b)(2) shall be as set forth in Section NR 135.25(2) and (3), Wisconsin Administrative Code.
- (c) **Annual Operator Reporting.**
- (1) **Contents and Deadline.** Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year to the City of Cedarburg. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under Sec. 13-1-33(g)(3).
  - (2) **Inspection in Lieu of Report.** The City of Cedarburg may, at its discretion, obtain the information required in Sec. 13-1-33(c)(1) by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.
  - (3) **Retention of Annual Reports.** Annual reports submitted under this section or inspection records that replace them shall be retained by the City of Cedarburg for at least 10 years after the calendar year to which they apply at the office of the City Clerk. These records, or accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Section NR 135, Wisconsin Administrative Code.

(d) **Plan Review Fees.**

- (1) **Amount and Applicability.** A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under Sec. 13-1-32(a)(1) shall submit a nonrefundable plan review fee of \$1,000.00. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to Sec. 13-1-33(a). No plan review fee may be assessed under this section for any nonmetallic mine site for any local transportation-related mine issued an automatic permit under Sec. 13-1-32(e)(4).
- (2) **Relation to Annual Fee.** Any reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under Sec. 13-1-33(e).

(e) **Annual Fees.**

- (1) **Areas Subject to Fees, Procedures and Deadlines.** Operators of all nonmetallic mining sites subject to reclamation permits issued under this Ordinance shall pay fees to the City of Cedarburg. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under Sec. 13-1-33(e)(2) and a share for the City of Cedarburg under Sec. 13-1-33(e)(3) that equals as closely as possible the costs of examination and approval of nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on amount of un-reclaimed acres of each site, as defined in Section NR 135.39(1), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under Sec. 13-1-33(g). Fees shall be paid no later than December 31 before the year for which they apply.
- (2) **Wisconsin Department of Natural Resources Share of Fee.** Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Section NR 135.39(3), Wisconsin Administrative Code. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be \$15.00.
- (3) **The City of Cedarburg's Share of Fee.** Fees paid under this section shall also include an annual fee due to the City of Cedarburg. Such annual fees due to the City of Cedarburg shall be in the amounts stated in Table 3 in Section 135.39(4), Wisconsin Administrative Code.
- (4) **Reduced fee for Inactive Mines.** Any site on which no nonmetallic mining activities has taken place in a calendar year shall be assessed a fee for the following calendar year of \$50.00 per acre of un-reclaimed area.
- (5) **Documentation of the City of Cedarburg's Share of Fee.** If the annual fee in Sec. 13-1-33(e)(3) is greater than that established in Section NR 135.39(4)(c), Wisconsin Administrative Code, the City of Cedarburg shall document in writing its estimated program costs and the need for its annual fees established in Sec. 13-1-33(e)(3) on or before April 14, 2006. This documentation shall be available for public inspection.

(f) **Regulatory Reporting and Documentation**

- (1) **Reporting.** The City of Cedarburg shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code.
- (2) **Documentation.** The City of Cedarburg shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of the City of Cedarburg's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

(g) **Completed Reclamation – Reporting, Certification and Effect**

- (1) **Reporting.** The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic site pursuant to a reclamation plan prepared and approved pursuant to this Ordinance and Chapter NR 135, Wisconsin Administrative Code. Such certification documents shall be file with the City Clerk.
- (2) **Reporting of Interim Reclamation.** The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this Ordinance and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in Sec. 13-1-33(g)(1).
- (3) **Certification of Completed Reclamation.** City of Cedarburg shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including re-vegetation as specified in a plan that conforms to Sec. 13-1-32(b), the City of Cedarburg shall issue the mine operator a written certificate of completion.
- (4) **Effects of Completed Reclamation.** If reclamation is certified by the City of Cedarburg as complete under Sec. 13-1-33(g)(3) for part or all of a nonmetallic mining site, then:
  - a. No fee shall be assessed under Sec. 13-1-33(e) for the area so certified.
  - b. The financial assurance required by Sec. 13-1-32(c) shall be released.
  - c. For sites which are reported as interim reclaimed under Sec. 13-1-33(g)(2), and so certified under Sec. 13-1-33(g)(3), financial assurance for reclaiming the certified area shall be reduced in proportion to the total area proposed for reclamation.
- (5) **Effect of Inaction Following Report of Completed Reclamation.** If no written response as required by Sec. 13-1-33(g)(3) for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to the City of Cedarburg for it under Sec. 13-1-33(e) shall be refunded.
- (6) **Permit Terminated.** When all final reclamation required by a reclamation plan

conforming to Sec. 13-1-32(b) and required by this Ordinance is certified as complete pursuant to Sec. 13-1-33(f), the City of Cedarburg shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

**SEC. 13-1-34 ENFORCEMENT** (Ord. 2006-13)

- (a) **Right of Entry and Inspection.** For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin State Statutes, Chapter NR 135, Wisconsin Administrative Code, or this Ordinance, any authorized officer, agent, employee or representative of the City of Cedarburg may inspect any nonmetallic mining site subject to this Ordinance as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.
- (b) **Orders and Citations**
  - (1) **Enforcement Orders.** The City of Cedarburg may issue orders as set forth in Section 295.19(1)(a), Wisconsin Statutes to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance or a reclamation plan required by Sec. 13-1-32(b) and a permit issued under this Ordinance. A violation of this Ordinance, an order or permit issued pursuant to this Ordinance or a reclamation plan required by Sec. 13-1-32(b) and a permit issued under this Ordinance shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.
  - (2) **Special Orders.** The City of Cedarburg may issue a special order as set forth in Section 295.19(1)(b) and (c), Wisconsin Statutes, suspending or revoking a nonmetallic mining reclamation permit pursuant to Sec. 13-1-33(b), of directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this Ordinance until the necessary plan approval is obtained.
  - (3) **Review of Orders.** An order issued under Sec. 13-1-34(b)(1) or (b)(2) may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.
  - (4) **Citations.** The City of Cedarburg may issue a citation under s.66.119, Stats. and Sec. 13-1-34(c) under this Ordinance to collect forfeitures or require any action needed to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance or a reclamation plan required by Sec. 13-1-32(b) and a permit issued under this Ordinance. The issuance of a citation under this subsection shall not preclude proceedings under any other ordinance or law relating to the same or any other matter. Proceeding under ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

- (5) **Enforcement.** The City of Cedarburg may submit any order issued under Sec. 13-1-34(b) to the district attorney, the corporation counsel, municipal attorney or the attorney general for enforcement as provided in Section 295.19(1)(d), Wisconsin Statutes.
- (c) **Penalties.** Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance or a reclamation plan required by Sec. 13-1-32(b) and a permit issued under this Ordinance may result in forfeiture as provided in Section 295.29(3), Wisconsin Statutes, as follows:
  - (1) Any person who violates Ordinance NR 135, Wisconsin Administrative Code or an order issued under Sec. 13-1-34(b) may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offence. While an order issued under Sec. 13-1-34(b) is suspended, stayed or enjoined, this penalty does not accrue.
  - (2) Except for the violations referred to in Sec. 13-1-30, any person who violates Subchapter I of Chapter 295, State Statutes, Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this Ordinance or an order issued pursuant to Sec. 13-1-34(b) shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offence. While an order issued under Sec. 13-1-34(b) is suspended, stayed or enjoined, this penalty does not accrue.

**SEC. 13-1-35 THROUGH SEC. 13-1-39 RESERVED FOR FUTURE USE.**

## ARTICLE C

### Zoning Districts

#### SEC. 13-1-40 ESTABLISHMENT OF DISTRICTS.

- (a) **Districts.** For the purpose of this Chapter, the City of Cedarburg is hereby divided into twenty-four (24) basic use districts and five (5) overlay districts designated as follows:
- (1) Rs-1 Low-Density Single-Family Residential District.
  - (2) Rs-2 Single-Family Residential District (Ord. 99-03).
  - (3) Rs-3 Single-Family Residential District.
  - (4) Rs-4 Single-Family Residential District.
  - (5) Rs-5 Single-Family Residential District.
  - (6) Rs-6 Single-Family/Two-Family Residential District.
  - (7) Rs-7 Low-Density Single-Family Residential District.
  - (8) Rs-8 Low-Density Single-Family Residential District.
  - (9) Rd-1 Two-Family Residential District.
  - (10) Rm-1 Multi-Family Residential District.
  - (11) Rm-2 Multi-Family Residential District.
  - (12) B-1 Neighborhood Business District.
  - (13) B-2 Community Business District.
  - (14) B-3 Central Business District.
  - (15) B-4 Office and Service District.
  - (16) B-5 Business Park District.
  - (17) B-6 General Business and Warehousing District.
  - (18) M-1 Limited Manufacturing District.
  - (19) M-2 General Manufacturing District.
  - (20) M-3 Business Park District. (Ord. 96-05)
  - (21) P-1 Park and Recreation District.
  - (22) I-1 Institutional and Public Service District.
  - (23) C-1 Shoreland Wetland/Conservancy District.
  - (24) C-2 Non-Shoreland Conservancy District.
  - (25) C-3 Shoreland Conservancy District (Ord. 2000-45)
  - (26) C-4 Upland Conservancy Overlay District (Ord. 2000-46)
  - (27) GFP General Floodplain District. (Ord. 2007-02)
  - (28) FW Floodway District. (Ord. 2007-02)
  - (29) FFO Floodfringe Overlay District. (Ord. 2007-02)
  - (30) PUD Planned Unit Development Overlay District.
  - (31) HPD Historic Preservation Overlay District.
  - (32) CEG Community Exhibition Grounds District (Ord. 92-16)
  - (33) OSLM Office, Service and Limited Manufacturing District (Ord. 98-15)

- (34) A-1 Agricultural District (Ord. 2001-44)
- (b) Boundaries of these districts are hereby established as shown on the maps entitled "Zoning Map -- City of Cedarburg, Wisconsin," and "Supplementary Floodland Zoning Map -- City of Cedarburg, Wisconsin," both maps which accompany and are herewith made a part of this Chapter. Such boundaries shall be construed to follow: corporate limits; U.W. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended unless otherwise noted on the Zoning Map.
  - (c) Boundaries of the FW Cedar Creek Floodway District shall be determined by use of the scale contained on the Supplementary Floodland Zoning Map. The boundaries of the FPC Floodplain Conservancy District and the FFO Floodplain Fringe Overlay District shall be determined by the floodland limits shown on the Supplementary Floodland Zoning Map. The flood stages under floodway conditions, contained on the Supplementary Floodland Zoning Map, were developed from technical data contained in the Flood Insurance Study -- City of Cedarburg, Ozaukee County, Wisconsin, published by the Federal Insurance Administration (FIA) and dated May 15, 1980. The information contained in the flood insurance study is further illustrated in FIA Floodway and Flood Boundary Map and Flood Insurance Rate Map, both maps dated May 16, 1980. Where a conflict exists between the floodland limits as shown on the Supplementary Floodland Zoning Map and actual field conditions, the elevations from the one hundred (100) year recurrence interval flood profile under floodway conditions shall be the governing factor in locating the regulatory floodland limits.
  - (d) Boundaries of the SW Shoreland Wetland/Wetland Overlay District were determined from use of the Wisconsin Wetland Inventory Maps for the City of Cedarburg dated May 10, 1989, and stamped "FINAL", and include, but are not limited to, all shoreland wetlands, five (5) acres or greater in area, shown on these maps. Section 62.231 of the Wisconsin Statutes requires that all shoreland wetlands five (5) acres or greater in area be protected by the City.
  - (e) Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side or sides to which the vacated land reverts as determined by the location of the former public street or alley centerline where applicable.
  - (f) Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the Rs-1 Single-Family Residential District, unless the annexation ordinance temporarily places the land in another district. Within one (1) year, the City Plan Commission shall evaluate and recommend a permanent zoning district classification to the Common Council. Annexations containing shorelands shall comply with Sec. 59.971(7) of the Wisconsin Statutes. Annexations containing floodlands and shorelands shall be governed in the following manner:
    - (1) Annexations containing floodlands shall be governed by the provisions of the Ozaukee County Floodplain Zoning Ordinance until such time that the Wisconsin Department of Natural Resources (DNR) certifies that amendments to the City of Cedarburg Zoning Ordinance meet the requirements of Chapter NR 116 of the Wisconsin Administrative Code.
    - (2) Annexations containing shorelands. Pursuant to Sec. 59.971(7) of the Wisconsin

Statutes, any annexation of land after May 7, 1982, which lies within shorelands, as defined herein, shall be governed by the provisions of the Ozaukee County Shoreland Zoning Ordinance until such time that the City adopts an ordinance that is at least as restrictive as the Ozaukee County Shoreland Zoning Ordinance. Said regulations shall be administered and enforced by the City of Cedarburg Building Inspector.

#### **SEC. 13-1-41 ZONING MAP.**

A certified copy of the Zoning Map, together with the Supplementary Floodland Zoning Map, shall be adopted and approved with the text as part of this Chapter and shall bear upon its face the attestation of the Mayor and City Clerk and shall be available to the public in the office of the Zoning Administrator. Changes thereafter to the general zoning districts shall be entered and attested on the certified copy. Changes in the floodland districts shall not become effective until approved by the Wisconsin Department of Natural Resources. Also see Section 13-1-207 of this Chapter.

#### **SEC. 13-1-42 RS-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rs-1 Single-Family Residential District is intended to accommodate single-family residential development at densities not exceeding 2.2 dwelling units per acre served by public sanitary sewer and water supply facilities. Standards certain public improvements may be modified as provided in Section 13-1-42(k) of this Chapter.
- (b) **Permitted Uses.**
  - (1) Single-family dwellings.
  - (2) Family day care home.
  - (3) Foster family home.
  - (4) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
  - (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (See also Section 13-1-226.)
  - (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Community living arrangements which have a capacity for nine (9) or more persons.
  - (3) Churches.
  - (4) Utilities.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of twenty thousand (20,000) square feet in area and shall be not less than one hundred (100) feet in width at the setback line.

- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The minimum floor area of a principal building shall be one thousand six hundred (1,600) square feet.
  - (3) The minimum first floor area of a two (2) story principal building shall be one thousand (1,000) square feet.
  - (4) A tri-level dwelling shall have a minimum floor area of five hundred fifty (550) square feet per habitable level. The sum total of the floor area of new principal buildings and all new accessory buildings shall not exceed twenty-eight percent (28%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed twenty-five percent (25%) of the lot area. (Ord. 2004-01)
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal structures not less than fifteen (15) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Subdivision Improvements May be Nonstandard.** The intent of this District is to provide for residential subdivisions with a semi-rural character. Such intent may require subdivision improvements which vary from standard requirements for streets, curb and gutter, sidewalks, street lights, street trees, and stormwater drainage facilities. Modification of requirements should be granted at the time of subdivision review and approval pursuant to the requirements of the City of Cedarburg Platting and Subdivision Ordinance. Variances to the improvement requirements shall be permitted only by the affirmative vote of three-fourths (3/4) of the Plan Commission members present and voting. Provision of public sanitary sewer and water supply facilities shall not be waived, and waiving of the construction of sidewalks on arterial streets shall not be permitted.

**SEC. 13-1-43 RS-2 SINGLE-FAMILY RESIDENTIAL DISTRICT** (Ord. 99-03)

- (a) **Purpose.** The Rs-2 Single-Family Residential District is intended to establish high-quality single-family residential development at densities not exceeding 2.9 dwelling units per acre served by public sanitary sewer and water supply facilities. In addition to establishing new subdivisions with complete urban infrastructure, the RS-2 District is intended to accommodate existing single-family development in newly-annexed areas. In such newly-annexed areas, complete urban infrastructure such as curb, gutter, storm sewers, street lights, street trees and sidewalks may not be required. A determination to waive such requirements

shall be on a case-by-case basis after review and recommendation of the Plan Commission and in accord with procedures and provisions described in Section 14-1-90 of the Land Division and Subdivision Regulations. Sidewalks may be required if determined necessary by the Plan Commission.

- (b) **Permitted Uses.**
  - (1) Single-family dwellings.
  - (2) Family day care home.
  - (3) Foster family home.
  - (4) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
  - (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building mounted dish antennas.
- (d) **Conditional Uses.** (See also Section 13-1-226.)
  - (1) Community living arrangements which have a capacity for nine (9) or more persons.
  - (2) Utilities.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of fifteen thousand (15,000) square feet in area. Lot width shall be not less than one hundred (100) feet measured at the setback line except for lots fronting on a cul-de-sac turnaround may have a minimum lot width of not less than ninety (90) feet measured at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The minimum floor area of a principal building shall be one thousand six hundred (1,600) square feet (excluding attached garage area).
  - (3) The minimum first floor area of a two (2) story principal building shall be one thousand (1,000) square feet (excluding attached garage area).
  - (4) A tri-level dwelling shall have a minimum floor area of seven hundred (700) square feet per habitable level.
  - (5) The sum total of the floor area of the principal building and all accessory buildings shall not exceed thirty-six percent (36%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed twenty-five percent (25%) of the lot area. (Ord. 2004-01)
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of thirty (30) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal structures not less than fifteen (15) feet in width.

- (3) There shall be a rear yard setback of not less than thirty (30) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)

**SEC. 13-1-44 RS-3 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rs-3 Single-Family Residential District is intended to establish and preserve quiet single-family residential neighborhoods free from other urban land uses, except those which are compatible with such residential use, and at densities not to exceed 3.6 units per net acre, served by public sanitary sewer and water supply facilities.
- (b) **Permitted Uses.**
  - (1) Single-family dwellings.
  - (2) Family day care home.
  - (3) Foster family home.
  - (4) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
  - (1) Private garages and carports.
  - (2) Gardening, tool and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Community living arrangements which have a capacity of nine (9) or more persons.
  - (3) Churches.
  - (4) Utilities.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of twelve thousand (12,000) square feet in area and shall be not less than ninety (90) feet in width at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The total minimum floor area of a principal building shall be one thousand three hundred (1,300) square feet.
  - (3) The minimum first floor area of a two (2) story principal building shall be eight hundred fifty (850) square feet.
  - (4) A tri-level dwelling shall have a minimum floor area of four hundred twenty-five (425) square feet per habitable level.
  - (5) The sum total of the floor area of the principal building and all accessory buildings

shall not exceed thirty-six percent (36%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed thirty percent (30%) of the lot area. (Ord. 2004-01)

- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than eight (8) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
  - (1) **Performance Standards.** (See Article H.)

#### **SEC. 13-1-45 RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rs-4 Residential District is intended to establish and preserve the same use as in the Rs-3 Single-Family Residential District, except at densities not to exceed 4.4 units per net acre, served by public sanitary sewer and water supply facilities.
- (b) **Permitted Uses.**
  - (1) Single-family dwellings.
  - (2) Family day care home.
  - (3) Foster Family home.
  - (4) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
  - (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Community living arrangements which have a capacity for nine (9) or more persons.
  - (3) Churches.
  - (4) Utilities.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of ten thousand (10,000) square feet in area and shall be not less than ninety (90) feet in width at the setback line.
- (f) **Building Height and Area.** (Also See Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory buildings shall exceed twenty (20) feet in height.

- (2) The total minimum floor area of a principal building shall be one thousand two hundred (1,200) square feet.
  - (3) The minimum first floor area of a two (2) story principal building shall be eight hundred (800) square feet.
  - (4) A tri-level dwelling shall have a minimum floor area of four hundred (400) square feet per habitable level.
  - (5) The sum total of the floor area of the principal building and all accessory buildings shall not exceed thirty-six percent (36%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed thirty percent (30%) of the lot area. (Ord. 2004-01)
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
- (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than eight (8) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)

#### **SEC. 13-1-46 RS-5 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rs-5 Single-Family Residential District is intended to establish and preserve the same use as in the Rs-3 Residential District, except at densities not to exceed 5.2 units per net acre, served by public sanitary sewer and water supply facilities.
- (b) **Permitted Uses.**
- (1) Single-family dwellings.
  - (2) Family day care home.
  - (3) Foster family home.
  - (4) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
- (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Community living arrangements which have a capacity for nine (9) or more persons.
  - (3) Churches.

- (4) Utilities.
- (5) Two (2) family dwellings in structures existing at the time of the adoption of this Chapter without building additions.
- (6) Off-street parking for six (6) or more automobiles.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of eight thousand four hundred (8,400) square feet in area and shall be not less than fifty (50) feet in width at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The total minimum floor area of a principal building shall be one thousand one hundred (1,100) square feet.
  - (3) The minimum first floor area of a two (2) story principal building shall be eight hundred (800) square feet.
  - (4) A tri-level dwelling shall have a minimum floor area of four hundred (400) square feet per habitable level.
  - (5) The sum total of the floor area of the principal building and all accessory buildings shall not exceed thirty-six percent (36%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed thirty percent (30%) of the lot area. (Ord. 2004-01)
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than four (4) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)

#### **SEC. 13-1-47 RS-6 SINGLE-FAMILY/ TWO-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rs-6 Single-Family/Two-Family Residential District is intended to establish and preserve single-family and two (2) family residential use in older neighborhoods, at densities not to exceed 10.4 dwelling units per acre, free from other use except those which are compatible with such residential use and, further, to allow for the conversion of large single-family dwellings to two (2) family dwellings.
- (b) **Permitted Uses.**
  - (1) Single-family dwellings.
  - (2) Two (2) family dwellings.

- (3) Day care home.
  - (4) Foster family home.
  - (5) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (6) Essential services.
- (c) **Permitted Accessory Uses.**
- (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Community living arrangements which have a capacity for nine (9) or more persons.
  - (3) Churches.
  - (4) Utilities.
  - (5) Off-street parking for six (6) or more automobiles.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of eight thousand four hundred (8,400) square feet in area and shall be not less than fifty (50) feet in width at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
- (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The total minimum floor area of a principal building shall be one thousand one hundred (1,100) square feet for a single-family dwelling.
  - (3) Two (2) family dwellings shall provide a minimum floor area of seven hundred fifty (750) square feet per dwelling unit.
  - (4) The minimum first floor area of a two (2) story principal building shall be seven hundred fifty (750) square feet.
  - (5) The sum total of the floor area of the principal building and all accessory buildings shall not exceed thirty-six percent (36%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed thirty percent (30%) of the lot area. (Ord. 2004-01)
- (g) **Setback and Yards.** (Also see Sections 13-1-27 and Article E.)
- (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than four (4) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.) Note: Parking standards apply also to converted dwelling units. For example, a single-family home converted to a two (2) family home would require four (4) off-street parking spaces [two (2) spaces per dwelling

unit].

- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)

**SEC. 13-1-48 RS-7 LOW-DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rs-7 Low-Density Single-Family Residential District is intended to accommodate existing single-family residential platted subdivisions and land divisions by certified survey map which are low-density in character and which do not necessarily provide the full complement of urban improvements such as concrete curb and gutter, street lamps, sidewalks, storm sewers, or street trees. The district is intended to accommodate such existing low-density single-family residential development on lots at densities not to exceed 2.2 dwelling units per acre to be served by municipal sewer and water facilities. Sidewalks may be required in Plan Commission-designated areas.
- (b) **Permitted Uses.**
  - (1) Single-family dwellings.
  - (2) Family day care home.
  - (3) Foster family home.
  - (4) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
  - (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Community living arrangements which have a capacity for nine (9) or more persons.
  - (3) Churches.
  - (4) Utilities.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of twenty thousand (20,000) square feet in area and shall be not less than one hundred (100) feet in width at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The total minimum floor area of a principal building shall be one thousand six hundred (1,600) square feet.
  - (3) The minimum first floor area of a two (2) story principal building shall be one thousand (1,000) square feet.

- (4) New tri-level dwellings shall have a minimum floor area of five hundred fifty (550) square feet per habitable level.
- (5) The sum total of the floor area of new principal buildings and all new accessory buildings shall not exceed twenty-eight percent (28%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed twenty-five percent (25%) of the lot area. (Ord. 2004-01)
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a minimum side yard on each side of all principal structures not less than ten (10) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)

**SEC. 13-1-49 RS-8 LOW-DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(Ord. No. 2001-31)

- (a) **Purpose.** The Rs-8 Low-Density Single-Family Residential District is intended to accommodate single-family residential platted subdivisions and land divisions by certified survey map which are low-density in character and which do not necessarily provide the full complement of urban improvements such as concrete curb and gutter, street lamps, sidewalks, storm sewers, or street trees. The district is intended to accommodate such low-density single-family residential development on lots at densities not to exceed 1.1 dwelling units per acre to be served by municipal sewer and water facilities. Sidewalks may be required in Plan Commission-designated areas. Conservation Subdivisions may be allowed as a Conditional Use in accord with Performance Standards applicable to such subdivisions.
- (b) **Permitted Uses.**
  - (1) Single-family dwellings.
  - (2) Family day care home.
  - (3) Foster family home.
  - (4) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
  - (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.

- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Community living arrangements which have a capacity for nine (9) or more persons.
  - (3) Churches.
  - (4) Utilities.
  - (5) Conservation Subdivisions (Ord. 2001-31)
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of forty thousand (40,000) square feet in area and shall be not less than one hundred fifty (150) feet in width at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed forty-two (42) feet in height. No accessory building shall exceed twenty (20) feet in height. (Ord. 2001-31)
  - (2) The total minimum floor area of a principal building shall be one thousand six hundred (1,600) square feet.
  - (3) The minimum first floor area of a two (2) story principal building shall be one thousand (1,000) square feet.
  - (4) New tri-level dwellings shall have a minimum floor area of five hundred fifty (550) square feet per habitable level.
  - (5) The sum total of the floor area of new principal buildings and all new accessory buildings shall not exceed twenty percent (20%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed fifteen percent (15%) of the lot area. (Ord. 2004-01)
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of seventy-five (75) feet from the right-of-way of all streets.
  - (2) There shall be a minimum side yard of twenty-five (25) feet. (Ord. 2001-31)
  - (3) There shall be a rear yard of not less than forty (40) feet.
  - (4) There shall be a minimum setback of twenty-five (25) feet from any existing wetlands for the principal building. An accessory building or structure shall have a minimum setback of five (5) feet from any existing wetland. (Ord. 2001-31)
- (h) **Traffic, Loading, Parking, and Access.** (Also see Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (Also see Article G.)
- (j) **Performance Standards.** (Also see Article H.)
- (k) **Performance Standards for Conservation Subdivisions.** (See Section 13-1-178 in Article H.) (Ord. 2001-31)

#### **SEC. 13-1-50 RD-1 TWO-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rd-1 Two-Family Residential District is intended to establish and preserve two (2) family residential neighborhoods, at densities not to exceed 8.7 dwelling units per net acre, served by municipal sewer and water facilities.

- (b) **Permitted Uses.**
  - (1) Single-family detached dwellings.
  - (2) Two (2) family dwellings.
  - (3) Family day care home in either or both units of a two (2) family dwelling.
  - (4) Foster family home in either or both units of a two (2) family dwelling.
  - (5) Community living arrangements which have a capacity for eight (8) or fewer persons served by the program in either or both units of a two (2) family dwelling structure.
  - (6) Essential services.
- (c) **Permitted Accessory Uses.**
  - (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Bed and breakfast establishments providing adequate off-street parking facilities.
  - (2) Zero lot line developments (See Illustration 2) which meet the following conditions:
    - a. Lot area and width. Lots shall have a minimum area of six thousand (6,000) square feet and shall not be less than fifty (50) feet in width with one (1) dwelling unit per lot.
    - b. Setback and Yards. There shall be a minimum setback of thirty (30) feet from the right-of-way of all streets. There shall be a side yard requirement on one side of a principal building of not less than ten (10) feet. The dwelling unit shall be placed on one (1) side of the property line with a zero (0) foot side yard. There shall be a rear yard of not less than twenty-five (25) feet for all lots.
    - c. Buildings. Buildings constructed shall be of the row (party-wall) dwelling type and shall consist of a row of two (2) attached dwelling units. The common wall between individual dwelling units shall be constructed of at least a one (1) hour fire-rated construction.
    - d. Side Lot Lines. Side lot lines shall be a straight line and perpendicular or radial to the street line.
  - (3) Churches.
  - (4) Community living arrangements which have a capacity for nine (9) or more persons.
- (e) **Lot Area and Width.** (Also See Article E.) Lots shall be a minimum of twelve thousand (12,000) square feet in area and shall be not less than one hundred (100) feet in width at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The total minimum floor area of a principal two (2) family building shall be two

thousand one hundred (2,100) square feet or one thousand fifty (1,050) square feet per dwelling.

- (3) The minimum first floor area of a two (2) story two (2) family principal building shall be one thousand fifty (1,050) square feet. Two (2) family dwellings constructed without a basement of at least two hundred (200) square feet shall add one hundred (100) square feet to each of the aforelisted minimums.
  - (4) The sum total of the floor area of a principal two (2) family building and all accessory buildings shall not exceed forty percent (40%) of the lot area.
  - (5) The total minimum floor area of a principal single family building shall be one thousand three hundred (1,300) square feet.
  - (6) The minimum first floor area of a two (2) story single-family principal building shall be eight hundred fifty (850) square feet.
  - (7) A new tri-level single family dwelling shall have a minimum floor area of four hundred twenty-five square feet per habitable level.
  - (8) The sum total of the floor area of a principal single family building and all accessory buildings shall not exceed twenty-five percent (25%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
- (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than ten (10) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Utilities.** Common public utility laterals shall not be permitted; each dwelling unit shall be served by its own separate lateral.
- (i) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (j) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (k) **Performance Standards.** (See Article H.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

#### **SEC 13-1-51 RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rm-1 Multiple-Family Residential District is intended to establish and preserve residential areas, at densities not to exceed 10.9 dwelling units per net acre, served by municipal sewer and water facilities.
- (b) **Permitted Uses.**
  - (1) Multiple-family dwellings with a maximum of four (4) dwelling units per structure.
  - (2) Foster family home unit.
  - (3) Community living arrangements which have a capacity for fifteen (15) persons or fewer.
  - (4) Essential services.

- (c) **Permitted Accessory Uses.**
- (1) Private garages and carports.
  - (2) Gardening, tool and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Zero (0) lot line condominium developments (See Illustration 1) which meet the following conditions:
    - a. **Lot Area and Width.** Lots shall have a minimum area of five thousand (5,000) square feet and shall not be less than forty-five (45) feet in width with one (1) dwelling unit per lot.
    - b. **Setback and Yards.** There shall be a minimum setback of forty (40) feet from the right-of-way of all public streets or from private drives. There shall be a side yard requirement on one side of a building of not less than ten (10) feet. The dwelling unit shall be placed on one side of the property line with a zero (0) foot side yard. The minimum distance between buildings shall be twenty-five (25) feet. There shall be a rear yard of not less than twenty-five (25) feet for all lots.
    - c. **Buildings.** Buildings constructed shall be of the row (party-wall) dwelling type and shall consist of a row of attached dwelling units. The common wall between individual dwelling units shall be constructed of at least a one (1) hour fire rated construction.
    - d. **Side Lot Lines.** Side lot lines shall be a straight line and perpendicular or radial to the street line.
  - (2) Churches.
  - (3) Community living arrangements which have a capacity for sixteen (16) or more persons.
- (e) **Lot Area and Width.** (Also see Article E.)
- (1) Lots shall have a minimum of twelve thousand (12,000) square feet in area or the area specified below, whichever is larger:

	<u>Minimum Total Area Per Dwelling Unit</u>
One Bedroom Dwelling	4,000 square feet per unit
Two Bedroom Dwelling	5,000 square feet per unit
  - (2) Lots shall be not less than ninety (90) feet in width at the public street right-of-way line.
- (f) **Building Height and Area.** (Also see Article E.)
- (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.

- (2) No principal building shall have a floor area of less than the larger of two thousand five hundred (2,500) square feet or:

	<u>Minimum Total Area Per Dwelling Unit</u>
One Bedroom Dwelling	500 square feet per unit
Two Bedroom Dwelling	850 square feet per unit

- (3) The sum total of the floor area of the principal building and all accessory buildings shall not exceed forty percent (40%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
- (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
- (2) There shall be a minimum side yard on each side of all principal buildings not less than twenty (20) feet in width.
- (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Utilities.** Common public utility laterals shall not be permitted; each dwelling unit shall be served by its own separate lateral.
- (i) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (j) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (k) **Performance Standards.** (See Article H.)
- (l) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (m) **Site Plan Review.** (See Article F.)
- (n) **Architectural Review.** (See Article F.)

**SEC. 13-1-52 RM-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) **Purpose.** The Rm-2 Multiple-Family Residential District is intended to establish and preserve multiple-family residential areas, at densities not to exceed 16.1 dwelling units per net acres, served by municipal sewer and water facilities.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
- (1) Multiple-family dwellings with a maximum of eight (8) dwelling units per structure.
- (2) Foster family home unit.
- (3) Community-living arrangements which have a capacity for fifteen (15) persons or fewer.
- (4) Essential services.
- (c) **Permitted Accessory Uses.**
- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Home occupations.

- (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Churches.
  - (2) Community living arrangements which have a capacity for sixteen (16) or more persons.
  - (3) Housing for the elderly, at a maximum density of twenty-four (24) dwelling units per acre, with a maximum of forty-eight (48) dwelling units per structure. Such structures may be a maximum of 48 feet in height when indoor parking is provided, and shall not contain more than three (3) residential stories. (Ord. 92-23) (Ord. 95-14)
  - (4) Multiple-family dwellings exceeding eight (8) dwelling units per structure, with a maximum of thirty six (36) dwelling units per structure. (Ord. 92-23)
  - (5) Detached garages located in interior side yards. (Ord. 2002-26)
- (e) **Lot Area and Width.** (Also see Article E.)
  - (1) Lots shall have a minimum of ten thousand eight hundred (10,800) square feet in area or the area specified below, whichever is larger:

Minimum Total Area  
Per Dwelling Unit

One Bedroom Dwelling	2,700 square feet per unit
Two Bedroom Dwelling	3,300 square feet per unit

- (2) Lots shall be not less than ninety (90) feet in width.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) No principal building shall have a floor area of less than the larger of two thousand (2,000) square feet or:

Minimum Total Area  
Per Dwelling Unit

One Bedroom Dwelling	500 square feet per unit
Two Bedroom Dwelling	800 square feet per unit

- (3) The sum total of the floor area of the principal building and all accessory buildings shall not exceed seventy-five percent (75%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a minimum side yard on each side of all principal buildings not less than twenty (20) feet in width.

- (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Utilities.** Common public utility laterals shall not be permitted; each dwelling unit shall be served by its own separate lateral.
- (i) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (j) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (k) **Performance Standards.** (See Article H.)
- (l) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (m) **Site Plan Review.** (See Article F.)
- (n) **Architectural Review.** (See Article F.)

**SEC. 13-1-53 B-1 NEIGHBORHOOD BUSINESS DISTRICT.** (Ord. 2009-06)

- (a) **Purpose.** The B-1 Neighborhood District is established to provide for individual or small groups of retail and service establishments serving the day-to-day needs of the general public located in areas near residential neighborhoods. The character, appearance and operation of such establishments shall be compatible with the surrounding area and consistent with the City of Cedarburg Smart Growth Comprehensive Lane Use Plan-2025 and components thereof. In general, establishments shall:
  - (1) Be designed for “walkable” streets, while properly functioning for all traffic types.
  - (2) Enhance user friendliness and safety for pedestrians.
  - (3) Coordinate public streetscapes with private improvements.
  - (4) Improve the aesthetic qualities of the area.
- (b) **General Requirements.**
  - (1) Buildings shall be designed in individual or small groupings and shall be designed and sized in a manner that is architecturally, aesthetically and operationally harmonious with the surrounding area with no individual building exceeding 20,000 square feet in size.
  - (2) All business, servicing or processing, except for off-street parking, approved outdoor eating/seating areas or loading, shall be conducted within completely enclosed buildings and shall not exceed the size in area that which is specified in the table below. Outside storage or displays are not permitted except as specifically approved by the Plan Commission.
  - (3) Site development shall be approved by the Plan Commission in accordance with Sections 13-1-225 and 13-1-226 of the City Code of Ordinances.
- (c) **Permitted Principal Uses**
  - (1) Any of the following retail establishments selling primarily new merchandise to the general public:
    - (a) Antique stores.
    - (b) Art studios and galleries.
    - (c) Bagel stores.
    - (d) Bakery for retail sales.

- (e) Book or stationary stores.
- (f) Candy/confectionary stores.
- (g) Clothing or dry good stores.
- (h) Coffee/espresso bars.
- (i) Computer stores.
- (j) Custard/ice cream stands and soda fountains.
- (k) Delicatessens.
- (l) Florist shops.
- (m) Fruit and vegetable stores.
- (n) Gift shops.
- (o) Grocery stores (neighborhood style – see size limit in table below).
- (p) Hobby shops.
- (q) Jewelry stores.
- (r) Liquor stores.
- (s) Meat, fish or poultry stores.
- (t) Museums.
- (u) Music and radio stores.
- (v) Optical stores.
- (w) Pharmacies.
- (x) Photo and film pickup stores.
- (y) Resale and consignment stores.
- (z) Shoe stores.
- (aa) Sporting goods stores.
- (bb) Variety stores.
- (2) Any of the following business, professional and public service offices:
  - (a) Accounting offices.
  - (b) Architectural, engineering, or other similar professional offices.
  - (c) Legal service offices.
- (3) Any of the following customer service establishments:
  - (a) Art, dance, or music teaching studios.
  - (b) Shoe repair stores.
  - (c) Travel agent offices.
- (4) Residential units, excluding store-front space and new principal residential structures.
- (d) **Permitted Accessory Uses.**
  - (1) Accessory buildings customarily incidental to the uses allowed herein including garages, storage shed and dumpster facilities.
  - (2) Essential services.
  - (3) Ground-mounted and building-mounted satellite dish antennas less than 3 feet in diameter.
  - (4) Off-street parking and loading areas.

- (e) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Banks, savings and loans associations and other financial institutions.
  - (2) Beauty parlors and barber shops.
  - (3) Child day care facilities.
  - (4) Health care facilities including:
    - (a) Chiropractic office.
    - (b) Dental office.
    - (d) Health spa.
    - (e) Medical office.
  - (5) Public and/or private utilities, telecommunication installations, transmission and distribution lines, poles, and other accessories. [Note: when a utility proposes a main inter-City transmission facility, the utility shall give notice to the City of such intention and of the date of hearing before the Public Service Commission]. Public and/or private utility installations less than three (3) feet in height shall be subject only to City of Cedarburg staff approval and may be allowed subject to staff-imposed conditions regarding, among other things, effective screening from public view with all-season vegetation.
  - (6) Restaurants, not including “fast food” or those serving liquor.
  - (7) Satellite Dishes larger than 3ft diameter.

**TABLE 13-1-53**

**B-1 NEIGHBORHOOD BUSINESS DISTRICT**  
Development Standards

TYPE OF STANDARD	STANDARD
<b>MINIMUM OPEN SPACE AND FLOOR AREA RATIOS</b>	
Open Space Ratio (OSR)	35% <sup>(a)</sup>
Floor Area Ratio (FAR)	50%
<b>LOT DIMENSIONAL REQUIREMENTS</b>	
Minimum Lot Area	8,400 sf
Minimum Lot Width at Setback Line (ft.)	50
Minimum Setback (ft.)	5
Minimum Setback from Wetlands (ft.)	Principal Structure: 25 feet Accessory Structure: 5 feet
Minimum Offset (side) (ft.)	10

Minimum Offset (rear) (ft.)	25
Maximum Lot Coverage	50%
<b>MAXIMUM USE AREA REQUIREMENT</b>	
Permitted Uses by Right and Conditional Uses in the B-1 District.	5,000 sf unless otherwise permitted to be larger by the Plan Commission.
<b>MINIMUM LIVING AREA PER DWELLING UNIT</b>	
Residential Units excluding store front spaces (sq. ft.)	Efficiency or 1 bedroom=420 2 bedroom=550
<b>MAXIMUM BUILDING HEIGHT</b>	
Principal Structure (ft.)	35
Accessory Structure (ft.)	20

<sup>(a)</sup>No lot or parcel that was previously developed shall be deemed nonconforming due to the lack of compliance with the Open Space Ratio requirement.

Lots in the B-1 District shall provide sufficient area for the principal structures and accessory structures, off-street parking and loading while maintaining all required setbacks and offsets.

- (f) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (g) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (h) **Performance Standards.** (See Article H.)
- (i) **Signs.** (See Title 15, Chapter 5 of the Municipal Code.)
- (j) **Site Plan Review.** (See Article F.)
- (k) **Architectural Review.** (See Article F.)

**SEC. 13-1-54 B-2 COMMUNITY BUSINESS DISTRICT.** (Ord. 2006-24)

- (a) **Purpose.** The B-2 Community Business District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices, and service establishments serving the daily needs of the surrounding local community area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the traffic circulation system, and other related facilities, and of potential contribution to the economic welfare of the community.
- (b) **Permitted Uses.** (Also see Section 13-1-225.) Any of the following retail and customer service establishments:
  - (1) Appliance store.
  - (2) Antique and collectors stores.
  - (3) Art shop.
  - (4) Auto parts stores.

- (5) Bagel stores.
- (6) Bakeries, not including the manufacture of bakery products.
- (7) Banks, savings and loan associations, and other financial institutions (not including drive-in or drive-through facilities).
- (8) Barber shops.
- (9) Beauty shops.
- (10) Bookstores.
- (11) Business and professional,
- (12) Camera and photographic supply stores and studios.
- (13) Clothing store.
- (14) Coffee/espresso bars.
- (15) Confectioneries.
- (16) Delicatessens.
- (17) Department stores.
- (18) Drug stores.
- (19) Fireplace stores.
- (20) Fish markets.
- (21) Florists.
- (22) Fruit and vegetable market.
- (23) Furniture stores.
- (24) Furriers and fur apparel.
- (25) Gift stores.
- (26) Grocery stores.
- (27) Hardware stores.
- (28) Health Care Facilities including dental clinics, medical clinics, chiropractic clinics, licensed massage therapy.
- (29) Hobby and craft stores.
- (30) Ice cream store.
- (31) Interior decorator.
- (32) Janitorial supplies.
- (33) Jewelry stores.
- (34) Liquor stores.
- (35) Meat markets.
- (36) Music and radio stores.
- (36) Newspaper and magazine stores.
- (37) Newsstands.
- (38) Office supplies and business machine stores.
- (39) Optical stores (not including the manufacturing of lenses).
- (40) Packaged beverage stores.
- (41) Paint, glass, and wallpaper stores.
- (42) Pharmacy (not including drive-thru).

- (43) Photographer.
  - (44) Plumbing and heating supplies.
  - (45) Self-service laundries and dry cleaning establishments.
  - (46) Shoe stores and leather goods stores.
  - (47) Shopping centers.
  - (48) Soda fountain stores.
  - (49) Sporting goods stores.
  - (50) Stationery stores.
  - (51) Supermarkets.
  - (52) Tobacco stores.
  - (53) TV and small appliance repair shops.
  - (54) Variety stores.
- (c) **Accessory Uses.**
- (1) Accessory buildings and uses customarily incidental to the above uses including, but not limited to, garages and dumpster storage facilities.
  - (2) Essential services.
  - (3) Ground-mounted and building-mounted earth station dish antennas.
  - (4) Off-street parking areas and loading areas.
  - (5) Rental apartment on a non-ground level provided there shall be a minimum floor area of four hundred twenty (420) square feet for an efficiency or one (1) bedroom apartment and five hundred fifty (550) square feet for a two (2) bedroom apartment.
  - (6) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) a. Adult establishments provided that either of the following two (2) conditions is met:
    - 1. The person applying for the conditional use grant demonstrates that the building where the use shall occur is not located within five hundred (500) feet of any residential dwelling, rooming unit, hospital, church, school, or stores frequented by persons under the age of eighteen (18) years, whether such structures are located in this City or in a contiguous town or municipality. The five hundred (500) feet distance shall be measured via a straight line from the nearest corners of such building to any portion of the parcel of land containing a residential dwelling, rooming unit, hospital, church, school, or store frequented by persons under the age of eighteen (18) years.
    - 2. The person applying for the conditional use permit files with the Zoning Administrator a petition favoring the proposed use signed by a minimum of fifty-one (51) persons representing a minimum of fifty-one percent (51%) of the adult persons owning or occupying property within a radius of five hundred (500) feet of the location of

the proposed establishment. The petitioner shall attempt to contact all eligible locations within the five hundred (500) foot radius and shall submit with the petition a list of all addresses at which no contact was made and, as far as practicable, a list of all persons refusing to sign the petition. In the event that the five hundred (500) foot radius is not sufficiently populated to provide a minimum of one hundred (100) adult persons owning or occupying property, the radius shall be increased in increments of one hundred (100) feet until there shall be an area large enough to contain one hundred (100) property owners and occupants. The petition circulated shall state the specified activities and/or specified anatomical area intended to be displayed and the conditional use permit sought. The five hundred (500) foot radius and one hundred (100) foot increments shall be measured as set forth above.

- b. One (1) year after the date on which the conditional use permit is granted, and every year on that date thereafter, the person granted the conditional use permit shall show the Zoning Administrator that either of the above conditions is met in order for the conditional use permit to be continued for the following year.
  - c. The applicant shall provide the names and addresses of the owners and occupants of all property within one hundred (100) feet of the proposed establishment, measured as set forth above. Except where a petition signed by fifty-one (51) persons is filed with the Zoning Administrator, in case of protest signed by the owners or occupants of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, the grant of a conditional use permit shall require a vote of three-fourths (3/4) of the members of the Plan Commission.
- (2) Animal hospitals, pet daycare facilities and kennels, provided all principal structures and uses are not less than one hundred (100) feet from a residential use if kennels are provided.
  - (3) Automobile service, repair, and washing.
  - (4) Bars, cocktail lounges and taverns.
  - (5) Bowling alleys.
  - (6) Bus depots, provided all principal structures and uses are not less than one hundred (100) feet from any residential district lot line.
  - (7) Clubs.
  - (8) Commercial child day care facilities.
  - (9) Coffee roasting. (Coffee roasting uses existing on January 1, 2005 shall be classified as conforming Conditional Uses. However, a change in ownership of such premise shall require the new owner to obtain a Conditional Use Permit.

- (10) Construction services including building contractors, carpentering, wood flooring, concrete services, masonry, stonework, tile setting, plastering services, roofing, sheet metal services, and water well drilling services.
- (11) Dance halls.
- (12) Drive-in or drive-through banks, savings and loan associations, and other financial institutions.
- (13) Factory outlet stores.
- (14) Gasoline service stations, provided that all service islands and pumps shall meet setback requirements.
- (15) Gun shops
- (16) Health clubs.
- (17) Indoor or outdoor recreational and entertainment facilities.
- (18) Limited manufacturing of products listed in Section 13-1-59(b)(1) where all operations are conducted wholly within buildings with no outdoor operations or storage of materials or equipment. and provided noise, smoke, dust, dirt and odors are not detrimental to nearby retail, commercial, service, or residential uses. Such limited manufacturing use(s) shall be incidental to the principal use of a building for retail or commercial use, and shall not occupy more than twenty (20) percent of the total floor area of a building.
- (19) Motels and motor hotels.
- (20) New and used automobile dealerships, including all activities incidental to the operation of a dealership.
- (21) Outdoor soda water venting machines.
- (22) Printing and reproduction services [not exceeding three thousand (3,000) square feet in gross floor area].
- (23) Restaurants.
- (24) Theaters.
- (25) Truck and trailer rentals.
- (26) Pharmacies with drive-through facilities.
- (27) Public and/or private utilities, telecommunication installations, and other accessories. [Note: When a utility proposes a main inter-city transmission facility, the utility shall give notice to the City of such intention and of the date of hearing before the Public Service Commission.] Public and/or private utility installations less than three (3) feet in height shall be subject only to City of Cedarburg staff approval and may be allowed subject to staff imposed conditions regarding, among other things, effective screening from public view with all season vegetation.
- (28) Wholesaling establishments.
- (29) Micro-Distilleries. (Ord. 2014-17)
- (e) **Zoning District Size.** The B-2 Community Business District shall be a minimum of forty thousand (40,000) square feet in area.
- (f) **Lot Area and Width.** (Also see Article E.)

- (1) Lots shall provide sufficient area and width for the principal building and its accessory buildings, off-street parking and loading areas, and required yards.
  - (2) Lots shall not be less than one hundred fifty ( 150) feet in width as measured at the abutting street right-of-way line.
- (g) **Building Height and Area.** (Also see Article E.)
- (1) No principal building or parts of a principal building shall exceed two (2) stories or thirty-five (35) feet in height, whichever is less. No accessory building shall exceed twenty (20) feet in height.
  - (2) The sum total of the floor area of the principal building and all accessory buildings shall not exceed fifty percent (50%) of the lot area.
- (h) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
- (1) There shall be a minimum building setback of forty (40) feet from the right-of-way of all existing or planned streets.
  - (2) No separation shall be required between business, service, or commercial uses, except there shall be an opening of at least twenty (20) feet for each one hundred fifty (150) feet of commercial structure; and no principal structure shall be closer than fifteen (15) feet to a side lot line.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (i) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (j) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (k) **Performance Standards.** (See Article H.)
- (l) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (m) **Site Plan Review.** (See Article F.)
- (n) **Architectural Review.** (See Article F.)

**SEC. 13-1-55 B-3 CENTRAL BUSINESS DISTRICT.** (Ord. 2013-23) (Ord. 2014-04)

- (a) **Purpose and Intent.** The B-3 Central Business District is intended to provide for the preservation of Cedarburg’s historic downtown and the orderly appropriate regulations to ensure the compatibility of the diverse uses typical of the downtown area without inhibiting the potential for maximum development of commercial, cultural, entertainment, and other urban activities which contribute to its role as the heart of the City. This area contains a mix of retail sales shops, office, restaurants, cultural, entertainment, and residential uses.
- (b) **General Requirements.**
- (1) Overall development shall be compatible with the City’s community character, urban design, historic preservation principles and shall facilitate the objectives as expressed in the adopted Cedarburg Smart Growth Comprehensive Land Use Plan – 2015, and components thereof.
  - (2) A major portion of the B-3 District is also regulated by the City’s Historic Preservation District (HPD). This is an “overlay” district created to protect historic buildings and sites that are listed on the National Register of Historic Places. The

design, remodeling, reconstruction, painting, and site improvements within the HPD area require approval and a Certificate of Appropriateness by both the City's Landmarks Commission and Plan Commission.

- (3) Buildings shall be designed to correspond in height, width, proportion, relationship to street, roof forms, composition, window and door patterns, materials and colors compatible with existing buildings in the downtown area.
  - (4) All buildings in the HPD portion of the B-3 District existing prior to October 28, 2013 are considered to be conforming structures relative to dimensional requirements to maintain the integrity of the Historic District. If such buildings are ever damaged or destroyed, they may be reconstructed exactly in their pre-damaged or pre-destroyed location and dimensional configuration.
  - (5) Single-family and two-family homes existing prior to October 28, 2013 are non-conforming uses and may be continued pursuant to Section 13-1-140 titled Non-conforming Uses.
- (c) **Permitted Uses.** (Also see Section 13-1-225.)
- (1) Antique and collectors stores.
  - (2) Art stores, studios, galleries.
  - (3) Auto parts stores.
  - (4) Bagel shops, bakeries.
  - (5) Banks, credit unions, savings and loan associations, and other financial institutions (not including drive-in or drive-thru facilities).
  - (6) Barber shops and beauty shops.
  - (7) Bicycle sales, repair and rental.
  - (8) Bookstores.
  - (9) Boutiques.
  - (10) Business, professional, medical, and utility offices.
  - (11) Camera, photographic supply stores, and photographic studios.
  - (12) Catering Services.
  - (13) Clinics (dental, medical, chiropractic).
  - (14) Clothing stores.
  - (15) Cocktail lounges, bars, and taverns.
  - (16) Coffee shops and espresso bars.
  - (17) Computer sales and services.
  - (18) Cultural Centers.
  - (19) Delicatessen.
  - (20) Department stores.
  - (21) Electronics and appliance stores, and repair shops.
  - (22) Farmers markets, including farm products, food, crafts, and food vendors.
  - (23) Fish markets.
  - (24) Florists, yard and garden supplies, and service.
  - (25) Furniture sales.

- (26) Furriers and fur apparel.
  - (27) Gift stores.
  - (28) Grocery stores.
  - (29) Hardware stores.
  - (30) Health clubs, athletic clubs, and gymnasiums.
  - (31) Hobby and craft stores.
  - (32) Ice cream parlors/soda fountain stores.
  - (33) Insurance offices.
  - (34) Interior decorators.
  - (35) Jewelry stores.
  - (36) Liquor stores.
  - (37) Lodges and clubs.
  - (38) Meat markets.
  - (39) Museums.
  - (40) Music stores.
  - (41) Newspaper and magazine stores.
  - (42) Office supplies and business machine stores
  - (43) Optical stores.
  - (44) Paint, glass, and wallpaper stores.
  - (45) Pet stores and pet grooming (with all operations indoors).
  - (46) Pharmacy (not including drive-thru service).
  - (47) Plumbing and heating supplies.
  - (48) Publishing houses.
  - (49) Real estate offices.
  - (50) Restaurants (without drive-thru facilities).
  - (51) Self-service laundries and dry cleaning establishments.
  - (52) Shoe and leather goods stores.
  - (53) Spas and fitness facilities.
  - (54) Specialty food and beverage product sales.
  - (55) Specialty retail shops for housewares, stationary, home décor, lighting products, and athletic and sporting goods.
  - (56) Tailor shops.
  - (57) Theaters.
  - (58) Tobacco shops.
  - (59) Used merchandise resale shops (excluding pawn shops).
  - (60) Variety stores.
  - (61) Residential use of single-family and two-family structures that existed prior to the adoption of this Ordinance. (Ord. 2017-02)
- (d) **Permitted Accessory Uses.**
- (1) Residential quarters provided that such quarters are in the principal building, not on a ground-level floor, and the entrances and exits to such quarters are directed to the

interior of the building. There shall be a minimum floor area of four-hundred and twenty (420) square feet for an efficiency or one (1) bedroom apartment and five-hundred and fifty (550) square feet for a two (2) bedroom apartment.

- (2) Accessory buildings and uses customarily incidental to the above uses, including garages used in conjunction with the operation of the uses of the premise and dumpster storage facilities.
  - (3) Off-street parking and loading areas.
  - (4) Essential services as defined herein.
  - (5) Ground-mounted and building-mounted satellite dish antennas less than three (3) feet in diameter.
  - (6) Outdoor dining and non-alcohol beverage service. (NOTE: Outdoor alcohol beverage services require a premises license approved by the Common Council).
- (e) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Automobile service stations.
  - (2) Banks, savings and loan associations, credit unions, and other financial institutions with drive-in or drive-through facilities.
  - (3) Bed and breakfast establishments providing adequate off-street parking.
  - (4) Building supply stores.
  - (5) Bus depots, provided all principal structures and uses are not less than one-hundred (100) feet from any residential district lot line.
  - (6) Coffee roasting.
  - (7) Day care facilities.
  - (8) Feed mills, and feed and seed sales.
  - (9) Funeral homes, provided all principal structures and uses are not less than twelve (12) feet from any lot line.
  - (10) Gun shops, subject to Police Department and Plan Commission review and approval.
  - (11) Hotels, subject to adequate off-street parking.
  - (12) Indoor and outdoor recreational and entertainment facilities.
  - (13) Microbreweries, soft drink production, and wineries.
  - (14) Night clubs and dance halls.
  - (15) Parking structures.
  - (16) Pharmacies with drive-thru facilities.
  - (17) Printing and reproduction services [not exceeding three thousand (3,000) square feet of gross floor area].
  - (18) Renewable energy systems (i.e. wind, solar, geothermal).
  - (19) Telecommunications installations.
  - (20) Tourist Rooming Houses (Ord. 2014-05)
  - (21) Vehicle detailing.
  - (22) Wool carding.
  - (23) Micro-Distilleries. (Ord. 2014-17)
- (f) **Dimensional Requirements.** See Table 13-1-55.

- (g) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (h) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (i) **Performance Standards.** (See Article H.)
- (j) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (k) **Site Plan Review.** (See Article F.)
- (l) **Architectural Review.** (See Article F.)

**TABLE 13-1-55**

**B-3 CENTRAL BUSINESS DISTRICT**

<b>DIMENSIONAL REQUIREMENTS (See Note <sup>(a)</sup> for HPD Buildings)</b>	
<b>FLOOR AREA RATIOS</b>	
Floor Area Ratio (FAR)	150%
Minimum Floor Area Per Use/Tenant/Business (sf)	300
<b>LOT DIMENSIONAL REQUIREMENTS</b>	
Minimum Lot Area (sq. ft.)	4,800
Minimum Lot Width at Setback Line (ft.)	40
Minimum Setback (ft.)	None <sup>(b)</sup>
Minimum Offset (side) (ft.)	0 or 5 <sup>(c)</sup>
Minimum Offset (rear) (ft.)	15
<b>MINIMUM FLOOR AREA PER DWELLING UNIT</b>	
Residential uses Non-Ground Level (sq. ft.)	Efficiency = 420 1 Bedroom=420 2 Bedroom=550
<b>MAXIMUM BUILDING HEIGHT</b>	
Principal Structure (ft.)	35
Accessory Structure (ft.)	25 <sup>(d)</sup>

<sup>(a)</sup>All buildings in the HPD portion of the B-3 District existing prior to October 28, 2013 can be considered to be conforming structures relative to dimensional requirements to maintain the integrity of the Historic District. If such buildings are ever damaged or destroyed, they may be reconstructed exactly in their pre-damaged or pre-destroyed location and dimensional configuration.

<sup>(b)</sup>Corner lots are subject to vision clearance requirements per Section 13-1-80.

<sup>(c)</sup>No minimum side yard offset shall be required; however, where a side yard offset is provided, it shall be not less than five (5) feet. Detached accessory structures and decks shall be in accord with Section 13-1-101.

<sup>(d)</sup>The Landmarks and Plan Commissions may modify the height of an accessory structure if it is located in a historic district or is a local landmark.

**SEC 13-1-56 B-4 OFFICE AND SERVICE DISTRICT.**

- (a) **Purpose.** The B-4 Office and Service District is intended to provide for individual or limited office, professional, and special service uses where the office activity would be compatible with other neighborhood uses and not exhibit the intensive activity of other business districts.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
  - (1) Professional services.
    - a. Accounting, auditing, and bookkeeping services.
    - b. Architectural services.
    - c. Chiropractor services.
    - d. Dental services.
    - e. Engineer services.
    - f. Land surveying services.
    - g. Legal services.
    - h. Medical clinics.
    - i. Optometrists.
    - j. Osteopaths.
    - k. Physician and surgeon services.
    - l. Urban planning services.
  - (2) Business services.
    - a. Advertising agency services.
    - b. Business and management consulting services.
    - c. Collection and adjustment services.
    - d. Consumer and mercantile credit reporting services.
    - e. Duplicating and mailing services.
    - f. Employment services.
    - g. Manufacturing representatives, agents, or corporate headquarters.
    - h. Public relations services.
    - i. Stenographic services.
    - j. Transportation ticket services.
    - k. Travel arranging services.
  - (3) Financial, insurance, and real estate services.
    - a. Banks or financial institutions (not including drive-in or drive-through facilities).
    - b. Business and personal credit services (including credit unions).
    - c. Commodity contracts, brokers, and dealers services.

- d. Holding and investment services.
  - e. Insurance agents, brokers, and services.
  - f. Insurance carriers.
  - g. Real estate agents, brokers, and management services.
  - h. Real estate subdividing and developing services.
  - i. Security brokers, dealers, and flotation services.
  - j. Title abstracting services.
- (4) Governmental offices.
  - (5) Public service offices.
- (c) **Permitted Accessory Uses.**
- (1) Essential services.
  - (2) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
  - (3) Ground-mounted and building-mounted earth station dish antennas.
  - (4) Off-street parking areas.
  - (5) Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business.
  - (6) Rental apartment on a nonground level provided there shall be a minimum floor, area of four hundred twenty (420) square feet for an efficiency or one (1) bedroom apartment.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Athletic clubs.
  - (2) Barber shops and beauty salons.
  - (3) Bookstores.
  - (4) Commercial child day care facilities.
  - (5) Delicatessen.
  - (6) Drive-in or drive-through banks, savings and loan, or other financial institutions.
  - (7) Florists (not including greenhouses).
  - (8) Gift shops.
  - (9) Gymnasiums.
  - (10) Health clubs.
  - (11) Health resorts.
  - (12) Medical supply sales.
  - (13) Office supply stores.
  - (14) Outdoor soda water vending machines.
  - (15) Pharmacies.
  - (16) Printing and reproduction services.
  - (17) Restaurants (not including drive-in or drive-through facilities).
  - (18) Stationery stores.
  - (19) Studios for photography, painting, music, sculpture, dance, or other recognized fine art.

- (20) Kennels (Commercial). (Ord. 2013-32)
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall have a minimum area of ten thousand (10,000) square feet and shall not be less than ninety (90) feet in width.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a principal building shall exceed two (2) stories or thirty-five (35) feet in height, whichever is less. No accessory building shall exceed twenty (20) feet in height.
  - (2) The sum total of the floor area of the principal building and all accessory buildings shall not exceed fifty percent (50%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than ten (10) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

#### **SEC. 13-1-57 B-5 BUSINESS PARK DISTRICT.**

- (a) **Purpose.** The B-5 Business Park District is intended to provide for the development of an attractive and aesthetic mixed grouping of both office and limited light industrial uses and activities in a park-like setting. The district is further intended to promote the provision of ample off-street parking and loading areas; open space; and landscape planting screens in areas adjacent to non-business development or other incompatible land uses. The district is also intended to be used in areas identified for business parks in the adopted City of Cedarburg master plan or components thereof.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
  - (1) Professional services.
    - a. Accounting, auditing, and bookkeeping services.
    - b. Architectural services.
    - c. Chiropractor services.
    - d. Circuit board assembly, not including circuit board manufacturing.
    - e. Computer software development and production.
    - f. Dental services.
    - g. Engineer services.
    - h. Legal services.

- i. Medical clinics.
- j. Optometrists.
- k. Osteopaths.
- l. Physician and surgeon services.
- m. Research and development facilities.
- n. Urban planning services.
- (2) Business services.
  - a. Advertising agency services.
  - b. Business and management consulting services.
  - c. Collection and adjustment services.
  - d. Consumer and mercantile credit reporting services.
  - e. Duplicating and mailing services.
  - f. Employment services.
  - g. Manufacturing representatives, agents, or corporate headquarters.
  - h. Public relations services.
  - i. Stenographic services.
  - j. Transportation ticket services.
  - k. Travel arranging services.
- (3) Financial, insurance, and real estate services.
  - a. Banks or financial institutions (not including drive-in or drive-through facilities).
  - b. Business and personal credit services (including credit unions).
  - c. Commodity contracts, brokers, and dealers services.
  - d. Holding and investment services.
  - e. Insurance agents, brokers, and services.
  - f. Insurance carriers.
  - g. Real estate agents, brokers, and management services.
  - h. Real estate subdividing and developing services.
  - i. Security brokers, dealers, and flotation services.
  - j. Title abstracting services.
- (4) Governmental offices.
- (5) Public service offices.
- (c) **Permitted Accessory Uses.**
  - (1) Essential services.
  - (2) Garages for storage of vehicles used in conjunction with the operation of an office or industry.
  - (3) Ground-mounted and building-mounted earth station dish antennas.
  - (4) Off-street parking areas.
  - (5) Storage, power supply, and other uses normally auxiliary to the principal operation or use.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)

- (1) Processing, manufacturing, and/or storage, and uses as the following, provided that the Plan Commission, in approving or disapproving proposed locations for uses under this paragraph shall give due consideration to the character and suitability for development of the area in which any such use is proposed to be located, and shall also base its decision on such evidence as may be presented to the Plan Commission regarding those attributes of the proposed use, such as increased traffic on the public streets, heavy vehicular traffic, municipal water availability, sewage disposal systems, soil limitations, and the emission of noise, smoke, dust or dirt, odorous or noxious gases, and the like that would be detrimental to such character and such suitability for development:
- a. Apparel and findings-related products.
  - b. Athletic clubs.
  - c. Automatic temperature controls.
  - d. Baked goods and bakery products.
  - e. Barbershops and beauty salons that are physically and service wise oriented to business park users and employees.
  - f. Blank books, loose-leaf binders, and devices.
  - g. Books: publishing, printing, and binding.
  - h. Boot and show cut stock and findings.
  - i. Brooms and brushes.
  - j. Canvas products.
  - k. Child day care facilities.
  - l. Costume jewelry, costume novelties, buttons, and miscellaneous notions.
  - m. Curtains and draperies.
  - n. Dental equipment and supplies.
  - o. Dress and work gloves.
  - p. Drive-in or drive-through banks, savings and loan, or other financial institutions that are physically and servicewise oriented to business park users and employees.
  - q. Electrotyping and stereotyping.
  - r. Engineering, laboratory, scientific, and research instruments and associated equipment.
  - s. Envelopes.
  - t. Fabrics, broad and narrow woven.
  - u. Felt goods.
  - v. Flavor extracts and flavor syrups.
  - w. Floor coverings limited to rugs and carpeting.
  - x. Florists (not including greenhouses).
  - y. Footwear.
  - z. Fresh or frozen fruits, fruit juices, vegetables, and specialties.
  - aa. Gift shops that are physically and saleswise oriented to business park users

- and employees.
- bb. Greeting cards.
- cc. Gymnasiums.
- dd. Handbags and other personal leather goods.
- ee. Hats, caps, and millinery.
- ff. Health resorts.
- gg. Household furniture and furnishings.
- hh. Ice.
- ii. Ice cream and frozen desserts.
- jj. Jewelers' findings and materials.
- kk. Jewelry and other precious metals.
- ll. Knit goods.
- mm. Lace goods.
- nn. Lamp shades.
- oo. Luggage.
- pp. Manifold business forms.
- qq. Mechanical measuring and controlling instruments.
- rr. Medical supply sales.
- ss. Men's, youths', and boys' furnishings, work clothing, and allied garments.
- tt. Morticians' goods.
- uu. Musical instruments and parts.
- vv. Newspapers: publishing and printing.
- ww. Office furniture.
- xx. Ophthalmic goods.
- yy. Optical instruments and lenses.
- zz. Orthopedic, prosthetic, and surgical appliances and supplies.
- aaa. Paper coating and glazing.
- bbb. Partitions, shelving, lockers, and office and store fixtures.
- ccc. Pens, pencils, and other office and artist materials.
- ddd. Periodicals: publishing and printing.
- eee. Pharmacies that are physically and saleswise oriented to business park users and employees.
- fff. Photoengraving instruments and apparatus.
- ggg. Photographic equipment and supplies.
- hhh. Pleating, decorative, and novelty stitching and tucking for the trade.
- iii. Pressed and molded pulp goods.
- jjj. Printed circuit boards.
- kkk. Printing, commercial.
- lll. Raincoats and other waterproof outer garments.
- mmm. Restaurants (not including drive-in or drive-through facilities) that are physically and saleswise oriented to business park users and employers.

- nnn. Rice milling.
- ooo. Robes and dressing gowns.
- ppp. Sanitary paper products.
- qqq. Signs and advertising displays.
- rrr. Silverware and plated ware.
- sss. Surgical and medical instruments and apparatus.
- ttt. Textiles, dyeing, and finishing.
- uuu. Tire cord and fabric.
- vvv. Toys, amusements, sporting and athletic goods.
- www. Typesetting.
- xxx. Umbrellas, parasols, and canes.
- yyy. Utilities.
- zzz. Venetian blinds and shades.
- aaaa. Wallpaper.
- bbbb. Warehousing.
- cccc. Watches, clocks, clockwork-operated devices, and parts.
- dddd. Women's, misses', juniors', girls', and infants' furnishings, work and dress garments.
- eeee. Wool scouring, worsted combing, and towing to top.
- ffff. Yarns and threads.

- (e) **Lot Area and Width.** (Also see Article E.)
  - (1) Lots shall be a minimum of one (1) acre in area.
  - (2) Lots shall have a maximum site-to-building groundcover area ratio of five (5) to one (1).
  - (3) Lots shall not be less than one hundred fifty (150) feet in width.
- (f) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) A minimum street yard (setback) of thirty (30) feet from an existing or planned public street right-of-way shall be required.
  - (2) There shall be a minimum side yard of not less than ten (10) feet on a side, and the combined total side yard shall not be less than thirty (30) feet.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (g) **Building Height and Area.** (Also see Article E.) No building or parts of a building shall exceed fifty-five (55) feet in height.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

**SEC. 13-1-58 B-6 GENERAL BUSINESS AND WAREHOUSING DISTRICT.**

- (a) **Purpose.** The B-6 General Business and Warehousing District is intended to provide for the orderly and attractive grouping at appropriate locations of commercial activities of a more general retail and wholesale nature and of office and service facilities serving a large community grade area. The size and location of such districts shall be based upon relationships to the total community need and economy.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
- (1) Wholesale and/or retail sales and warehousing of the following:
- a. Air conditioning, refrigerated equipment, and supplies not including outdoor storage.
  - b. Apparel and accessories, hosiery, and lingerie.
  - c. Automotive equipment not including outdoor storage.
  - d. Beer, wine, and distilled alcoholic beverages.
  - e. Commercial and industrial machinery, equipment, and supplies not including outdoor storage.
  - f. Confectionery.
  - g. Dairy products.
  - h. Drugs and druggists' sundries.
  - i. Dry goods, piece goods, and notions.
  - j. Electrical appliances, television, and radio sets.
  - k. Electronic parts and equipment.
  - l. Equipment and supplies for service establishments.
  - m. Fish and seafoods.
  - n. Food lockers.
  - o. Footwear.
  - p. Fruits and vegetables.
  - q. Furniture and home furnishings.
  - r. Groceries.
  - s. Hardware.
  - t. Household goods.
  - u. Janitorial equipment and supplies.
  - v. Lumber and construction materials not including outdoor storage.
  - w. Meat and meat products not including slaughtering or outdoor confinement.
  - x. Metals and minerals not including outdoor storage.
  - y. Paint and varnishes.
  - z. Paper and paper products not including outdoor storage.
  - aa. Plumbing and heating equipment and supplies not including outdoor storage.
  - bb. Printing and publishing houses and related uses.
  - cc. Professional equipment and supplies.
  - dd. Refrigerated warehousing.
  - ee. Tires and tubes not including outdoor storage.

- ff. Tobacco and tobacco products.
  - gg. Transportation equipment and supplies not including outdoor storage.
  - hh. Wool and mohair.
  - ii. Business, professional and medical offices. (Ord. 90-45)
- (c) **Permitted Accessory Uses.**
- (1) Essential services.
  - (2) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
  - (3) Off-street parking.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Animal hospitals provided all principal structures and uses are not less than one hundred (100) feet from any residential use if outside animal housing is provided.
  - (2) Construction services including building contractors; carpentering, wood flooring; concrete services; masonry, stonework, tile setting, and plastering services; roofing and sheet metal services; and water well drilling services.
  - (3) Experimental, testing, and research laboratories.
  - (4) Freight forwarding services, packing and crating services, and petroleum stations and terminals.
  - (5) Fuel oil, bottled gas, and ice dealers.
  - (6) Gasoline service stations, automobile servicing, and repair.
  - (7) Locker plants provided that no meat packing and processing shall be conducted.
  - (8) Millwork, lumber yards, saw mills, and planing mills.
  - (9) New and used automobile, aircraft, and marine craft sales and the sale of tires, batteries, and other automotive, marine, and aircraft accessories.
  - (10) Outdoor soda water vending machines.
  - (11) Transmitting towers, receiving towers, relay, and microwave towers without broadcast facilities or studios.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall have a minimum area of thirty thousand (30,000) square feet and shall not be less than one hundred fifty (150) feet in width.
- (f) **Building Height and Area.** (Also see Article E.)
- (1) No principal building and no part of a principal building shall exceed two (2) stories or thirty-five (35) feet in height, whichever is less. No accessory building shall exceed twenty (20) feet in height.
  - (2) The sum total of the floor area of the principal building and all accessory buildings shall not exceed sixty percent (60%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
- (1) There shall be a minimum building setback of twenty-five (25) feet from the of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than five (5) feet in width.

- (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

**SEC. 13-1-59 M-1 LIMITED MANUFACTURING DISTRICT.**

- (a) **Purpose.** The M-1 Limited Manufacturing District is intended to provide for manufacturing, industrial, and related uses of a limited nature and size in situations where such uses are not located in basic industrial groupings and where the relative proximity to other uses requires more restrictive regulation.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
  - (1) Processing, manufacturing, and/or storage of the following:
    - a. Apparel findings and related products.
    - b. Automatic temperature controls.
    - c. Baked goods and bakery products.
    - d. Belts.
    - e. Blank books, loose-leaf binders, and devices.
    - f. Books: publishing, printing, and binding.
    - g. Boot and shoe cut stock and findings.
    - h. Bottling and canning soft drinks and carbonated waters.
    - i. Brooms and brushes.
    - j. Candy and other confectionery products.
    - k. Canvas products.
    - l. Cereal preparations.
    - m. Cigars and cigarettes.
    - n. Coffee roasting and coffee products.
    - o. Costume jewelry, costume novelties, buttons, and miscellaneous notions.
    - p. Curtains and draperies.
    - q. Dental equipment and supplies.
    - r. Dress and work gloves.
    - s. Electrotyping and stereotyping.
    - t. Engineering, laboratory, and scientific and research instruments and associated equipment.
    - u. Envelopes.
    - v. Fabrics, broad and narrow woven.
    - w. Flavor extracts and flavoring syrups.
    - x. Flour and other grain mill products.

- y. Footwear.
- z. Fresh or frozen fruits, fruit juices, vegetables, and specialties.
- aa. Greeting cards.
- bb. Hats, caps, and millinery.
- cc. Household furniture and furnishings.
- dd. Ice.
- ee. Jewelers' findings and materials.
- ff. Jewelry and precious metals.
- gg. Lamp shades.
- hh. Luggage.
- ii. Manifold business forms.
- jj. Mechanical measuring and controlling instruments.
- kk. Men's, youths', and boys' furnishings, work clothing, and allied garments.
- ll. Morticians' goods.
- mm. Motion picture production.
- nn. Musical instruments and parts.
- oo. Newspapers: publishing and printing.
- pp. Office furniture.
- qq. Ophthalmic goods.
- rr. Optical instruments and lenses.
- ss. Orthopedic, prosthetic, and surgical appliances and supplies.
- tt. Paperboard containers and boxes.
- uu. Partitions, shelving, lockers, and office and store fixtures.
- vv. Pens, pencils, and other office and artists' materials.
- ww. Periodicals: publishing and printing.
- xx. Photoengraving.
- yy. Photographic equipment and supplies.
- zz. Pleating, decorative, and novelty stitching and tucking for the trade.
- aaa. Printing, commercial.
- bbb. Raincoats and other waterproof outer garments.
- ccc. Robes and dressing gowns.
- ddd. Sanitary paper products.
- eee. Self-service storage facilities (mini-warehouses).
- fff. Signs and advertising displays.
- ggg. Silverware and plated ware.
- hhh. Surgical and medical instruments and apparatus.
- iii. Tobacco and snuff.
- jjj. Tobacco stemming and redrying.
- kkk. Toys, amusement, sporting, and athletic goods.
- lll. Typesetting.
- mmm. Umbrellas, parasols, and canes.

- nnn. Venetian blinds and shades.
- ooo. Watches, clocks, clockwork-operated devices, and parts.
- ppp. Welding and machine shops.
- qqq. Wine, brandy, and brandy spirits.
- rrr. Women's, misses, juniors', girls', and infants' furnishings, work and dress clothing, and allied garments.
- sss. Warehouses

(c) **Permitted Accessory Uses.**

- (1) Garages for storage of vehicles used in conjunction with the operation of an industry.
- (2) Off-street parking and loading areas.
- (3) Office, storage, power supply, and other uses normally auxiliary to the industrial operations.
- (4) Ground-mounted and building-mounted earth station dish antennas.
- (5) Retail sales and services of products integral with and incidental to a service or manufacturing business limited to 20% of the floor area of the principal building.

(d) **Conditional Uses.** (Also see Section 13-1-226.)

- (1) Athletic clubs.
- (2) Experimental, testing, and research laboratories.
- (3) Gasoline service stations, automobile and truck servicing and repair, automobile and truck rental services, and automobile and truck washing.
- (4) Gymnasiums.
- (5) Health resorts.
- (6) Heliports and bus depots, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
- (7) Locker plants provided that no meat packing and processing shall be conducted.
- (8) Manufacturing and processing of dimension hardwood and flooring, veneer, and plywood.
- (9) Millwork, lumber yards, saw mills, and planing mills.
- (10) Office uses unrelated to principal industrial operations.
- (11) Processing and manufacturing of feeds prepared for animals and fowl, wholesale, and/or retail warehousing of animal feeds, fertilizer, seeds, garden and lawn supplies, animal health products, and lawn equipment, provided that all operations are conducted within an enclosed building.
- (12) Retail stores and services related to principal industrial operations.
- (13) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
- (14) Utilities.
- (15) Day care facility. (Ord. 2004-26)

(e) **Lot Area and Width.** (Also see Article E.) Lots shall have a minimum area of twenty thousand (20,000) square feet and shall not be less than one hundred (100) feet in width.

(f) **Building Height and Area.** (Also see Article E.)

- (1) No building or part of a building shall exceed thirty-five (35) feet in height.
- (2) The sum total of the floor area of the principal building and all accessory buildings shall not exceed thirty percent (30%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings not less than twenty-five (25) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

#### **SEC. 13-1-60 M-2 GENERAL MANUFACTURING DISTRICT.**

- (a) **Purpose.** The M-2 General Manufacturing District is intended to provide for manufacturing and industrial development of a more general and less restrictive nature than in the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use would create fewer problems of compatibility and would not necessitate as stringent regulatory controls. Such districts should not normally abut directly upon residential districts.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
  - (1) Those industrial uses permitted in the M-1 Limited Manufacturing District as either "Permitted" or "Conditional" uses.
  - (2) Processing, manufacturing, and/or storage of the following:
    - a. Aircraft and parts.
    - b. Brick and structural clay tile.
    - c. Clay refractories.
    - d. Coating, engraving, and allied services.
    - e. Communication equipment.
    - f. Concrete and concrete products not including the manufacturing of cement.
    - g. Construction, mining, and materials handling machinery and equipment.
    - h. Cutlery, hand tools, and general hardware.
    - i. Electric lighting and wiring equipment.
    - j. Electrical industrial apparatus.
    - k. Electrical transmission and distribution equipment.
    - l. Electrometallurgical products.
    - m. Electronic components and accessories.
    - n. Engines and turbines.

- o. Farm machinery and equipment.
- p. Fine earthenware, table, and kitchen articles.
- q. Flat glass.
- r. Fluid milk, cream, and milk beverages.
- s. Glass containers.
- t. Heating apparatus and plumbing fixtures.
- u. Household appliances.
- v. Metal cans.
- w. Metal products, fabricated structural.
- x. Millwork, lumber yards, saw mills, planing mills; and retail sales of building materials.
- y. Motor vehicles and motor vehicle equipment.
- z. Motorcycles, bicycles, and parts.
- aa. Office, computing, and accounting machines.
- bb. Paving mixtures and blocks.
- cc. Plastic injection molding.
- dd. Porcelain electrical supplies.
- ee. Radio and television receiving sets.
- ff. Screw machine products and bolts, nuts, screws, rivets, and washers.
- gg. Service industry machines.
- hh. Ship and boat building and repairing.
- ii. Signaling and fire control equipment.
- jj. Stone and stone products, cut.
- kk. Wire products, fabricated.
- ll. Warehouses

(c) **Permitted Accessory Uses.**

- (1) Garages for storage of vehicles used in conjunction with the operation of an industry.
- (2) Off-street parking and loading areas.
- (3) Offices, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- (4) Ground-mounted and building-mounted earth station dish antennas.
- (5) Retail sales and service of products integral with and incidental to a service or manufacturing business limited to 20% of the floor area of the principal building.

(d) **Conditional Uses.** (Also see Section 13-1-226.)

- (1) Bottling of alcoholic beverages.
- (2) Construction and prefabrication of wood buildings and structural members and construction of wooden containers.
- (3) Experimental, testing, and research laboratories.
- (4) Locker plants provided that no meat packing and processing shall be conducted.
- (5) Millwork, lumber yards, saw mills, and planing mills.
- (6) Outside storage and outside manufacturing areas, provided that such uses shall be

surrounded by a solid fence not less than six (6) feet nor more than eight (8) feet in height unless otherwise approved by the Plan Commission, or an evergreen planting screen not less than six (6) feet tall at the time of planting completely preventing a view from any other property or public right-of-way and shall be at least three hundred (300) feet from a residential district.

- (7) Processing of hardwood dimension and flooring, veneer, and plywood.
  - (8) Processing of ice cream.
  - (9) Public passenger transportation terminals such as heliports and bus depots, except airports, airstrips, and landing fields, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
  - (10) Transmitting towers, receiving towers, relay, and microwave towers without broadcast facilities or studios.
  - (11) Utilities, provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
  - (12) Wood pressing.
  - (13) New and used automobile sales. (Ord. 95-30)
  - (14) Auction facilities. (Ord. 99-17)
  - (15) Veterinary Clinics. (Ord. 2000-21)
  - (16) Day care facility. (Ord. 2004-26)
  - (17) Landscape Contracting. (Ord. 2006-12)
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall have a minimum area of forty thousand (40,000) square feet and shall not be less than one hundred fifty (150) feet in width.
- (f) **Building Height and Area.** (Also see Article E.)
- (1) No building or part of a building shall exceed forty-five (45) feet in height.
  - (2) The sum total of the floor area of the principal building and all accessory buildings shall not exceed seventy percent (70%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
- (1) There shall be a minimum building setback of twenty-five (25) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings of not less than twenty-five (25) feet in width.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

**SEC. 13-1-61 M-3 BUSINESS PARK DISTRICT.** (Ord. 96-05)

- (a) **Purpose.** The M-3 Business Park District is intended to provide for the development of compatible manufacturing, warehouse, service business and office uses. The physical and operational characteristics of uses in this District are based on performance standards which would not be detrimental to the public health, safety or welfare or detrimental to the surrounding area as a result of noise, vibration, external lighting, odor, particulate emissions, other visible emission, hazardous pollutants, traffic, physical appearance, or other similar factors. All uses in this District must comply with applicable local, state and federal codes and standards. Uses in the M-3 District are also intended to provide ample off-street parking and loading areas, and landscaped planting screens in those areas adjacent to or abutting residential or other non-commercial uses, to prevent adverse effects upon the adjoining areas.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
- (1) Uses involving the manufacture and fabrication of goods within the confines of a building and in which any noise, vibration, heat, or flash produced in any process is confined within the building. Any odors produced or emitted in any process must meet applicable federal and state regulations for air emissions. See Article H/M-3 BPD for Performance Standards in the M-3 District.
  - (2) Buildings for the storage of goods and materials, where such goods or materials are stored inside a building, provided such building is not a mini-warehouse building subdivided into more than three (3) multiple warehouse and storage facilities containing less than one thousand five hundred (1,500) square feet each and available for sublease.
  - (3) Uses providing a service in which noise, vibration, heat, or flash produced on the premises by such service uses are confined within a building. Any odors produced or emitted must meet applicable federal and state regulations for air emissions.
  - (4) Business, professional, clerical, or general offices.
  - (5) Research laboratories.
- (c) **Permitted Accessory Uses.**
- (1) Sales of products integral with and incidental to a service or manufacturing business.
  - (2) Off-street parking and loading areas.
  - (3) Garages or buildings used for the storage of vehicles used in conjunction with the operation of a permitted use.
  - (4) Enclosed, as well as screened areas, for the storage of materials other than explosive, flammable or hazardous materials.
  - (5) Ground-mounted and building-mounted dish antennas.
  - (6) Food service areas or cafeterias incidental to a permitted use, but not restaurants.
- (d) **Conditional Uses.** The following uses may be permitted only if approved by the Plan Commission in accordance with the provisions of Section 13-1-226, which contains standards to guide the Plan Commission in determining whether or not to grant approval of such uses:
- (1) Indoor athletic facilities.

- (2) Communications towers.
- (3) Day care facilities.
- (4) Medical clinics.
- (5) Veterinary offices and small animal hospitals without outdoor kennels.
- (6) Public utility structures.
- (e) **Prohibited Uses.** The following uses are specifically prohibited in the M-3 District:
  - (1) Automobile storage or salvage yards, or similar uses.
  - (2) Churches, synagogues, schools, or similar institutional uses or places of religious worship.
  - (3) Drop forges, ferrous and brass foundries, grain elevators, refineries, tanneries.
  - (4) Stockyards, rendering plants, asphalt and concrete plants.
  - (5) Fertilizer storage or packaging.
  - (6) Principal uses involving the storage, utilization, or manufacture of hazardous materials or products which decompose by detonation.
  - (7) Retail uses and wholesale buying clubs unrelated to products manufactured on the premises.
  - (8) Restaurants, but not prohibiting food service areas or cafeterias incidental to a permitted use.
  - (9) Truck terminals.
  - (10) Contractor's yards and the outdoor storage of construction equipment.
  - (11) Mini-warehouses.
  - (12) New and used car and truck sales.
  - (13) Solid or liquid waste disposal, dumping, incineration or similar waste management uses.
  - (14) All types of residential uses, except guard's quarters.
  - (15) Planing mills and sawmills.
- (f) **Performance Standards.** Uses in the M-3 District shall comply with the provisions and performance standards set forth in Article H/M-3 BPD.
- (g) **Lot Area and Width.** (Also see Article E.)
  - (1) Lots shall be a minimum of 40,000 square feet in area.
  - (2) Lots shall not be less than two-hundred (200) feet in width.
- (h) **Lot Coverage and Open Space.** To achieve a park-like appearance, lot coverage by buildings, accessory structures, and surface parking and driveways shall occupy maximum of seventy percent (70%) of the lot area. Landscaped open space not covered by buildings, accessory structures, and surface parking and driveways shall occupy a minimum of thirty percent (30%) of the lot area. The open space may include stormwater retention/detention areas. (Ord. 92-21)
- (i) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) A minimum street yard (setback) of forty (40) feet from any existing or planned public street right-of-way shall be required.
  - (2) There shall be a minimum interior side yard of not less than twenty-five (25) feet on a

side.

- (3) There shall be a rear yard of not less than twenty-five (25) feet. (Ord. 92-21)
- (j) **Building Height.** (Also see Article E.) No building or parts of a building shall exceed forty-five (45) feet in height. See SEC. 13-1-100(b) for the height of special structures.
- (k) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (l) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (m) **Performance Standards.** (See Article H/M-3 BPD.)
- (n) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (o) **Site Plan Review.** (See Article F.)
- (p) **Architectural Review.** (See Article F.) (Ord. 96-05)

### **SEC. 13-1-62 P-1 PARK AND RECREATION DISTRICT.**

- (a) **Purpose.** The P-1 Park and Recreation District is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses. When applied to privately owned recreational lands, this district is intended to avoid the conversion of such lands to other urban uses without adequate public review and approval. The district should be used for areas designated as parks in the adopted City master plan or component thereof
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
  - (1) Art exhibitions.
  - (2) Boat rentals and boat access sites.
  - (3) Botanical gardens and arboretums.
  - (4) Flood control retention/detention areas.
  - (5) Forest reserves (wilderness areas).
  - (6) Forest reserves (wildlife refuges).
  - (7) Group or organized camps.
  - (8) Historic and monument sites.
  - (9) Ice skating.
  - (10) Parks -- General recreation.
  - (11) Parks -- Leisure and ornamental.
  - (12) Picnicking area.
  - (13) Playfields or athletic fields.
  - (14) Playgrounds.
  - (15) Play lots or tot lots.
  - (16) Recreation centers.
  - (17) Skiing and tobogganing.
  - (18) Swimming beaches.
  - (19) Swimming pools.
  - (20) Tennis courts.
  - (21) Trails for bicycling, hiking, and cross-country skiing.

- (c) **Permitted Accessory Uses.**
  - (1) Building and structures accessory to the principal use.
  - (2) Ground-mounted and building-mounted earth station dish antennas.
  - (3) Off-street parking and loading areas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Amphitheaters.
  - (2) Amusement parks.
  - (3) Aquariums.
  - (4) Archery ranges.
  - (5) Arenas and Fieldhouses.
  - (6) Auditoriums.
  - (7) Exhibition halls.
  - (8) Fairgrounds.
  - (9) General resorts.
  - (10) Golf courses (with/or without country club/restaurant facilities).
  - (11) Golf driving ranges.
  - (12) Gymnasiums and athletic clubs.
  - (13) Miniature golf.
  - (14) Museums.
  - (15) Planetaria.
  - (16) Stadiums.
  - (17) Utilities.
  - (18) Zoos.
- (e) **Lot Area and Width.** (Also see Article E.) Lots in the P-1 Park and Recreation District shall provide sufficient area for the principal structure and its accessory structures, off-street parking and loading areas, and all required yards.
- (f) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) A minimum street yard (setback) of forty (40) feet from an existing or planned public street right-of-way shall be required.
  - (2) There shall be a minimum side yard of not less than forty (40) feet on a side.
  - (3) There shall be a rear yard of not less than forty (40) feet.
- (g) **Building Height.** (Also see Article E.) No building or parts of a building shall exceed thirty-five (35) feet in height.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

**SEC. 13-1-63 I-1 INSTITUTIONAL AND PUBLIC SERVICE DISTRICT.**

- (a) **Purpose.** The I-1 Institutional and Public Service District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.
- (b) **Permitted Use.** (Also see Section 13-1-225.)
  - (1) Public or private schools, colleges, and universities.
  - (2) Child day care facilities licensed under Sec. 48.48, Wis. Stats.
  - (3) Churches.
  - (4) Hospitals, sanatoriums, nursing homes, and clinics.
  - (5) Libraries, museums, and art galleries.
  - (6) Lodges.
  - (7) Public administrative offices, and public service buildings, including fire and police stations.
  - (8) Public utility offices.
  - (9) Water storage tanks and towers.
  - (10) Waste water treatment facilities (publicly owned).
- (c) **Permitted Accessory Uses.**
  - (1) Garages for storage of vehicles used in conjunction with the operation of a permitted use.
  - (2) Ground-mounted and building-mounted earth station dish antennas.
  - (3) Off-street parking and loading areas.
  - (4) Residential quarters for caretakers or clergy. Permitted accessory dwellings shall comply with the building area requirements of the Rs-5 Single-Family Residential District.
  - (5) Service buildings and facilities normally accessory to the permitted uses.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Cemeteries.
  - (2) Crematory service.
  - (3) Gift stores.
  - (4) Florists (not including greenhouses).
  - (5) Utilities, provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
  - (6) Funeral homes, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.
  - (7) Transmitting towers, receiving towers, relay, and microwave towers without broadcast facilities or studios.
  - (8) Municipal earth and sanitary landfill operations.
  - (9) Performing Arts Theaters. (Ord. 96-41)
  - (10) Detached accessory structures in any yard. (Ord. 2001-07)
  - (11) Senior Housing. (Ord. 2006-22)

- (12) Community Based Residential Facilities (CBRF) which have a capacity for nine (9) or more persons. (Ord. 2006-22)
- (13) Assisted living. (Ord. 2006-22)
- (14) Solar panels on publicly owned sites, exempt from the yard and distance requirements. (Ord. 2008-13)
- (15) Columbaria. Any religious association may establish an indoor columbarium or an outdoor columbarium as an accessory structure subject to Wis. Stat. § 157.123 and the conditional use requirements set for by this ordinance:
  - a. Indoor Columbaria. A religious association may establish an indoor columbarium subject to the requirements of Wis. Stat. § 157.123, the City of Cedarburg Building Code and the following requirements:
    - 1. A plan of perpetual care and maintenance of any proposed columbarium pursuant to Wis. Stat. § 157.123(2)(b).
  - b. Outdoor Columbaria. A religious association may establish an outdoor columbarium subject to the requirements of Wis. Stat. § 157.123 and the following requirements set forth below:
    - 1. A religious association must submit for review and approval to the Cedarburg Plan Commission:
      - a. A plan of perpetual care and maintenance of any proposed columbarium pursuant to Wis. Stat. § 157.123(2)(b); and
      - b. A site plan.
    - 2. All Outdoor Columbaria must comply with the following physical requirements:
      - a. Location: A columbarium must be located outside a building owned and occupied by a religious association as defined by Wis. Stat. § 157.123(2)(a). Outdoor Columbaria are not subject to Section 13-1-101(g) of the Zoning Code requiring Accessory Structures be located in the rear yard.
      - b. Size: Columbaria structures are not subject to the Area requirements in Section 13-1-63(g)(2) requiring the sum total floor area of the principal area of the building, columbaria, and all other accessory buildings not exceed forty (40%) of the lot.
      - c. Setback: Columbaria structures shall meet the setback and yard requirements of the I-1 Institutional and Public Service Districts.
      - d. Appearance: Columbaria shall be consistent in material and design to the primary structure.
      - e. Signage: Signage shall be limited to inscriptions on the face of a columbarium niche and commemorative plaque on the

columbarium structure. Commemorative plaques may be no larger than fifteen (15) inches by fifteen (15) inches.

- f. Left Objects: Left objects, such as flowers and mementos, are permitted, but must be monitored by the religious association and removed within seven (7) days of placement. (Ord. 2016-09)
- (e) **Lot Area and Width.** (Also see Article E.)
  - (1) Lots shall be a minimum of eight thousand four hundred (8,400) square feet in area.
  - (2) Lots shall not be less than seventy-five (75) feet in width.
- (f) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) A minimum street yard (setback) of twenty-five (25) feet from an existing or planned public street right-of-way shall be required. The required street yard setback may be reduced by action of the Common Council following review and recommendation by the Plan Commission in order to facilitate redevelopment of a designated state or federal contaminated site. (Ord. 2008-12)
  - (2) There shall be a minimum side yard of not less than six (6) feet on a side.
  - (3) There shall be a rear yard of not less than twenty-five (25) feet. The required rear yard setback may be reduced by action of the Common Council following review and recommendation by the Plan Commission in order to facilitate redevelopment of a designated state or federal contaminated site. (Ord. 2008-12)
- (g) **Building Height and Area.** (Also see Article E.)
  - (1) No building or parts of a building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The sum total of the floor area of the principal building and all accessory buildings shall not exceed forty percent (40%) of the lot area. The required floor area may be increased up to fifty percent (50%) of the lot area by action of the Common Council following review and recommendation by the Plan Commission in order to facilitate redevelopment of a designated state or federal contaminated site. (Ord. 2008-12)
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

**SEC. 13-1-64 C-1 SHORELAND WETLAND/CONSERVANCY DISTRICT.**

- (a) **Purpose.**
  - (1) The C-1 shoreland Wetland/Conservancy District is intended to preserve, protect, and enhance the ponds, streams, and wetland areas of the City of Cedarburg. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and

surface; prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreational resources of the City.

- (2) The C-1 Shoreland Wetland/Conservancy District, as shown on the zoning map, includes all wetlands within the shoreland, as defined in this Ordinance, in the City of Cedarburg. The boundaries were determined from use of the Wisconsin Wetland Inventory Map for the City of Cedarburg, dated May 10, 1989, and stamped "FINAL". Any wetlands which are filled prior to the date on which the City of Cedarburg received the final Wisconsin Wetland Inventory Map for the City of Cedarburg from the Wisconsin Department of Natural Resources in a manner which affects their characteristics as wetlands are filled wetlands and not subject to an ordinance adopted under Sec. 62.231 of the Wisconsin Statutes.
- (b) **Permitted Uses.** (Also see Section 13-1-225.) The following are permitted as a matter of right:
- (1) Hiking, fishing, trapping, swimming, and boating, unless prohibited by other ordinances and laws.
  - (2) The harvesting of any wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.
  - (3) The practice of silviculture, including the planting, thinning, and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done, except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.
  - (4) Construction and maintenance of fences.
  - (5) Existing agricultural uses provided they do not involve extension of cultivated areas, extension of or creation of new drainage systems, and further provided they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
  - (6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
  - (7) The construction and maintenance of piers, docks, and walkways, including those built on pilings.
  - (8) The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
- (c) **Conditional Uses.** (Also see Section 13-1-226.) The following uses may be allowed by conditional use permit. The Plan Commission shall transmit a copy of each application for a conditional use in the shoreland portion of the C-1 Shoreland Wetland/Conservancy District

to the Wisconsin Department of Natural Resources (DNR) at least ten (10) days prior to the public hearing. Action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all shoreland C-1 Shoreland Wetland/Conservancy District conditional use permits shall be transmitted to the DNR within ten (10) days of the effective date of such decision.

- (1) The construction of streets which are necessary for the continuity of the City street system, necessary for the provision of essential utility and public safety services or necessary to provide access to permitted open space uses in the C-1 Shoreland Wetland/Conservancy District, provided that:
  - a. The street cannot, as a practical matter, be located outside a wetland; and
  - b. The street is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
    1. The street shall be designed and constructed for the minimum cross-section practical to serve the intended use;
    2. Street construction activities are to be carried out in the immediate area of the roadbed only; and
    3. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is to be done must be necessary for the construction or maintenance of the street.
- (2) The establishment and development of public and private parks and recreation areas, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas in C-1 Shoreland Wetland/Conservancy District, provided that:
  - a. Any private recreation or wildlife habitat area must be used exclusively for that purpose;
  - b. No filling is to be done; and
  - c. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purposes of improving wildlife habitat or to otherwise enhance wetland values.
- (3) The construction and maintenance of electric, gas, telephone, water, and sewer transmission and distribution lines, and related facilities in the C-1 Shoreland Wetland/Conservancy District by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to members, provided that:
  - a. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside a wetland; and
  - b. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

- (4) The construction and maintenance of railroad lines in the C-1 Shoreland Wetland/Conservancy District, provided that:
  - a. The railroad lines cannot, as a practical matter, be located outside a wetland; and
  - b. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- (d) **Prohibited Uses.** The following uses are prohibited uses in the C-1 Shoreland Wetland/Conservancy District:
  - (1) Any use not listed as a permitted use or a conditional use is prohibited in the C-1 Shoreland Wetland/Conservancy District.
  - (2) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary highwater mark of any navigable waters are prohibited.
- (e) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (f) **Site Plan Review.** (See Article F.)

**SEC. 13-1-65 C-2 NON-SHORELAND CONSERVANCY DISTRICT.**

- (a) **Purpose.** The C-2 Non-Shoreland Conservancy District is intended to preserve, protect, and enhance the ponds, streams, and wetlands areas of the City of Cedarburg that are located beyond the boundaries of the C-1 Shoreland Wetland/ Conservancy District. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation sources of the City.
- (b) **Permitted Uses.** (Also see Section 13-1-225.) The following are permitted as a matter of right:
  - (1) Hiking, fishing, trapping, swimming, and boating, unless prohibited by other ordinances and laws.
  - (2) The harvesting of any wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.
  - (3) The practice of silviculture, including the planting, thinning, and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done, except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on

- silvicultural activities if not corrected.
  - (4) Construction and maintenance of fences.
  - (5) Existing agricultural uses provided they do not involve extension of cultivated areas, extension of or creation of new drainage systems, and further provided they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
  - (6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
  - (7) The construction and maintenance of piers, docks, and walkways, including those built on pilings.
  - (8) The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
- (c) **Conditional Uses.** (Also see Section 13-1-226.) The following uses may be allowed by conditional use permit:
- (1) The construction of streets which are necessary for the continuity of the City street system, necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses in the C-2 Non-Shoreland Conservancy District, provided that:
    - a. The street cannot, as a practical matter, be located outside a wetland; and
    - b. The street is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
      - 1. The street shall be designed and constructed for the minimum cross-section practical to serve the intended use;
      - 2. Street construction activities are to be carried out in the immediate area of the roadbed only; and
      - 3. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is to be done must be necessary for the construction or maintenance of the street.
  - (2) The establishment and development of public and private parks and recreation areas, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas in C-2 Non-Shoreland Conservancy District, provided that:
    - a. Any private recreation or wildlife habitat area must be used exclusively for that purpose;
    - b. No filling is to be done; and
    - c. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purposes of improving wildlife habitat or to otherwise enhance wetland values.
  - (3) The construction and maintenance of electric, gas, telephone, water, and sewer transmission and distribution lines, and related facilities in the C-2 Non-Shoreland

Conservancy District by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to members, provided that:

- a. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside a wetland; and
  - b. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- (4) The construction and maintenance of railroad lines in the C-2 Non-Shoreland Conservancy District, provided that:
- a. The railroad lines cannot, as a practical matter, be located outside a wetland; and
  - b. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- (5) Stormwater management systems including drainage channels and swales, detention and retention ponds, and associated stormwater management facilities, provided that the Plan Commission has reviewed and approved a Stormwater Management Plan for the proposed site. The Stormwater Management Plan shall contain all information that the City Engineer may need to determine runoff rates and volumes, and their control. Such plans may include, as may be appropriate, profiles and cross-sections, design assumptions, and hydraulic design computations for proposed stormwater management facilities. The Plan Commission may impose time schedules for the completion of drainage facilities and may require appropriate sureties to guarantee that proposed facilities are constructed in accordance with approved plans and time schedules.
- (d) **Prohibited Uses.** No structures, except necessary components of drainage facilities, are permitted in the C-2 Non-Shoreland Conservancy District.
- (e) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (f) **Site Plan Review.** (See Article F.)

**SEC. 13-1-66 GFP GENERAL FLOODPLAIN DISTRICT** (Ord. 2007-02) (Ord. 2007-27)

- (a) **Applicability**  
The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.
- (b) **Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General**

**Provisions**

(1) **Statutory Authorization**

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

(2) **Finding of Fact**

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

(3) **Statement of Purpose**

This ordinance is intended to regulate floodplain development to:

- (a) Protect life, health and property;
- (b) Minimize expenditures of public funds for flood control projects;
- (c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (d) Minimize business interruptions and other economic disruptions;
- (e) Minimize damage to public facilities in the floodplain;
- (f) Minimize the occurrence of future flood blight areas in the floodplain;
- (g) Discourage the victimization of unwary land and homebuyers;
- (h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(c) **Title**

This ordinance shall be known as the Floodplain Zoning Ordinance for The City of Cedarburg, Wisconsin.

(d) **General Provisions**

(1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood.

**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Cedarburg Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional

flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Engineer, City of Cedarburg, W63 N645 Washington Avenue. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAP:

- a. Flood Insurance Rate Map (FIRM) Panel Numbers 55089C0159F, 0167F, 0178F, 0186F, 0187F and 0188F, dated December 4, 2007; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated December 4, 2007;
- b. Wisconsin Department of Natural Resources map dated October 4, 2007 and titled "Cedar Creek/Milwaukee River Dambreak Hazard Map" and corresponding flood profiles, titled "Dambreak Hazard Profile", dated October 4, 2007, and Floodway data table dated October 4, 2007 and titled "Floodway Data".

Approved by: The DNR and FEMA

(3) ESTABLISHMENT OF DISTRICTS

The regional floodplain areas are divided into three districts as follows:

- a. The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- b. The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- c. The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 13-1-66(j). The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s.13-1-66(i)(c)(3) and the criteria in (a) and (b) below.

- a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

- b. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

**Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 8.1 (6).

(5) REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 13-1-66(j)(a)(6).

**Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(6) COMPLIANCE

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.2022, Stats. applies.

(8) ABROGATION AND GREATER RESTRICTIONS

- a. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats. which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- b. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin

Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Ozaukee County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(13) GENERAL DEVELOPMENT STANDARDS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

(e) **General Standards Applicable to All Floodplain**

(1) Hydraulic and Hydrologic Analyses

- (a) Except as allowed in par. (3) below, no floodplain development shall:
1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
  2. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.
- (c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 13-1-66(j).

**Note:** This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

(2) Watercourse Alterations

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(3) Chapter 30, 31, Wis. Stats., Development

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFEs established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 13-1-66(j).

(f) **Nonconforming Uses**

(a) **General**

(1) APPLICABILITY

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

b. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

c. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

d. No modification or addition to any nonconforming structure or any

structure with a nonconforming use, which over the life of the structure would exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 13-1-68(c)(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50% of the structure's present equalized assessed value.
  2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.
- e. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 13-1-67(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 13-1-66(i)(e) are used.

(g) **Floodway Areas**

- (1) No modification or addition shall be allowed to any nonconforming structure of any structure with a nonconforming use in a floodway area, unless such modification or addition:
  - a. Has been granted a permit or variance which meets all ordinance requirements;
  - b. Meets the requirements of s. 13-1-66(g)(1);
  - c. Will not increase the obstruction to flood flows or regional flood height;
  - d. Any addition to the existing structure shall be floodproofed, pursuant to s. 13-1-66(i)(e), by means other than the use of fill, to the flood protection

- elevation;
- e. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    - 4. The use must be limited to parking or limited storage.
  - (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
  - (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
  - (h) **Floodfringe Areas**
    - (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 13-1-68(c), except where s. 13-1-66(h)(2) is applicable.
    - (2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 13-1-66(i)(c), may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
      - a. No floor is allowed below the regional flood elevation for residential or commercial structures;
      - b. Human lives are not endangered;

- c. Public facilities, such as water or sewer, will not be installed;
  - d. Flood depths will not exceed two feet;
  - e. Flood velocities will not exceed two feet per second; and
  - f. The structure will not be used for storage of materials as described in s. 13-1-68(c)(5).
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
- a. Meets all other regulations and will be granted by permit or variance;
  - b. Does not exceed 60 square feet in area; and
  - c. In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.
- (i) **Administration**  
Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.
- (a) **Zoning Administrator**
- (1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
    - a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
    - b. Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
    - bm. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
    - c. Keep records of all official actions such as:
      - 1. All permits issued, inspections made, and work approved;

2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
  3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
  4. All substantial damage assessment reports for floodplain structures.
- d. Submit copies of the following items to the Department Regional office:
1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
  3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

**Note: Information on conducting substantial damage assessments is available on the DNR website – <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>**

- e. Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- f. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) Land Use Permit

A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

- a. GENERAL INFORMATION
1. Name and address of the applicant, property owner and contractor;
  2. Legal description, proposed use, and whether it is new construction or a modification;
- b. SITE DEVELOPMENT PLAN
- A site plan drawn to scale shall be submitted with the permit

application form and shall contain:

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 13-1-66, 13-1-67 or 13-1-68 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 13-1-66(e)(1). This may include any of the information noted in s. 13-1-67(c)(1).

c. **DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS**

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
  - (a) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
  - (b) A map showing location and details of vehicular access to lands outside the floodplain; and
  - (c) A surface drainage plan showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities,

and other pertinent items, but need not include land costs.

d. **EXPIRATION**

All permits issued under the authority of this ordinance shall expire 90 days after issuance.

(3) **CERTIFICATE OF COMPLIANCE**

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- b. Application for such certificate shall be concurrent with the application for a permit;
- c. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- d. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 13-1-66(e).

(4) **OTHER PERMITS**

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(b) **Zoning Agency**

(1) The City Plan Commission shall:

- a. oversee the functions of the office of the zoning administrator; and
- b. review and advise the Governing body on all proposed amendments to this ordinance, maps and text.

(2) This zoning agency shall not

- a. grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
- b. amend the text or zoning maps in place of official action by the Governing body.

(c) **Board of Adjustment/Appeals**

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(1) **POWERS AND DUTIES**

The Board of Adjustment/Appeals shall:

- a. Appeals Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- b. Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- c. Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) **APPEALS TO THE BOARD**

- a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

b. **NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES**

1. Notice - The board shall:
  - (a) Fix a reasonable time for the hearing;
  - (b) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
  - (c) Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
2. Hearing - Any party may appear in person or by agent. The board shall:
  - (a) Resolve boundary disputes according to s. 13-1-66(i)(c)(3).

- (b) Decide variance applications according to s. 13-1-66(i)(c)(4).
- (c) Decide appeals of permit denials according to s. 13-1-66(i)(c)(4).
- c. **DECISION:** The final decision regarding the appeal or variance application shall:
  - 1. Be made within a reasonable time;
  - 2. Be sent to the Department Regional office within 10 days of the decision;
  - 3. Be a written determination signed by the chairman or secretary of the Board;
  - 4. State the specific facts which are the basis for the Board's decision;
  - 5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
  - 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) **BOUNDARY DISPUTES**

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- c. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 13-1-66(j).

(4) **VARIANCE**

- a. The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  - 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
  - 2. The hardship is due to adoption of the floodplain ordinance

and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

3. The variance is not contrary to the public interest; and
  4. The variance is consistent with the purpose of this ordinance in s. 13-1-66(b)(3).
- b. In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
1. The variance may not cause any increase in the regional flood elevation;
  2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- c. A variance shall not:
1. Grant, extend or increase any use prohibited in the zoning district.
  2. Be granted for a hardship based solely on an economic gain or loss.
  3. Be granted for a hardship which is self-created.
  4. Damage the rights or property values of other persons in the area.
  5. Allow actions without the amendments to this ordinance or map(s) required in s. 13-1-66(j)(1).
  6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.
- (d) **To Review Appeals of Permit Denials**
- (1) The Zoning Agency (s. 13-1-66-(i)(b)(2) or Board shall review all data related to the appeal. This may include:
    - a. Permit application data listed in s. 13-1-66(i)(a)(2).
    - b. Floodway/floodfringe determination data in s. 13-1-66(o).
    - c. Data listed in s. 13-1-67(c)(1)(b) where the applicant has not

- submitted this information to the zoning administrator.
    - d. Other data submitted with the application, or submitted to the Board with the appeal.
  - (2) For appeals of all denied permits the Board shall:
    - a. Follow the procedures of s. 13-1-66(i)(c);
    - b. Consider zoning agency recommendations; and
    - c. Either uphold the denial or grant the appeal.
  - (3) For appeals concerning increases in regional flood elevation the Board shall:
    - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
    - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
- (e) **Floodproofing**
  - (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
  - (2) Floodproofing measures shall be designed to:
    - a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
    - b. Protect structures to the flood protection elevation;
    - c. Anchor structures to foundations to resist flotation and lateral movement; and
    - d. Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
  - (3) Floodproofing measures could include:
    - a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
    - b. Adding mass or weight to prevent flotation.
    - c. Placing essential utilities above the flood protection elevation.
    - d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
    - e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
    - f. Putting cutoff valves on sewer lines or eliminating gravity flow

basement drains.

(f) **Public Information**

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

(j) **Amendments**

(a) **General**

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

**Note:** Consult the FEMA web site - [www.fema.gov](http://www.fema.gov) - for the map change fee schedule.

(b) **Procedures**

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by s 13-1-66(o) and 13-1-66(i)(a)(2).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the

Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.

- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 13-1-66(d)(4))

(k) **Enforcement and Penalties**

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ 20.00 and not more than \$200.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

(l) **Definitions**

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- (1) **A ZONES** - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) **ACCESSORY STRUCTURE OR USE** - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (3) **BASE FLOOD** - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted

- on a FIRM.
- (4) BASEMENT - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
  - (5) BUILDING - See STRUCTURE.
  - (6) BULKHEAD LINE - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
  - (7) CAMPGROUND - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
  - (8) CAMPING UNIT - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
  - (9) CERTIFICATE OF COMPLIANCE - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
  - (10) CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
  - (11) CRAWLWAYS OR CRAWL SPACE - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
  - (12) DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
  - (13) DEPARTMENT - The Wisconsin Department of Natural Resources.
  - (14) DEVELOPMENT - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
  - (15) DRYLAND ACCESS - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
  - (16) ENCROACHMENT - Any fill, structure, equipment, building, use or

- development in the floodway.
- (17) **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads
- (18) **EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK** - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (19) **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** - The federal agency that administers the National Flood Insurance Program.
- (20) **FLOOD INSURANCE RATE MAP (FIRM)** - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (21) **FLOOD or FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
- √ The overflow or rise of inland waters,
  - √ The rapid accumulation or runoff of surface waters from any source,
  - √ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
  - √ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (22) **FLOOD FREQUENCY** - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (23) **FLOODFRINGE** - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (24) **FLOOD HAZARD BOUNDARY MAP** - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

- (25) **FLOOD INSURANCE STUDY** - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (26) **FLOODPLAIN** - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (27) **FLOODPLAIN ISLAND** - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (28) **FLOODPLAIN MANAGEMENT** - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (29) **FLOOD PROFILE** - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (30) **FLOODPROOFING** - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (31) **FLOOD PROTECTION ELEVATION** - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- (32) **FLOOD STORAGE** - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (33) **FLOODWAY** - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (34) **FREEBOARD** - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

- (35) **HABITABLE STRUCTURE** - Any structure or portion thereof used or designed for human habitation.
- (36) **HEARING NOTICE** - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (37) **HIGH FLOOD DAMAGE POTENTIAL** - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (38) **HISTORIC STRUCTURE** - Any structure that is either:
  - √ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
  - √ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
  - √ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
  - √ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (39) **INCREASE IN REGIONAL FLOOD HEIGHT** - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (40) **LAND USE** - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (41) **MANUFACTURED HOME** - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

- (42) **MOBILE RECREATIONAL VEHICLE** - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- (43) **MUNICIPALITY or MUNICIPAL** - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (44) **NAVD or NORTH AMERICAN VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1988 adjustment.
- (45) **NGVD or NATIONAL GEODETIC VERTICAL DATUM** - Elevations referenced to mean sea level datum, 1929 adjustment.
- (46) **NEW CONSTRUCTION** - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (47) **NONCONFORMING STRUCTURE** - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- (48) **NONCONFORMING USE** - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (49) **OBSTRUCTION TO FLOW** such that this development alone or together with any future development will cause an increase in regional flood height.
- (50) **OFFICIAL FLOODPLAIN ZONING MAP** - That map, adopted and made part of this ordinance, as described in s. 13-1-66(d)(2), which has been approved by the Department and FEMA.
- (51) **OPEN SPACE USE** - Those uses having a relatively low flood damage potential and not involving structures.
- (52) **ORDINARY HIGHWATER MARK** - The point on the bank or shore 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.
- (53) PERSON - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (54) PRIVATE SEWAGE SYSTEM - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (55) PUBLIC UTILITIES - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (56) REASONABLY SAFE FROM FLOODING - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (57) REGIONAL FLOOD - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (58) START OF CONSTRUCTION - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (59) STRUCTURE - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

- (60) SUBDIVISION - Has the meaning given in s. 236.02(12), Wis. Stats.
  - (61) SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
  - (62) UNNECESSARY HARDSHIP - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
  - (63) VARIANCE - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
  - (64) VIOLATION - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
  - (65) WATERSHED - The entire region contributing runoff or surface water to a watercourse or body of water.
  - (66) WATER SURFACE PROFILE - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
  - (67) WELL - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.
- (m) **Permitted Uses**  
Pursuant to s. 13-1-66(o), it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (s. 13-1-66(b)) and floodfringe areas (s. 13-1-68(b)) are allowed within the general floodplain district, according to the standards of s. 13-1-66(n), provided that all permits or certificates required under s.13-1-66(i)(a) have been issued.
- (n) **Standards for Development in the General Floodplain District**  
S. 13-1-67 applies to floodway areas, s. 13-1-68 applies to floodfringe areas. S. 13-1-66 applies to either district.
- (o) **Determining Floodway and Floodfringe Limits**  
Upon receiving an application for development within the general floodplain district, the zoning administrator shall:
- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain

- district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
- a. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
  - c. Profile showing the slope of the bottom of the channel or flow line of the stream;
  - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 13-1-66(i)(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

**SEC. 13-1-67 FW FLOODWAY DISTRICT** (Ord. 2007-02)

(a) **Applicability**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s 13-1-66(o).

(b) **Permitted Uses**

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

- they are not prohibited by any other ordinance;
- they meet the standards in s. 13-1-67(c) and 13-1-68(c); and
- all permits or certificates have been issued according to s. 13-1-66(i)(a):

- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas

- and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 13-1-67(c)(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 13-1-67(c) and 13-1-67(d).
- (5) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
- (6) Public utilities, streets and bridges that comply with s. 13-1-67(c)(3).

(c) **Standards for Developments in Floodway Areas**

(1) GENERAL

- a. Any development in floodway areas shall comply with s. 13-1-66(e) and have a low flood damage potential.
- b. Applicants shall provide the following data to determine the effects of the proposal according to s. 13-1-66(e)(1):
  - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - 2. An analysis calculating the effects of this proposal on regional flood height.
- c. The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) STRUCTURES

Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- a. The structure is not designed for human habitation and does not have a high flood damage potential.
- b. It must be anchored to resist flotation, collapse, and lateral movement;
- c. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
- d. It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

Public utilities, streets and bridges may be allowed by permit, if:

- a. Adequate floodproofing measures are provided to the flood protection elevation; and

- b. Construction meets the development standards of s. 13-1-66(e)(1).
- (4) **FILLS OR DEPOSITION OF MATERIALS**  
Fills or deposition of materials may be allowed by permit, if:
  - a. The requirements of s. 13-1-66(e)(1) are met;
  - b. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
  - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - d. The fill is not classified as a solid or hazardous material.

(d) **Prohibited Uses**

All uses not listed as permitted uses in s. 13-1-67(b) are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

**SEC. 13-1-68 FFO FLOODFRINGE OVERLAY DISTRICT** (Ord. 2007-02)

(a) **Applicability**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 13-1-66(o).

(b) **Permitted Uses**

Any structure, land use, or development allowed in the underlying base zoning district is

permitted in the floodfringe district if the standards in s. 13-1-68(c) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 13-1-66(i)(a) have been issued.

(c) **Standards for Development in Floodfringe Areas**

S. 13-1-66(e)(1) shall apply in addition to the following requirements according to the use requested.

(1) RESIDENTIAL USES

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;

- a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines make compliance with the fill standards impractical;
- b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
- d. In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
  1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
  2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) ACCESSORY STRUCTURES OR USES

- a. Except as provided in par. (b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
- b. An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 13-1-67(2)(a), (b), (c) and (d) and 13-1-68(5) below.

(3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 13-1-68(c)(1). Subject to the requirements of s. 13-1-68(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 13-1-66(i)(e). Subject to the requirements of s. 13-1-68(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 13-1-66(i)(e). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 13-1-66(i)(e) to the flood protection elevation;
- b. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All on-site sewage disposal systems shall be floodproofed, pursuant to s. 13-1-66(i)(e), to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

(8) WELLS

All wells shall be floodproofed, pursuant to s. 13-1-66(i)(e), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

(11) MANUFACTURED HOMES

- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
  1. have the lowest floor elevated to the flood protection elevation;  
and
  2. be anchored so they do not float, collapse or move laterally during a flood
- c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 13-1-68(c)(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 13-1-68(c)(11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

**SEC. 13-1-69 PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT** (Ord. 2015-08)

(a) **Purpose.**

- (1) The PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic, to provide attractive recreation and open spaces as integral parts of the development, to enable cost effective design in the location and use of public and private utilities and community facilities, and to ensure adequate standards of construction and planning. The PUD Planned Unit Development Overlay District under this Ordinance will allow for flexibility in overall development design to accommodate development, redevelopment and rehabilitation of property that will serve the best interests of the City. The use of the PUD District shall be subject to regulatory standards as necessary to be consistent with the direction set forth in the City of Cedarburg Smart Growth Comprehensive Land Use Plan – 2025, and components thereof.

- (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 Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the City upon specific petition, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.
- (b) **Permitted, Accessory and Conditional Uses.** Any use permitted in the underlying basic use district or other overlay districts.
- (c) **Minimum Area Requirements.** Areas designated as PUD Planned Unit Development Overlay Districts shall be under single or corporate ownership or control and shall contain a minimum development area as follows:  
Principal Uses Minimum Area of PUD
- |                      |                      |
|----------------------|----------------------|
| Residential PUD      | 1 acres              |
| Commercial PUD       | 1 acres              |
| Industrial PUD       | 10 acres             |
| Mixed Compatible Use | 0 acres (no minimum) |
- (d) **Density Requirements.** Only one of three possible levels of residential density shall be allowed in specific PUD Districts:
- (1) The number of dwelling units allowed as a permitted use in the underlying zoning district; or
  - (2) The number of residential dwelling units allowed as a conditional use in the underlying zoning district; or
  - (3) The number of residential dwelling units allowed where an increased density is allowed in recognition of a project of exceptionally high overall quality as provided below.
- (e) **Increased Density Justification.**
- (1) If, notwithstanding dimensional differentials, a proposed project uniformly contains exterior and interior materials, design details, workmanship and features of an exceptionally high quality that emulates the historic character of Cedarburg and/or the immediate neighborhood, an “increased density” for residential dwelling units may be recommended by the Plan Commission and approved by the Common Council as part of the original PUD District approval process.
  - (2) If granted, the increased density level of a residential use shall be in lieu of any other possible residential density.
  - (3) An increased density shall constitute a discretionary number of residential units based on the following criteria for consideration/recommended by the Plan Commission and approved by the Common Council:
    - (a) Whether the project will provide better utilization of the land than would otherwise be realized if the site were developed with the density requirements of the underlying district or as a PUD without an increased density.

- (b) Whether the project makes adequate provisions such that an increase in residential density will not have an unreasonable adverse effect on neighboring properties, existing and/or proposed public rights-of-way and/or municipal and other public services as a result of the type, intensity and frequency of the use(s) associated with the proposed project.
- (c) Whether the structures proposed for the project are harmonious with existing nearby structures and land uses.
- (d) Whether building materials have been selected and are proposed to be utilized in a manner that is harmonious with the natural environment and the general character of other buildings and structures in the vicinity of the proposed development.
- (e) Whether the proposed project will result in the construction or upgrading of specific public infrastructure improvements that will benefit the public at no cost to the City.
- (f) Whether the proposed project will enhance an existing structure that is deemed beneficial to the character of the neighborhood where it is situated.

(f) **Lot Area and Width.**

The lot area and lot width requirements of the underlying base zoning district may be modified if deemed appropriate by the Common Council following recommendation by the Plan Commission, provided that lot sizes are adequate to accommodate all proposed buildings and site features.

(g) **Building Height and Area.**

- (1) The Common Council following recommendation by the Plan Commission may allow an increase in allowable building heights if it is determined that such an increase is warranted to support the public benefit likely to result from the proposed development.
- (2) The floor area ratio (F.A.R.) and lot coverage percentage (L.C.P.) for the principal buildings and accessory buildings shall be established on a case-by-case basis as an element of a residential PUD Planned Unit Development project at the time of the final plat approval.

(h) **Setback and Yards.**

Setbacks and yards required by the underlying base use zoning district may be modified in PUD Planned Unit Development Overlay Districts if deemed appropriate by the Common Council following recommendation by the Plan Commission.

(i) **Procedure.**

(1) Concept Review.

- (a) Prior to official submittal of the petition for approval of the designation of a PUD Planned Unit Development Overlay District, the owner or his agent making such petition shall meet with the City Plan Commission or its staff and provide sufficient written details and drawings concerning the scope and

nature of the contemplated development as necessary to permit an adequate staff review.

- (b) Staff review will involve all City departments in an assessment of the feasibility and potential impacts of the project on City infrastructure and resources as well as its conformity with the provisions of the City Zoning Code.
- (c) The purpose of conceptual review is solely to allow for discussion and feedback about a possible project regarding issues that may have to be addressed in the event a petition is submitted.
- (d) Discussion and feedback about the proposed nature and scope of the proposed project at the conceptual review by City staff and the Plan Commission shall be nonbinding commentary and shall not, under any circumstance, vest any party with any right with respect to any development proposed or discussed.

(2) The Petition.

Following the concept review, the owner or his agent may file a petition with the City Clerk for an amendment to the City's zoning district map designating and adding a PUD Planned Unit Development Overlay District to the underlying basic use or other overlay zoning district, thereby permitting the application of the provisions of this Section to the designated area. Such petition shall be accompanied by a fee as required under Section 13-1-230 of this Chapter, as well as the following information:

- a. A statement that sets forth the relationship of the proposed PUD Planned Unit Development Overlay District to the City's adopted Smart Growth Comprehensive Land Use Plan - 2025 or any adopted component thereof and the general character of and the uses to be included in the proposed PUD Planned Unit Development Overlay District, including the following information as applicable:
  - 1. Total area to be included in the PUD Planned Unit Development Overlay District, area of open space, residential 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. In addition, said petition shall include all data required for land division pre-application by Title 14 "Land Division and Subdivision Regulations," of the City of Cedarburg Code of Ordinances.
  - 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 owner's or management's association, which may be proposed to be

- established for the purpose of providing any necessary private services and to determine the manner in which the owners management's association will participate in the formulation and execution of the development agreement.
4. Any proposed departures from the standards of development as set forth in the City zoning regulations, land division ordinance, sign ordinance, other City regulations or administrative rules, or other universal guidelines.
  5. A development timetable, including all benchmark dates from commencement to completion of the physical development of the proposed project.
- b. A general development plan which shall include, in addition to those site plan and architectural review requirements set forth in Article F of this Chapter, the following as applicable:
1. A preliminary plat, condominium plat or certified survey map illustrating the plan of development of the PUD Planned Unit Development Overlay District. Said preliminary plat, condominium plat or certified survey map shall include all additional information as required by Title 14 "Land Division and Subdivision Regulations" City of Cedarburg Code of Ordinances.
  2. A legal description of the boundaries of lands included in the proposed PUD Planned Unit Development Overlay District.
  3. A description of the relationship between the lands included in the proposed PUD Planned Unit Development Overlay District and the surrounding properties.
  4. The location of public and private roads, driveways, and parking facilities and the calculations used to justify the number of spaces proposed.
  5. The size, arrangement, and location of any individual building site and proposed building groups on each individual lot.
  6. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainageways.
  7. The type, size, and location of all structures.
  8. General landscape treatment.
  9. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
  10. The existing and proposed location of public sanitary sewer, water supply facilities, and stormwater drainage facilities.
  11. The existing and proposed location of all private utilities or other easements.

12. Characteristics of soils related to contemplated specific uses.
  13. Existing topography on the site with contours at no greater than two (2) foot intervals National Geodetic Vertical Elevation.
  14. Anticipated compatibility with existing adjacent land uses.
  15. If the development is to be staged, a staging plan.
- (j) **Land Divisions.** Any proposed division that results in a subdivision or any division of land other than a subdivision that is part of the proposed PUD Planned Unit Development Overlay District shall be subject to the requirements of Title 14 "Land Division and Subdivision Regulations" of the City of Cedarburg Code of Ordinances.
- (k) **Referral to Plan Commission.** The petition for a PUD Unit Development Overlay District shall be referred to the Plan Commission for its review and recommendation. The Plan Commission may add any additional conditions or restrictions which may deem necessary or appropriate to promote the spirit and intent of this Chapter and the purpose of this Section.
- (l) **Public Hearing.** Upon receipt of the Plan Commission's recommendation, the Common Council shall, before determining the disposition of the petition, hold a public hearing pursuant to the provisions of Article I of this Chapter. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested zoning change.
- (m) **Basis for Approval.**
- (1) The Plan Commission in making its recommendations, and the Common Council, in making its determination, shall consider:
    - a. Whether the petitions for the proposed PUD Planned Unit Development Overlay District has indicated that they intend to begin the physical development of the designated PUD Planned Unit Development Overlay District within twelve (12) months following the approval of the petition for a PUD Planned Unit Development Overlay District and a development timetable, including all benchmark dates from commencement to completion of the physical development of the proposed project.
    - b. Whether the proposed PUD Planned Unit Development Overlay District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Chapter; is in conformity with the Comprehensive Land Use Master Plan - 2025 or component plans thereof for community development; would not be contrary to the general welfare and economic prosperity of the City or of the immediate neighborhood; and that the benefits and improved design of the resultant development justifies the establishment of a PUD Planned Unit Development Overlay District.
    - c. The Plan Commission and the Common Council shall not give their respective recommendations or approvals unless it is found that:
      1. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.

2. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
  3. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
  4. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances and administrative regulations of the City.
  5. Public water and sewer facilities shall be provided.
  6. The entire tract or parcel of land to be included in a PUD shall be held under single ownership, or if there is more than one (1) owner, the petition for such PUD shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the Register of Deeds for Ozaukee County, and;
- (2) For Residential PUD Planned Unit Development Overlay Districts:
- a. Such development will create an attractive environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, access to recreation space, and coordination with overall plans for the neighborhood.
  - b. The total net residential density within the PUD Planned Unit Development Overlay District will be compatible with the City's Smart Growth Comprehensive Plan - 2025 and/or the average density permitted in the underlying basic use district.
  - c. Provisions have been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
  - d. Provisions have been made for adequate and continued fire and police protection.
  - e. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed schools or other municipal service facilities.
  - f. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservations and maintenance or by dedication to the public.
- (3) For Commercial PUD Planned Unit Development Districts:
- a. The economic practicality of the proposed development can be justified.
  - b. The proposed development will be adequately served by off-street parking and truck service facilities.

- c. The proposed development shall be adequately provided with and shall not overburden public services and facilities, such as fire and police protection, street and public area maintenance.
  - d. The locations for 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 an adverse effect upon the general traffic pattern of the surrounding neighborhood.
  - e. 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.
- (4) For Industrial PUD Planned Unit Development Overlay Districts:
- a. The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standard and industrial development design and will not result in adverse effect upon the property values of the surrounding neighborhood.
  - b. The proposed development shall be adequately provided with and shall not overburden public services and facilities, such as fire and police protection and street maintenance and public area maintenance.
  - c. The proposed development will include adequate provision for off-street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
  - d. The proposed development will not adversely affect the safety and efficiency of City's public streets and overall transportation system.
- (5) For Mixed use PUD Planned Unit Development Overlay Districts:
- a. The proposed mixture of uses produces a unified composite which is compatible within the underlying zoning districts and which, as a total development entity, is compatible with the surrounding neighborhood.
  - b. The various types of uses conform to the general requirements as herein before set forth.
  - c. The proposed development shall be adequately provided with and shall not overburden public services and facilities, such as fire and police protection, and street and public area maintenance.
- (n) **Development Agreement.**
- (1) The City's review and approval process shall be conditioned on the execution by the Common Council and the applicant of the development agreement approved by the Common Council with its approval embodying all of the terms and conditions of the specific project plan and any additional terms of implementation.
  - (2) The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the Common Council and shall include without limitation:

- a. Timetables for performance/completion of improvements;
- b. Performance requirements and standards and assurances for all improvements and/or modifications pertaining to the PUD;
- c. Inspection requirements;
- d. Prohibition on any division/combination of real estate lots included within the PUD District except as otherwise provided, including an exception for residential condominium units;
- e. Provisions for lapsing of specific plan approval and automatic reversion of the zoning status of the property to non-PUD District status upon specific changes of circumstances or failure of the project to materialize as agreed to in the development agreement;
- f. Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PUD District that will perpetually govern the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities;
- g. Exhibits, drawings or other attachments that depict improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the development area as well as design and engineering details as necessary to document to a reasonable degree of specificity the type, character and nature of improvements to be made within the development area.

(o) **Disposition of the Petition.**

- (1) General Approval. After the public hearing and due consideration, the Common Council shall approve the petition as submitted or approve the petition with modifications by additional conditions and restrictions or deny the rezoning petition of a PUD Planned Unit Development Overlay District. The approved preliminary plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings. The approval of the petition shall be based upon the building, site, and operational plans for the development and shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses. Zoning permits may only be issued upon obtaining general approval of the petition for rezoning for a PUD Planned Unit Development Overlay District. Site and architectural plans submitted shall meet the requirements of Article F of this Chapter.
- (2) Detailed Approval. Plans submitted for detailed approval shall be precise and contain all items as may be required by the Plan Commission. A letter of credit for all improvements shall be submitted before such approval is granted. Detailed approval of the plans for each stage of development shall be required before building permits will be issued for the construction of the structures which are included in the plans for that stage of development.

- (3) **Changes or Additions.** Any subsequent change or addition to the plans or uses shall first be submitted for approval to the City Plan Commission and if in the opinion of the City Plan Commission such change or addition constitutes a substantial alteration of the original plan, a public hearing before the City Common Council shall be required and notice thereof be given pursuant to the provisions of Section 13-1-229 of the Zoning Code.
- (4) **Termination.** If a building permit is not issued within one (1) year of receiving the PUD zoning, the PUD district zoning for the property shall be automatically discontinued and replaced with the zoning designation that existed prior to the PUD rezoning.

### **SEC. 13-1-70 HPD HISTORIC PRESERVATION OVERLAY DISTRICT.**

- (a) **Purpose.** It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the citizens of the City. The purpose of the HPD Historic Preservation Overlay District is to effect and accomplish the protection, enhancement, and perpetuation of such improvements and of districts which represent or reflect elements of the City's cultural, social, economic, political, and architectural history; safeguard the City's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts; stabilize and improve property values; foster civic pride in the beauty and noble accomplishments of the past; protect and enhance the City's attractions to residents, tourists, and visitors for education, pleasure, and general welfare; and serve as a support and stimulus to business and industry; and strengthen the economy of the City.
- (b) **Permitted Uses.** (Also see Section 13-1-225.) Any use permitted in the underlying basic use district.
- (c) **Conditional Uses.** (Also see Section 13-1-226.) Any conditional use permitted in the underlying basic use district.
- (d) **Lot Area and Width.** (Also see Article E.) Lot area and width shall conform to the requirements in the underlying basic use district.
- (e) **Building Height and Area.** (Also see Article E.) Building height and area shall conform to the requirements in the underlying basic use district.
- (f) **Setback and Yards.** (Also see Section 13-1-27 and Article E.) All buildings shall conform to the setback and yard requirements of the underlying basic use district.
- (g) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (h) **Nonconforming Uses, Structures, and Lots.** (See Article F.)
- (i) **Performance Standards.** (See Article H.)
- (j) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (k) **Site Plan Review.** (See Article E.)
- (l) **Architectural Review.** (See Article E.)

- (m) **Historic Preservation Commission Review and Recommendation.** No permit to develop, construct, reconstruct, enlarge, or alter property in an HPD district shall be issued and no lands shall be removed from the HPD district until the Historic Preservation Commission has reviewed the application or petition and has recommended approval, approval with conditions, or denial of the application or petition.
- (n) **Designation of Landmarks, Landmark Sites, and Historic Districts.**
- (1) The Plan Commission, upon referral to and receipt of the recommendation of the Historic Preservation Commission, may designate landmarks, landmark sites, and historic districts within the City. Such designation shall be based upon the criteria established in this Article. Appropriate records, including photographs and plans, shall be kept as a part of the City's official zoning file.
  - (2) A landmark or landmark site designation may be placed on any site, natural or improved, including any building, improvement, or structure located thereon, or on any area of particular historic, architectural, or cultural significance to the City of Cedarburg, such as historic structures or sites which:
    - a. Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state, or community; or
    - b. Are identified with historic personages or with important events in national, state, or local history; or
    - c. Embody the distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
    - d. Are representative of the notable work of a master builder, designer, or architect whose individual genius influenced his age.
- (o) **Limitation on Structural or Appearance Changes.**
- (1) Structural changes shall be regulated in the following manner:
    - a. Certificate of Appropriateness Required. There shall be no alteration in the architectural appearance of any structure within the HPD district without the review and approval of plans for such alteration by the Plan Commission. In determining whether to grant approval, the Plan Commission shall take into consideration the recommendation of the Historic Preservation Commission. For the purpose of this Section, alterations shall include any change, addition to, or demolition of all or any part of a structure. The Plan Commission shall make its within sixty (60) days of the filing of the application for a certificate of appropriateness.
    - b. Basis for Approval. No alterations shall be permitted in the HPD district that would tend to destroy or impair the particular character and quality of the HPD district. No change or alteration of a landmark, landmark site, or historic district shall be permitted which destroys, seriously impairs, or significantly alters its character in terms of its historical or architectural interest.

- c. Repairs or Destruction. Notwithstanding the provisions of Article G regarding nonconforming use and nonconforming structures, total lifetime structural repairs, restoration, or alteration of a preservation structure, which may be a nonconforming structure or nonconforming use, may exceed fifty percent (50) of the assessed value if the Plan Commission determines, upon recommendation of the Historic Preservation Commission, that the structure will be repaired, restored, or altered in such a way as to maintain the character of the structure and the character of the HPD district without significant alteration or change in such character. No person in charge of a landmark or development in an HPD district shall be granted a permit to demolish such property without the review and recommendation of the Historic Preservation Commission to the City Plan Commission.
- d. On lots which a locally designated landmark is located, the maximum height restriction of the accessory structure(s) may be modified on a case-by-case basis by the Plan Commission upon referral to and receipt of a recommendation from the Landmarks Commission, when necessary to maintain the character and historic integrity of said landmark. (Ord. 2003-19)

**SEC. 13-1-71 CEG COMMUNITY EXHIBITION GROUNDS DISTRICT** (Ord. 2013-02)

- (a) **Purpose.** The CEG District is a special-purpose zoning district intended to provide for areas where exhibition ground uses can be carried out. This District is intended to allow uses of an active recreation nature and uses conducted by community groups and civic entities. To qualify for this District, lands must be owned by a community-based, non-stock, not-for-profit organization or governmental entity or agency thereof. Because uses in the CEG District can impact surrounding properties, the noise and activities associated with all outdoor permitted uses and conditional uses shall be conducted in a manner that does not cause a public nuisance. Development within the CEG District shall be in a manner that is consistent with the City of Cedarburg Smart Growth Comprehensive Land Use Plan – 2025, and components thereof.
- (b) **Permitted Uses.**
  - (1) Archery ranges, indoor.
  - (2) Arenas, barns, field houses, stadiums, auditoriums.
  - (3) Assembly areas and meetings for community and business groups.
  - (4) Athletic/sporting events, practices and facilities.
  - (5) Carnivals, circuses.
  - (6) Dog, horse, livestock shows, and petting zoos.
  - (7) Educational activities related to small animals.
  - (8) Exhibitions, conventions, trade shows, and family, community, school and church events.
  - (9) Fairs, including associated agricultural-related buildings, community meeting or

recreational buildings and uses, music concerts, food booths and stands, games, rides, sales and auctions, demolition derbies.

- (10) Festivals and picnics.
  - (11) Fire Department training and demonstrations.
  - (12) Haunted houses.
  - (13) Horse shows, stables and riding rings.
  - (14) Indoor professional/business conferences.
  - (15) Indoor weddings and receptions.
  - (16) Maxwell Street Days.
  - (17) Remodeling and normal maintenance of permitted uses not requiring expansion, enlargement or extensions.
  - (18) Sales and display of new and used merchandise, including food sales.
  - (19) Trade shows, boat shows, storage and display.
  - (20) Training and educational activities for community or governmental entities.
  - (21) Vehicle storage, shows and displays.
- (c) **Permitted Accessory Uses.**
- (1) Buildings and structures accessory to permitted and conditional uses.
  - (2) Off-street parking and loading areas.
  - (3) Food sales (excluding restaurants) only in conjunction with other permitted and conditional uses.
  - (4) Overnight camping associated with permitted and conditional uses.
- (d) **Conditional Uses.**
- (1) Outdoor archery ranges.
  - (2) Outdoor music concert events not part of permitted uses at the Fairgrounds or at Firemen's Park.
- (e) **Lot Area and Width.** (See Table 13-1-71.)
- (f) **Setback and Yards.** (See Table 13-1-71.)
- (g) **Building Height.** (See Table 13-1-71.)
- (h) **Traffic, Loading, Parking and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Municipal Code.)
- (l) **Site Plan Review.** Required. (See Article F.)
- (m) **Architectural Review.** Required. (See Article F.)

**TABLE 13-1-71**  
**CEG COMMUNITY EXHIBITION GROUNDS DISTRICT**  
Development Standards

<b>TYPE OF STANDARD</b>	<b>STANDARD</b>
<b>FLOOR AREA RATIOS</b>	
Floor Area Ratio (FAR)	N/A
Minimum Floor Area Per Use/Tenant/Business (sf)	N/A
<b>LOT DIMENSIONAL REQUIREMENTS</b>	
Minimum Lot Area (sq. ft.)	N/A <sup>(a)</sup>
Minimum Lot Width at Setback Line (ft.)	N/A <sup>(a)</sup>
Minimum Setback from public right of ways (ft.)	20 <sup>(b)</sup>
Minimum Setback from adjacent residential buildings (ft.)	100 <sup>(d)</sup>
Minimum Offset (interior rear) (ft.)	0 or 10 or 100 <sup>(c)</sup>
Minimum Offset (interior side) (ft.)	0 or 10 or 100 <sup>(c)</sup>
Minimum Setback from Wetlands (ft.)	Principal Structure: 25 feet Accessory Structure: 5 feet
Setback from a Navigable Body of Water	75 feet for properties annexed after May 7, 1982
<b>MINIMUM SETBACK FOR CEG USES</b>	
Minimum Setback (ft)	5 <sup>(e)</sup>
<b>MAXIMUM BUILDING HEIGHT</b>	
Principal Structure (ft.)	35
Accessory Structure (ft.)	35

<sup>(a)</sup> Lots in the CEG District shall provide sufficient area for principal permitted uses, principal structures, and accessory structures, loading areas, and all required yards.

<sup>(b)</sup> Existing buildings are exempt from the setback requirement and shall be considered conforming as located.

<sup>(c)</sup> No minimum side yard offset shall be required; however, where a side yard offset is provided, it shall be not less than ten (10) feet.

- <sup>(d)</sup>The minimum setback of any building in the CEG District shall be ten (10) feet from interior lot lines, or one hundred (100) feet from any adjacent residential building, excluding garages and sheds, whichever is greater.
- <sup>(e)</sup>Outdoor uses and activities in the CEG District shall be carried on not less than five (5) feet from any adjacent residentially-zoned lot.

**SEC. 13-1-72 OFFICE, SERVICE AND LIMITED MANUFACTURING DISTRICT  
(OSLM) (Ord. No. 98-15)**

- (a) **Purpose.** The OSLM District is intended to provide for the development of office, service and limited manufacturing uses which may be located on infill sites near existing residential areas and not in industrial or business parks. The primary distinguishing features of this District are its emphasis on indoor service and manufacturing operations, which would minimize nuisances to nearby residences; and a requirement for 50% open space to provide buffer yards, which are required adjacent to residential districts. The physical and operational characteristics of uses in this District are based on performance standards which would not be detrimental to the public health, safety or welfare or detrimental to the surrounding area as a result of noise, vibration, external lighting, odor, particulate emissions, other visible emission, hazardous pollutants, traffic, physical appearance, or other similar factors. Uses in the District are also intended to provide ample off-street parking and loading areas, and landscaped planting screens in those areas adjacent to or abutting residential or other non-commercial uses, to prevent adverse effects upon the adjoining areas.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
- (1) Business, professional, clerical, or general offices.
  - (2) Uses providing a service in which noise, vibration, heat, or flash produced on the premises by such service uses are entirely confined within a building at all times. Any odors produced or emitted must meet applicable federal and state regulations for air emissions.
  - (3) Uses involving the manufacture and fabrication of goods entirely within the confines of a building and in which any noise, vibration, heat or flash produced in any process are confined within the building at all times. Any odors produced or emitted in any process must meet applicable federal and state regulations for air emissions. See the Performance Standards for the OSLM District in Section (r).
  - (4) Research laboratories with indoor operations at all times.
  - (5) Essential services as defined in 13-1-240(51) of the Code of Ordinances.
- (c) **Permitted Accessory Uses.**
- (1) Off-street parking and loading areas.
  - (2) Garages or buildings used for the storage of vehicles which are used in conjunction with the operation of a permitted use.
  - (3) Ground-mounted and building-mounted dish antennae with prior approval by the Plan Commission.

- (4) Food service areas or cafeterias incidental to permitted use, but not restaurants.
- (5) Outdoor storage of materials or manufactured products, trucks, trailers and equipment accessory to the principal use. All such outdoor storage areas shall be screened from view from nearby public streets and from nearby residential areas in accord with a site plan requiring such screening or fencing.
- (6) Storage, power supply, and other uses normally accessory to the principal use.
- (d) **Conditional Uses.** The following uses may be permitted only if approved by the Plan Commission in accordance with the provisions of Section 13-1-226, which contains standards to guide the Plan Commission in determining whether or not to grant approval of such uses:
  - (1) Indoor athletic facilities.
  - (2) Communication towers and antennas.
  - (3) Day care facilities.
  - (4) Medical clinics.
  - (5) Veterinary offices and small animal hospitals without outdoor kennels.
  - (6) Banks, credit unions, and similar financial institutions.
  - (7) Retail sales of products integral with and incidental to a service or manufacturing business located on the same premises.
  - (8) Bulk mail receiving, forwarding and storage.
  - (9) Public or municipal buildings.
  - (10) Public utility structures.
  - (11) Buildings for the storage of goods and materials, where such goods or materials are stored inside a building, including self-service storage facilities (mini-warehouses).
  - (12) Car and truck servicing and repair, car and truck rental services, and car and truck washing. Any outdoor vehicle storage areas shall be screened.
- (e) **Existing Conditional Uses.** Uses in the OSLM District existing prior to the effective date of this amendment which are listed above as Conditional Uses shall be considered as legal conditional uses without further action. However, any proposed change to their operation shall be subject to review and approval in accord with Section 13-1-226, as if such uses were being established anew.
- (f) **Prohibited Uses.** The following uses are specifically prohibited from the District:
  - (1) Churches, synagogues, schools, or similar institutional uses or places of religious worship.
  - (2) Drop forges, all foundries, grain elevators, refineries, tanneries.
  - (3) Stockyards, slaughterhouses, rendering plants, asphalt and concrete plants.
  - (4) Fertilizer storage or packaging.
  - (5) Principal uses involving the storage, utilization, or manufacture of hazardous materials or products which decompose by detonation.
  - (6) Storage and dispensing of fuels and petroleum products.
  - (7) Retail uses and wholesale buying clubs unrelated to products manufactured on the premises.

- (8) Restaurants, but not prohibiting food service areas or cafeterias incidental to a permitted use.
- (9) Truck terminals.
- (10) Contractor's yards and the outdoor storage of construction equipment.
- (11) New and used car and truck sales.
- (12) Solid or liquid waste disposal, dumping, incineration, medical waste storage or disposal, or similar waste management uses.
- (13) All types of residential uses, except guard's quarters.
- (14) Planing mills and sawmills.
- (g) **Performance Standards.** Uses in the OSLM District shall comply with the provisions and performance standards set forth in Section (r).

### **DIMENSIONAL REQUIREMENTS**

- (h) **Number of Buildings Per Lot.** Each lot shall contain a maximum of one principal building. There shall be no limit on the number of accessory buildings provided the lot coverage/open space requirements described in Section (i) are complied with.
- (i) **Lot Area and Width.**
  - (1) Lots shall be a minimum of 20,000 square feet in area.
  - (2) Lots shall be a minimum of one-hundred (100) feet in width.
- (j) **Lot Coverage and Open Space.** To achieve an attractive appearance and to provide green areas for stormwater management and buffer yards for nearby residential areas, lot coverage by buildings, accessory structures, and surface parking and driveways shall occupy a maximum of fifty percent (50%) of the lot area. Open space not covered by buildings, accessory structures, and surface parking and driveways shall occupy a minimum of fifty percent (50%) of the lot area. The open space may include stormwater retention/detention areas.
- (k) **Setback and Yards.**
  - (1) A minimum street yard setback of twenty-five (25) feet from any existing or planned public street right-of-way shall be required. However, where the site is adjacent to or abutting a residential district, the street yard setback shall be a minimum of fifty (50) feet.
  - (2) There shall be a minimum interior side yard setback of not less than twenty-five (25) feet on a side.
  - (3) There shall be a minimum rear yard setback of not less than twenty-five (25) feet.
  - (4) Side yard setbacks or rear yard setbacks adjacent to or abutting a railroad right-of-way may be reduced to a minimum of not less than ten (10) feet to accommodate a rail siding loading area.
  - (5) Accessory uses, accessory buildings or accessory structures shall be located in side or rear yards only, and shall be setback a minimum of ten (10) feet from a side or rear lot line.
  - (6) Outdoor storage areas shall be located in side or rear yards only, and shall be setback

- a minimum of ten (10) feet from a side or rear lot line.
- (7) Parking lots located in side or rear yards shall be setback a minimum of ten (10) feet from a side or rear lot line. This includes parking lots in corner lot side yards.
  - (8) Parking lots located in front yards shall be set back a minimum of twenty-five (25) feet from the street right-of-way line.
  - (9) **Setbacks and buffer yards adjacent to residential districts.** On OSLM Districts lots adjacent to or abutting a residential district, all outdoor storage areas, outdoor operations, accessory buildings, or accessory uses including parking lots shall provide a greater setback to provide a buffer yard. Any such uses shall be setback a minimum of twenty-five (25) feet from a property line adjacent to or abutting a residential district. The buffer yard area shall be landscaped or fenced, or a combination thereof, to screen such uses in accord with a site plan requiring such screening or fencing.
- (l) **Building Height.** No new building or parts of a new building shall exceed thirty-five (35) feet in height. Accessory buildings or structures shall not exceed fifteen (15) feet in height. Existing buildings in the OSLM District constructed prior to the date of adoption of this Ordinance may exceed thirty-five (35) feet in height, but shall not exceed fifty-two (52) feet in height.
  - (m) **Parking, Driveways, Loading and Storage Areas.** Parking facilities, driveways, and loading and storage areas shall be paved with either asphaltic concrete or portland cement concrete prior to the occupancy of the building. Peripheral edge landscaping shall be installed around the edges of parking areas visible from public streets or residential areas.
  - (n) **Loading Areas and Docks, Garbage and Trash Areas.** Loading areas or docks shall be located in side or rear yards. No outdoor loading docks shall be allowed in the OSLM District. Outdoor garbage and trash areas shall be enclosed with a fence or wall of solid decorative material compatible with the principal building.
  - (o) **Exterior Lighting.** Exterior lighting shall meet the following criteria:
    - (1) The emission of exterior light shall be directed away from nearby residential areas.
    - (2) Exterior lights shall not flash, pulsate, nor impair or hinder vision on public streets or on adjacent properties.
    - (3) Exterior lighting shall be located, oriented, and shielded and of an intensity so as to illuminate only the building or lot without adversely affecting activity on adjacent buildings, lots, or traffic on streets and highways.
    - (4) Light poles shall not exceed 20' in height including base.
    - (5) Exterior lighting shall meet the standards promulgated by the Illuminating Engineering Society of North America.
  - (p) **Site Plan and Architectural Approval Required.** No building, structure or improvement shall be constructed or placed on any lot, nor shall any building, structure or improvement be remodeled or altered until site and architectural plans for such improvements have been approved by the Plan Commission in accord with the requirements of Article F relating to such site and architectural approvals.

(q) **Signs.** See Title 15, Chapter 5, for the City Sign Code.

(r) **Performance Standards.**

- (1) **Intent and Compliance.** It is the intent of this section to describe performance standards for the regulation of uses in the OSLM District to establish an objective and equitable basis for control and to insure that the community is adequately protected from potentially hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or outside the OSLM District. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All uses, structures, land, air and water in the OSLM District shall hereafter comply with the following performance standards.
- (2) **Air Emissions.** Control of hazardous air pollutants, particulate emissions, or other air emissions shall be regulated by the Wisconsin Department of Natural Resources (DNR) and the Federal Environmental Protection Agency (EPA).
- (3) **Control of Odors.** No operation or activities shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 429, Wis. Adm. Code.
- (4) **Control of Fire and Explosive Hazards.**
  - a. All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire fighting and fire suppression equipment and devices as may be required by the Cedarburg Fire Department regulations.
  - b. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
  - c. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Cedarburg Fire Department and in accord with its requirements to minimize fire and explosive hazards.
- (5) **Glare, Heat and External Lighting.**
  - a. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the OSLM District. Operations producing light, glare or heat shall be conducted entirely within an enclosed building at all times.
  - b. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.
- (6) **Water Quality.** Control of discharges affecting water quality standards shall be regulated by the DNR and the EPA.
- (7) **Wastewater Discharges to Sewers.** Operations in the OSLM District, which may

discharge wastewater other than toilet wastewater to the Cedarburg Wastewater Treatment Plant, shall install a sampling manhole to allow monitoring of wastewater discharges and shall in all other respects comply with the sewer user regulations contained in this Code.

- (8) **Noise.** No operation or activity shall transmit any noise beyond the boundaries of the OSLM District so that it violates Sec. 11-2-9 of the Code of Ordinances.
- (9) **Vibration.**
- a. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
  - b. 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.  
(Include Chapter NR429 - Malodorous Emissions and Open Burning)  
(Ord. 98-15)

**SEC. 13-1-73 C-3 SHORELAND CONSERVANCY DISTRICT** (Ord. 2000-45)

- (a) **Purpose.** The C-3 Shoreland Conservancy District is intended to protect those portions of shoreland areas annexed into the City after May 7, 1982 and lying outside waterbodies, floodplains, and wetlands. In cases where the provisions of the Ozaukee County Shoreland Zoning Ordinance are more restrictive than those of this Ordinance, the County regulations shall continue to apply, in accordance with Section 59.692 of the *Wisconsin Statutes*. The County regulations shall be administrated and enforced by the City of Cedarburg Building Inspector. All permitted uses in the C-3 District shall be served by public sanitary sewer.
- (b) **Permitted Uses.** The following are permitted as a matter of right:
- (1) Single-family dwellings.
  - (2) Day care homes.
  - (3) Foster family homes.
  - (4) Community living arrangements that have a capacity for eight (8) or fewer persons, subject to the limitations set forth in Section 60.63 of the *Wisconsin Statutes*.
  - (5) Essential services.
- (c) **Permitted Accessory Uses.**
- (1) Private garages and carports.
  - (2) Gardening, tool, and storage sheds incidental to the residential use.
  - (3) Home occupations.
  - (4) Ground-mounted and building-mounted earth station dish antennas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Community living arrangements with a capacity for nine (9) or more persons, subject

to Section 60.63 of the *Wisconsin Statutes*.

- (2) Utilities.
- (e) **Lot Area and Width.** (Also see Article E.) Lots shall be a minimum of fifteen thousand (15,000) square feet in area and shall be not less than one hundred (100) feet in width at the setback line, except for lots fronting on a cul-de-sac turnaround may have a minimum lot width of not less than ninety (90) feet measured at the setback line.
- (f) **Building Height and Area.** (Also see Article E.)
  - (1) No principal building or parts of a building shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty (20) feet in height.
  - (2) The total minimum floor area of a principal building shall be one thousand six hundred (1,600) square feet, excluding attached garage area.
  - (3) The minimum first floor area of a two-(2) story principal building shall be one thousand (1,000) square feet, excluding attached garage area.
  - (4) A tri-level dwelling shall have a minimum floor area of seven hundred (700) square feet per habitable level.
  - (5) The sum total of the floor area of the principal building and all accessory buildings shall not exceed twenty-five percent (25%) of the lot area.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.)
  - (1) There shall be a minimum building setback of thirty (30) feet from the right-of-way of all streets.
  - (2) There shall be a side yard on each side of all principal buildings of not less than fifteen (15) feet in width.
  - (3) There shall be a rear yard of not less than thirty (30) feet.
  - (4) There shall be a shoreyard setback of not less than seventy-five (75) feet from the ordinary high-water mark of a navigable body of water.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Removal of Shoreland Cover.** Tree cutting and shrubbery clearing within shoreland areas shall be regulated as set forth below to protect natural beauty, control erosion, and reduce the flow of effluents, sediments, and nutrients from the shoreland area into adjoining waterbodies:
  - (1) No more than thirty (30) feet in any one hundred (100) feet, measured along the ordinary highwater mark, shall be clear-cut within the area parallel to the ordinary highwater mark and extending thirty five (35) feet inland from that mark.
  - (2) Natural vegetation shall be preserved to the extent practicable and, where removed, shall be replaced with other vegetation that is equally effective in controlling runoff, erosion, and sedimentation, and preserving natural beauty.
  - (3) Roads, paths, and trails shall be constructed and maintained in a manner that controls runoff, erosion, and sedimentation and shall be designed and constructed to result in the least removal and disruption of shoreland cover and the minimum impairment of

- natural beauty. Paths and trails shall not exceed ten (10) feet in width.
- (4) The tree and shrubbery cutting regulations specified in subsections (1) through (3) shall not apply to the removal of dead, diseased, or dying trees and shrubbery.
  - (5) From the inland edge of the area within thirty five 35 feet of the ordinary highwater mark to the outer edge of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices.

**SEC. 13-1-74 C-4 UPLAND CONSERVANCY OVERLAY DISTRICT.** (Ord. 2000-46)(Ord. 2013-20)

- (a) **Purpose.** The C-4 Upland Conservancy Overlay District is intended to preserve, protect, enhance, and restore all significant woodlands, wildlife habitat areas, areas of rough topography, and related scenic areas located within upland portions of the primary environmental corridor. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the City.
- (b) **Permitted Uses.** The following are permitted as a matter of right:
  - (1) Any use of land, except development involving structures, that is permitted in the underlying basic use district, providing that such development does not destroy the natural resource features protected by the C-4 District.
  - (2) Forest and game management.
  - (3) Park and recreation areas.
  - (4) Preservation of scenic, historic, and scientific areas.
  - (5) Recreational trails.
- (c) **Conditional Uses.** (Also see Section 13-1-226.) Any Permitted Use, Permitted Accessory Use, or Conditional Use permitted in the underlying basic district, including structural uses, providing that the development will serve to implement the purpose and intent of the C-4 District and foster the preservation of woodland, wildlife habitat, rough topography, and scenic areas. To this end, the City Plan Commission may permit the transfer of densities within the property boundaries of a given project. Individual lot sizes and per-unit lot areas may be reduced, provided that the density of the project does not exceed the maximum density permitted in the underlying basic use district. The City Plan Commission shall require appropriate legal measures to ensure that the open spaces and natural resource elements preserved by the transfer of density will be inviolate.
- (d) **Tree Cutting and Shrubby Clearing Only by Permit in Accord with a Cutting Plan with Certain Exceptions.** A Tree Cutting and Clearing Permit is required for tree cutting and shrubby clearing on all wooded lands within the C-4 Upland Conservancy Overlay District. An application for a Tree Cutting and Clearing Permit shall include a cutting plan of the lot or aerial photo showing the location of trees and/or shrubby to be removed. Notice of the application for such permit shall be mailed to owners of all lands located within three hundred (300) feet of the subject property. The cutting plan shall be reviewed by the City Forester prior to being submitted for review by the Plan Commission as part of the

permit process. The Common Council shall have final approval of the permit. Such removals may include the creation of sites for a residence, accessory buildings or other accessory uses, driveways, or view corridors facing adjacent waterways. Removals may also be done for forestry management purposes. The proposed cutting plan shall not cause undue erosion or destruction of scenic beauty. The cutting plan shall consider retaining some visual screening from waterways of any dwelling, accessory structures, and parking areas. The cutting plan may include replacement of removed trees and shrubbery with groundcover plantings to minimize erosion. The proposed tree cutting plan shall comply with the Tree Preservation requirements of the Cedarburg Municipal Code. A maximum of 30 feet removal of vegetation per each 100 feet of water frontage, or fraction thereof, may be permitted. Exceptions from the Tree Cutting and Clearing Permit requirement include the following activities:

- (1) Normal pruning, trimming, and shearing of trees and shrubs.
  - (2) Removal of dead, diseased, dying and insect-infected trees and shrubs.
  - (3) Removal of storm damaged trees and shrubs.
  - (4) Removal of invasive species as identified by the State of Wisconsin Department of Natural Resources.
  - (5) Emergency tree removals as authorized by the City Forester.
  - (6) Removals to accommodate construction of public paths and trails.
  - (7) Removals to accommodate construction of public utilities. (Ord. 2013-20)
- (e) **Lot Area and Width.** (Also see Article E.) Lot area and width shall conform to the requirements in the underlying basic use district, except that any lot located entirely within the C-4 District shall have a minimum lot area of five (5) acres and a minimum lot width of three hundred (300) feet at the setback line.
- (f) **Building Height and Area.** (Also see Article E.) Building height and area shall conform to the requirements in the underlying basic use district.
- (g) **Setback and Yards.** (Also see Section 13-1-27 and Article E.) Setback and yards shall conform to the requirements in the underlying basic use district.
- (h) **Traffic, Loading, Parking, and Access.** (See Article D.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)  
**Performance Standards.** (See Article H.)

**SEC. 13-1-75 A-1 AGRICULTURAL DISTRICT** (Ord. 2001-44)(Ord. 2010-10, Ord. 2011-03)

- (a) **Purpose.** The A-1 Agricultural District is intended to maintain, enhance and preserve agricultural lands historically utilized for crop production and the raising of livestock. The district is further intent upon preventing the premature conversion of agricultural land to scattered residential, commercial and industrial uses.
- (b) **Permitted Uses.** (See also Section 13-1-225.)
- (1) Beekeeping.
  - (2) Dairy farming.

- (3) Floriculture (cultivation of ornamental flowering plants).
  - (4) Noncommercial grazing or pasturing.
  - (5) Livestock raising, except feedlots in excess of 300 head and fur farms.
  - (6) Orchards.
  - (7) Plant nurseries.
  - (8) Poultry raising, except commercial egg production.
  - (9) Raising of grain, grass, mint, and seed crops.
  - (10) Raising of tree fruits, nuts, and berries.
  - (11) Sod farming.
  - (12) Vegetable raising.
  - (13) Viticulture (grape growing).
  - (14) Existing dwellings not accessory to any farm operation or dwellings remaining after the consolidation of farms provided that such dwellings are located on a lot not less than two (2) acres in area having a lot width of not less than one hundred and fifty (150) feet.
  - (15) General farm buildings including barns, silos, sheds, and storage bins.
  - (16) One (1) single-family farm dwelling. One or more family members residing therein shall earn a substantial part of his or her income from the farm operation.
  - (17) Essential services.
- (c) **Permitted Accessory Uses.**
- (1) Garages or carports.
  - (2) Home occupations.
  - (3) One (1) roadside stand for selected farm products produced on the premises and not exceeding one hundred and fifty (150) square feet in floor area.
  - (4) Forest and game management.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
- (1) Airports, airstrips and landing fields provided the site area is not less than twenty (20) acres.
  - (2) Public or private recreational sports fields. (Ord. 2011-03)
- (e) **Parcel Area and Width.** Parcels shall have a minimum area of ten (10) acres and shall not be less than three hundred (300) feet in width. (Ord. 2010-10)
- (f) **Building Height and Area.**
- (1) No farm buildings or parts of farm buildings shall exceed one hundred (100) feet in height.
  - (2) No farm dwelling or part of a farm dwelling shall exceed thirty-five (35) feet in height.
  - (3) The total minimum floor area of a farm dwelling or other residential dwelling shall be one thousand two hundred and fifty (1,250) square feet with a minimum first floor area of eight hundred (800) square feet.
- (g) **Setback and Yards.**
- (1) There shall be a minimum building setback of fifty (50) feet from the highway or

road right-of-way.

- (2) A minimum shore yard of seventy-five (75) feet from the highwater elevation of any navigable water shall be required.
- (3) There shall be a minimum side yard on each side of all structures not less than twenty (20) feet in width.
- (4) There shall be a rear yard of not less than twenty-five (25) feet.

<b>ARTICLE C</b>							
<b><u>SUMMARY OF AREA, YARD, AND HEIGHT REQUIREMENTS</u></b>							
<b>MINIMUM LOT SIZE</b>				<b>MINIMUM YARD REQUIREMENTS</b>			
<b>Zoning District</b>	<b>Total Area (sq. ft.)</b>	<b>Area per Family (ft.)</b>	<b>Lot Width at Setback (ft.)</b>	<b>Front Yard (ft.)</b>	<b>Side Yard (ft.)</b>	<b>Rear Yard (ft.)</b>	<b>Max. Bldg. Ht. (ft.)</b>
Rs-1 Single-Family Residential	20,000	20,000	100	25	15	25	35
Rs-2 Single-Family Residential	15,000	15,000	100	30	15	30	35
Rs-3 Single-Family Residential	12,000	12,000	90	25	8	25	35
Rs-4 Single-Family Residential	10,000	10,000	90	25	8	25	35
Rs-5 Single-Family Residential	8,400	8,400	50	25	4	25	35
Rs-6 Single-Family/ Two-Family Residential	8,400	8,400	50	25	4	25	35
Rs-7 Low-Density Single-Family Residential	20,000	20,000	100	25	10	25	35

MINIMUM LOT SIZE				MINIMUM YARD REQUIREMENTS			
Zoning District	Total Area (sq. ft.)	Area per Family (ft.)	Lot Width at Setback (ft.)	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)	Max. Bldg. Ht. (ft.)
Rs-8 Low-Density Single-Family Residential	40,000	40,000	150	75	25 one story; 35 multi-story	40	35
Rd-1 Two-Family Residential	12,000	6,000	100	25	10	25	35
Rm-1 Multiple-Family Residential	12,000	1 bdrm – 4,000; 2 bdrms – 5,000	90	25	20	25	35
Rm-2 Multiple-Family Residential	10,800	1 bdrm. – 2,700; 2 bdrms.- 3,300	90	25	20	25	35
B-1 Neighborhood Business	10,000		sufficient area	25	20 for ea. 150 ft of commercial structure- no closer than 10 to side lot line	25	lesser of 35 or 2 stories
B-2 Community Business	40,000		150	40	20 for ea. 150 ft of commercial structure - no closer than 15 to side lot line	25	lesser of 35 or 2 story
B-3 Central Business	4,800		40	5	no minimum; if provided 10	15	lesser of 35 or 2 story

City of Cedarburg  
Zoning

MINIMUM LOT SIZE			MINIMUM YARD REQUIREMENTS				
Zoning District	Total Area (sq. ft.)	Area per Family (ft.)	Lot Width at Setback (ft.)	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)	Max. Bldg. Ht. (ft.)
B-4 Office and Service	10,000		90	25	10	25	lesser of 35 or 2 story
B-5 Business Park	43,560 (1 acre)		150	30	10 one side; 30 total	25	55
B-6 General Business and Warehousing	30,000		150	25	5	25	lesser of 35 or 2 story
M-1 Limited Manufacturing	20,000		100	25	25	25	35
M-2 General Manufacturing	40,000		150	25	25	25	45
M-3 Industrial Park	40,000		200	40	25	25	45
P-1 Park & Recreation	sufficient area			40	40	40	35
I-1 Institutional	8,400		75	25	6	25	35
C-1 Shoreland Wetland/Conservancy							
C-2 Non-Shoreland Conservancy							
C-3 Shoreland Conservancy	15,000		100	30*	15*	30*	35

MINIMUM LOT SIZE				MINIMUM YARD REQUIREMENTS			
Zoning District	Total Area (sq. ft.)	Area per Family (ft.)	Lot Width at Setback (ft.)	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)	Max. Bldg. Ht. (ft.)
C-4 Upland Conservancy Overlay	a; located entirely in C-4 – 5 acres		a; located entirely in C-4 - 300				
FWO Cedar Creek Floodway Overlay	a	a	a	a	a	a	a
FCO Floodplain Conservancy Overlay	a	a	a	a	a	a	a
FFO Floodplain Fringe Overlay	a	a	a	a	a	a	a
PUD Planned Unit Development Overlay	a; res. & commercial – 2 acres; industrial – 10 acres; mixed compatible use - zero	a	a	25	20	25	a

MINIMUM LOT SIZE			MINIMUM YARD REQUIREMENTS				
Zoning District	Total Area (sq. ft.)	Area per Family (ft.)	Lot Width at Setback (ft.)	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)	Max. Bldg. Ht. (ft.)
HPD Historic Preservation Overlay	a	a	a	a	a	a	a
CEG Community Exhibition Grounds	suffici- ent area		suffici- ent area	20	10 prior to 12/11/89; greater of 10 from lot line or 100 from any adjacent residential; outdoor activities 50 from adjacent residential	10 prior to 12/11/89; greater of 10 from lot line or 100 from any adjacent residential; outdoor activities 50 from adjacent residential	35
OSLM Office, Service and Limited Manufactur- ing	20,000		100	25; 50 from any adjacent residen- tial	25; 10 adjacent to or abutting railroad right-of-way	25; 10 adjacent to or abutting railroad right-of- way	35 new; 52 structure existing prior to 12/11/89
A-1 Agricultural	35 acres		660	50*	20*	25*	farm bldg. 100; dwelling 35

- a As per underlying basic use district requirements.
- \* Minimum shore yard of seventy-five (75) ft. from the highwater elevation of any navigable water shall be required.

**NOTE:** Zoning of annexed land shall be in compliance with the requirements of Section 13-1-40(f).

All setbacks adjacent to wetlands must be 25 ft. for principal building including attached garages and decks adjacent to wetlands.

**SECTION 13-1-76 MIXED USE INFILL DISTRICT** (Ord. 2005-15)

- (a) **The MU-I District** is intended to provide for a mixture of limited business and higher density residential uses which are located adjacent to or within a primary residential area in a manner that is consistent with the City of Cedarburg Comprehensive plan.
- (b) **General Requirements**
  - (1) The use or structure(s) shall be architecturally, aesthetically, and operationally harmonious with nearby development.
  - (2) All business, servicing, processing, or storage, except for off-street parking or loading, shall be conducted within completely enclosed buildings unless otherwise specifically approved by the Plan Commission.
  - (3) Building expansions, site changes, or use changes shall be in accordance with Article F of this chapter.
  - (4) No land shall be used or structure erected where the use or structure will result in a significant and unduly burdensome traffic impact, groundwater impact, capital facility impact, and/or where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography or low bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community.
- (c) **Permitted Uses.** The following uses subject to approval by the Plan Commission of the building, site and operational plans.
  - (1) Professional offices and services:
    - Accounting, auditing, and bookkeeping.
    - Architectural.
    - Engineering.
    - Legal.
    - Research and development.
  - (2) Business offices and services:

- Advertising
  - Business and management consulting.
  - Consumer and mercantile credit reporting.
  - Manufacturing representatives, agents, or corporate headquarters.
  - Public relations.
  - Stenographic.
- (3) Financial, insurance, and real estate offices and services:
- Holding and investment.
  - Insurance agencies carriers, and brokers.
  - Real estate agents, brokers, and management.
  - Real estate development.
  - Title abstracting.
- (4) Governmental
- (5) Public Services
- (6) Residential development at densities not to exceed 6.7 dwelling units per net acre for two-family and 3.4 dwelling units per net acre for single-family, served by municipal sewer and water facilities:
- Single-family dwellings
  - Two- (2) family dwellings.
  - Family daycare in either or both units of a two-family dwelling.
  - Foster family home in either or both units of a two-family dwelling.
- (d) **Accessory Uses**
- (1) Essential services
  - (2) Off-street parking
  - (3) Garages for the storage of vehicles used in conjunction with the operation of the business or for occupants of the premise.
- (e) **Conditional Uses**
- (1) Professional offices and services:
    - Chiropractor
    - Dental
    - Medical clinics.
    - Optometrists.
    - Osteopaths.
    - Physician and surgeon services.
  - (2) Business offices and services:
    - Duplicating and mailing.
    - Travel agencies.
    - Collection and adjustment.
    - Employment.
  - (3) Financial, insurance, real estate offices and services:

- Business and personal (including credit unions)
- Commodity contracts, brokers, and dealers
- Security brokers and dealers

**TABLE**

**MU-I MIXED USE DISTRICT**

Development Standards

<b>TYPE OF STANDARD</b>	<b>STANDARD</b>
<b>MINIMUM OPEN SPACE AND FLOOR AREA RATIOS</b>	
Open Space Ratio (OSR)	30%
Floor Area Ratio (FAR)	50%
<b>LOT DIMENSIONAL REQUIREMENTS</b>	
Minimum Zoning Area (sq ft)	0
Minimum Zoning Area Width at Setback Line(ft.)	150
Minimum Setback (ft.)	25
Minimum Setback from Wetlands (ft.)	Principal Structure: 25 feet Accessory Structure: 5 feet
Minimum Building Offset (SIDE) (ft.)	20
Minimum Offset (REAR) (ft.)	20
Minimum Parking Setback (ft.)	10
Minimum Parking Offset (ft.)	10
<b>MAXIMUM BUILDING HEIGHT</b>	
Principal Structure (ft.)	35
Accessory Structure (ft.)	20

**SEC. 13-1-77 PLD PUBLIC LIBRARY DISTRICT** (Ord. 2013-03)

- (a) **Purpose.** This District was created to allow the construction and operation of a new public library in the City. The site selected for the library has certain dimensional constraints and limited on-site parking available. Therefore, the setback, height, and parking requirements of this District are tailored to the selected site and are intended to accommodate the dimensional configuration of the library building and its limited on-site parking. The permitted uses envision a facility which accommodates a wide variety of potential public and quasi-public uses.
- (b) **Permitted Uses.** (Also see Section 13-1-225.)
  - (1) Art galleries.
  - (2) Bookstores.
  - (3) City-owned public library.
  - (4) Community activities and public assemblies.
  - (5) Educational and instructional activities.
  - (6) Governmental offices.
  - (7) Museums.
  - (8) Public service offices.
  - (9) Studios for photography, painting, music, sculpture, dance, or other recognized fine arts.
  - (10) Theaters.
- (c) **Permitted Accessory Uses.**
  - (1) Essential services.
  - (2) Garages and accessory buildings used in conjunction with the operation of the library or for occupants of the premises.
  - (3) Ground-mounted and building-mounted communication antennas.
  - (4) Off-street parking areas and off-street loading areas.
- (d) **Conditional Uses.** (Also see Section 13-1-226.)
  - (1) Coffee shops.
- (e) **Lot Area and Width.** Lots shall have a minimum area of fifteen thousand (15,000) square feet and shall not be less than one-hundred (100) feet in width.
- (f) **Building Height and Area.** (See Table 13-1-77.)
- (g) **Setback and Yards.** (See Table 13-1-77.)
- (h) **Traffic, Loading, Parking, and Access.** (See Table 13-1-77.)
- (i) **Nonconforming Uses, Structures, and Lots.** (See Article G.)
- (j) **Performance Standards.** (See Article H.)
- (k) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)
- (l) **Site Plan Review.** (See Article F.)
- (m) **Architectural Review.** (See Article F.)

**TABLE 13-1-77**  
**PLD PUBLIC LIBRARY DISTRICT**  
**DIMENSIONAL REQUIREMENTS**

TYPE OF STANDARD	STANDARD
<b>FLOOR AREA RATIO</b>	
Floor Area Ratio (FAR)	150%
<b>LOT DIMENSIONAL REQUIREMENTS</b>	
Minimum Lot Area	15,000 square feet
Minimum Lot Width at Setback Line	100 feet
Minimum Setback from public right of ways	Five (5) feet
Minimum Rear Yard	Five (5) feet
Minimum Side Yard	Five (5) feet
<b>PARKING REQUIREMENTS</b>	
Minimum Size of Space	180 square feet (10' x 18')
Minimum Number of Spaces	One (1) space per 300 square feet of customer floor area <sup>(a)</sup>
<b>MAXIMUM BUILDING HEIGHT</b>	
Principal Structure	As approved by the Plan Commission.
Accessory Structure	As approved by the Plan Commission.

<sup>(a)</sup> Required parking may be located on either nearby City-owned public parking lots, on leased parking areas, or on public streets when the on-street spaces are within 300 feet of the entrance(s) they are intended to serve.

**ARTICLE D**

Traffic, Loading, Parking, and Access

**SEC. 13-1-80 TRAFFIC VISIBILITY.**

- (a) No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of two and one-half (2-1/2) feet and ten (10) feet above the plane through the mean curb grades (see Illustration No. 3) within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection. (See Illustration No. 4.)
- (b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distance establishing the triangular vision clearance space shall be increased to fifty (50) feet. (See Illustration No. 4.)

**SEC. 13-1-81 LOADING REQUIREMENTS.**

On every lot on which a business, trade, or industrial use is hereafter established, space width 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:

- (a) **Required Spaces.** The number of loading and unloading spaces required are as follows:

<u>Gross Floor Area of Building in Square Feet</u>	<u>Required Number of Spaces</u>
5,000 - 24,999	1
25,000 - 49,999	2
50,000 - 99,999	3
100,000 - 174,999	4
175,000 - 249,999	5

For each additional seventy-four thousand (74,000) square feet (or fraction thereof) of gross floor area, one (1) additional loading and unloading space shall be provided.

- (b) Each loading and unloading space shall have access to a public dedicated street or alley.
- (c) The minimum area for each loading and unloading space, excluding the area needed to maneuver, shall be two hundred fifty (250) square feet.
- (d) At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

**SEC. 13-1-82 PARKING REQUIREMENTS.** (Ord. No. 2009-12)

In all districts and in connection with every use, 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) **Permit Required.** All parking areas which are constructed, resurfaced, reconstructed, expanded, or extended subsequent to the adoption of this Chapter shall obtain a parking lot permit after review of the proposed parking site plan by the City Plan Commission, in accordance with Article F of this Ordinance.
- (b) **Access.** Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten (10) feet wide for one (1) and two (2) family dwellings and a minimum of twenty-four (24) feet wide for all other areas.
- (c) **Size.** Size of each parking space shall be not less than one hundred eighty (180) square feet, exclusive of the space required for ingress and egress.
- (d) **Exceptions.** Off-street parking, subject to the following exceptions, is permitted in all yards of all districts, but shall not be closer than twenty-five (25) feet to the right-of-way of streets in a residential district when abutting a residential district. No truck, trailer, wagon, vehicular equipment, or similar vehicles of a commercial nature [exceeding thirty (30) feet in length] may be parked regularly in any yard, except where permitted as a use in an industrial or business district, and in no event may sales or storage activities be conducted from such vehicles, trailers, or wagons.
- (e) **On-Lot Location.** Location of off-street parking shall be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
- (f) **Parking Lot Surfacing and Landscaping Improvement Standards.**
  - (1) Purpose. The requirements in this Subsection are intended to recognize both the function and visual importance of parking areas and the public benefits resulting from well-designed and landscaped parking areas, which include an enhanced visual appearance, minimizing stormwater runoff, moderating the microclimate and reducing nuisances such as noise and glare.
  - (2) Affected Parking Areas. These improvement standards shall be applicable to the following:
    - a. New parking lots for four (4) or more vehicles in all zoning districts except single-family and two-family districts.
    - b. Existing parking lots, including those located in the B-3 Central Business Districts, which are proposed to be increased in area by four (4) or more vehicle spaces shall be subject to these requirements for the expansion area, and for the prior existing area.
    - c. Existing parking lots for four (4) or more vehicles serving an existing building proposed for improvements exceeding fifty percent (50%) of its value, or buildings undergoing additions that will increase their floor area by

- d. more than fifty percent (50%).
  - d. Unpaved existing parking lots for four (4) or more vehicles which are proposed for paving, in all zoning districts except single-family and two-family districts.
  - e. New parking lots serving residential uses in the B-3 Central Business District.
  - f. Exclusions. These requirements shall not apply to the resurfacing of existing paved parking lots or to parking areas for existing buildings in the B-3 zoning district proposed in connection with additions to the buildings of less than fifty percent (50%) of the building's floor area, provided parking area expansion is less than four (4) parking spaces.
- (3) Landscaping. All off-street parking areas described in this Subsection, except parking areas in the CEG Community Exhibition District, which are built or redesigned and rebuilt subsequent to August 13, 1990, shall be provided with accessory landscape areas as provided in these specific requirements:
- a. Perimeter and interior lot line greenbelts. A perimeter greenbelt of at least five (5) feet in width shall be installed along the street frontage and along all interior lot lines. Perimeter edges should be landscaped with a combination of plant material and earth berming whenever possible. Perimeter greenbelt landscaping may be omitted along side lot lines which have shared driveways with adjacent lots. The omitted area is limited to that portion from the street to the required minimum building setback line or as necessary to accommodate access cuts.
  - b. Additional interior greenspace. The interior of parking lots shall be provided with landscape areas consisting of at least four percent (4%) of the total surface parking area, plus one (1) tree for each ten (10) spaces shall be installed. Existing trees may be used to comply with this requirement.
  - c. Location. Interior landscape plantings may be located in protected areas such as along walkways, in center islands, in end islands, or between parking stalls. Rows of parking spaces shall be broken by a landscape island at the rate of one (1) island for each linear row of twelve (12) parking spaces for single row configurations, or for each twenty-four (24) parking spaces in double row configurations. Perimeter edge screening and berming should be limited in height to allow a line of sight to the building and not obstruct sight distance at entry drives.
  - d. Landscape Materials. Landscape materials may include shrubs, hardy flowering trees and/or decorative evergreen and deciduous trees. New trees shall have a minimum caliper of two inches (2") to two and one-half inches (2-1/2") for canopy trees. The area around trees and planting beds shall be planted with shrubs or ground cover and covered with mulch, bark or appropriate landscape stones.
  - e. Landscape requirements for parking areas in the CEG Community Exhibition

District shall be determined on a case-by-case basis by the Plan Commission at the time of site plan approval.

- (4) Surfacing, Curbing, Storm Sewers. Parking areas subject to these requirements shall be surfaced with bituminous or portland cement concrete pavement or concrete pavers in accordance with the City of Cedarburg standards and specifications. Concrete curbing shall be installed as a border along all pavement edges, except for parking areas in the CEG Community Exhibition District, and shall conform to City standards. Concrete curbing requirements in the CEG Community Exhibition District shall be determined by the Plan Commission on a case-by-case basis at the time of site plan approval. As an option, wheel stops may be installed instead of curbing along peripheral edges if curbs are not required for stormwater control. Parking areas shall be graded and storm sewers may be installed, as required by the City Engineer, to manage storm water runoff. Pavement marking shall be provided to delineate each parking space.
- (5) Procedures.
  - a. Prior to commencing construction, a parking lot building permit shall be obtained from the Building Inspector for a fee in accordance with Article K of the Zoning Code. Prior to obtaining a parking lot building permit, a parking lot site plan shall be approved.
  - b. The parking lot site plan shall be prepared in accord with adopted site plan guidelines and shall include proposed landscaping features, indicating the location, size and species of proposed landscaping, and shall also show existing trees and landscaping to be retained. The parking lot site plan requirements under this Section may be incorporated into a master site plan for initial approval of a project.
  - c. If the total parking lot includes more than ten (10) spaces, the parking lot site plan shall be approved by the Plan Commission. If ten (10) spaces or less, approval shall be by City staff.
- (g) **Parking Spaces for Use by Physically Handicapped Persons.** All open off-street parking areas providing more than twenty-five (25) parking spaces, except for parking areas restricted to use by employees only, shall provide parking spaces use by motor vehicles which transport physically disabled persons, in accordance with the following minimum standards:
  - (1) One (1) parking space shall be provided in parking areas containing twenty-six (26) to forty-nine (49) spaces.
  - (2) Two percent (2%) of the total number of spaces shall be provided in parking areas containing fifty (50) to one thousand (1,000) spaces.
  - (3) In addition to the number of spaces required in this Section, one percent of each one thousand (1,000) spaces over the first one thousand (1,000) spaces shall be provided for physically disabled parking.
  - (4) The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be twelve (12) feet by eighteen (18) feet.

- (5) Parking spaces provided for the use of physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
  - (6) All parking spaces provided for the use of physically disabled persons shall be marked with a sign which includes the international symbol for barrier free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons. Such signs shall comply with the requirements of Sections 346.50, 346.503, and 346.505 of the Wisconsin Statutes.
- (h) **Building Enlargement.** In all districts, except for nonresidential uses occupying buildings in the B-3 Central Business District, which buildings were existing at the time of the adoption of this Chapter amendment, there shall be provided at the time any use or building is occupied, erected, enlarged, or increased off-street parking spaces for all vehicles, in accordance with the requirements of this Section. Enlargement of existing buildings which do not exceed fifty percent (50%) of the gross floor area of the existing building shall provide additional off-street parking to accommodate the enlargement area as required herein. Enlargements to existing buildings which exceed fifty percent (50%) of the gross floor area of the existing building at the time of the effective date of this Ordinance shall provide off-street parking to accommodate both the existing building and enlargement area as required herein. Residential uses within the B-3 Central Business District shall be required to meet the off-street parking requirements. Reference to "the work shift with the largest number of employees" means the maximum number of persons which may be accommodated by the use as determined under state and local building code regulations. In the case of structures or uses not specified in this Chapter, the number of spaces specified for a use which is similar shall apply. In developments involving the establishment of two (2) or more uses on one (1) lot or parcel, the number of spaces required for each use shall determine the total number of spaces required. Consideration shall be given to Fire Department access when determining the location of off-street parking spaces. (See the City of Cedarburg Fire Prevention and Protection Code.)
- (1) Residential Uses.
    - a. Single-family dwellings and two (2) family dwellings. Two (2) spaces per dwelling unit.
    - b. Multiple-family dwellings. One and one-half (1-1/2) spaces per dwelling unit.
    - c. Housing for the elderly. One-half (1/2) space per dwelling unit.
  - (2) Retail Sales and Customer Services Uses, and Places of Entertainment as Set Forth Below. One (1) space per one hundred fifty (150) square feet of gross floor area of customer sales and services, plus one (1) space per two hundred (200) square feet of storage and/or office gross floor area. Other retail sales and customer services uses and places of entertainment.
    - a. Financial institutions. One (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per every two (2) employees for the work shift with the largest number of employees. Financial institutions with a

- drive-through service facility should provide sufficient space for a minimum of four (4) waiting vehicles at each drive-through service lane.
- b. Funeral homes. One (1) space per four (4) patron seats of maximum capacity, or thirty-five (35) spaces per chapel unit, whichever is greater.
  - c. Grocery stores or supermarkets. One (1) space per one hundred (100) square feet of gross floor area of customer sales and service plus one (1) space per two hundred (200) square feet of storage and/or office gross floor area.
  - d. Motels and hotels. One (1) space per room or suite, plus one (1) space per every two (2) employees for the work shift with the largest number of employees, plus one (1) space per three (3) persons of maximum capacity of each public meeting and/or banquet room.
  - e. Lodges and clubs. One (1) space per three (3) persons based on the maximum capacity of the facility.
  - f. Repair services. One (1) space per three hundred (300) square feet of gross floor area plus one (1) space per employee for the work shift with the largest number of employees.
  - g. Restaurant, standard. One (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
  - h. Restaurant, drive-in. One (1) space per fifty (50) square feet of gross floor area, plus one (1) space per two (2) employees for the work shift with the largest number of employees. Sufficient space shall be provided for a minimum of four (4) waiting vehicles at each drive-through.
  - i. Theaters, auditoriums, and other places of public assembly. One (1) space per three (3) patrons based on the maximum capacity of the facility.
  - j. Personal services. One (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
  - k. Convenience grocery stores. One (1) space per fifty (50) square feet of gross floor area.
  - l. Taverns, dance halls, night clubs, and lounges. One (1) space per one hundred (100) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
  - m. Motor vehicle sales establishments. Two (2) customer parking spaces per salesperson for the work shift with the largest number of salespersons, plus one (1) employee parking space per employee (including salespersons) for the work shift with the largest number of employees.
  - n. Motor vehicle repair, maintenance, and service stations. Three (3) spaces per indoor service bay plus one (1) space per employee for the work shift with the largest number of employees.
  - o. Animal hospitals. Three (3) patron parking spaces per doctor, plus one (1)

employee parking space for the work shift with the largest number of employees.

- p. Plant nurseries and garden and lawn supply sales establishments. One (1) space per two hundred (200) square feet of gross floor area of inside sales or display, plus one (1) space per five hundred (500) square feet of gross outside sales or display area, plus one (1) space per employee for the work shift with the largest number of employees.
- q. Shopping centers [gross leasable area of at least thirty thousand (30,000) square feet]. Five and one-half (5-1/2) spaces per one thousand (1,000) square feet of gross leasable area.

(3) Offices.

- a. Medical, dental, and similar professional health service offices. Five (5) patron parking spaces per doctor, plus one (1) parking space per employee for the work shift with the largest number of employees.
- b. Government, professional, and business offices. One (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

(4) Commercial/Recreational Uses (except as specifically set forth below). One (1) space per four (4) patrons based on the maximum capacity of the facility, plus one (1) space per two (2) employees for the work shift with the largest number of employees.

- a. Bowling alleys. Five (5) spaces for each lane, plus one (1) space per employee for the work shift with the largest number of employees.
- b. Golf courses. Ninety (90) spaces per nine (9) holes, plus one (1) space per employee for the work shift with the largest number of employees.
- c. Golf driving ranges. One (1) space per tee, plus one (1) space per employee for the work shift with the largest number of employees.
- d. Indoor tennis, racquetball, and handball courts. Three (3) spaces per court, plus one (1) space per employee for the work shift with the largest number of employees.
- e. Miniature golf courses. One and one-half (1-1/2) spaces per hole, plus one (1) space per employee for the work shift with the largest number of employees.
- f. Skating rinks, ice or roller. One (1) space per two hundred (200) square feet of gross floor area.

(5) Industry and Related Uses.

- a. Manufacturing, processing, fabrication, and storage operations. One (1) space per employee for the two (2) consecutive work shifts with the largest number of employees.
- b. Wholesale business. One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per two thousand five hundred (2,500) square feet of gross floor area.
- c. Warehouse. One (1) space per employee for the work shift with the largest

number of employees, plus one (1) space per five thousand (5,000) square feet of gross floor area.

- d. Mini-warehouse. One (1) space per ten (10) storage cubicles.
- e. Extractive and related operations. One (1) space per employee for the work shift with the largest number of employees.

(6) Institutional and Related Uses.

- a. Churches. One (1) space per three (3) seats based on the maximum capacity of the facility.
- b. Libraries. One (1) space per five hundred (500) square feet of gross floor area. (Ord. 2008-12)
- c. Museums. One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- d. Rooming and boarding houses, fraternity and sorority houses, dormitories, and rectories. One (1) space per bed.
- e. Convents and monasteries. One (1) space per three (3) residents, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five (5) chapel seats if the public may attend.
- f. Nursing homes. One (1) space per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.
- g. Hospitals. Two (2) spaces per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.
- h. Schools.
  - 1. Elementary schools and high schools. One (1) space for each teacher and staff member, plus one (1) space for each ten (10) students sixteen (16) years of age and older.
  - 2. Colleges, universities, and trade schools. One (1) space for each teacher and staff member during the highest class attendance period, plus one (1) space for each two (2) students during the highest attendance period.
  - 3. Children's nursery schools or day schools. One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per six (6) students at the highest class attendance period.

(i) **Recreational Vehicle Parking and Storage.** (Ord. 2014-15)

- a. Not more than one recreational vehicle, camper trailer, camper bus, snowmobiles on a trailer or boat on a trailer exceeding 35' in length may be **parked** regularly on the driveway of a lot in a residential district except within a garage or other enclosed storage structure or except for the period extending from April 15 to October 31 of each year when it may be parked unenclosed on the driveway of a lot in a residential district, provided it is in actual use during such period and not

merely being stored, and that when parked it is sufficiently far from the street as to not interfere with the view of operators of vehicles on the street, or an adjacent intersection.

- b. **Open storage** of any such vehicle may be permitted at any time with the approval of the City Planner and/or Building Inspector if such vehicle is effectively shielded from normal observation from the street or adjacent properties by landscaping, walls or fencing, and provided such storage is not between any portion of the building and an abutting street. No such permitted storage shall by reason of the permissive grant have any future claim to legal nonconforming use rights and such permissive grant may be rescinded at any time for due cause.
- c. Not more than one (1) recreational vehicle, camper trailer, camper bus, snowmobiles on a trailer, boat on a trailer of less than 35' in length shall be **parked** at the same time on any parcel or lot. Such vehicle or trailer shall be parked either on the driveway or on a paved off-street parking space that is not between any portion of the building and an abutting street. Such vehicle or trailer shall be parked so that it does not extend over any portion of the public sidewalk of street right-of-way. Parking of these vehicles shall at all times be closer to the principle residence than an adjoining property line. Furthermore, such parking shall be restricted to vehicles owned by the resident on the property upon which the vehicle is parked.
- d. Parking or storage of a vehicle as permitted above does not authorize the use of any such vehicle for human habitation, including but not limited to, sleeping, eating, resting or entertaining and such habitation is a violation of this ordinance.

### **SEC. 13-1-83 ADJUSTMENTS TO REQUIRED PARKING.**

- (a) **Purpose.** The purpose of this Section is to allow adjustments to the minimum number of parking spaces required to avoid constructing unneeded and excessive off-street parking facilities. Reducing the amount of excess off-street parking facilities is intended to provide for more cost-efficient site development, to eliminate constructing more impervious surface than necessary, to minimize stormwater runoff, to avoid construction of unnecessarily large stormwater management facilities, and to provide more landscape areas and open space on commercial and industrial sites. To achieve these purposes, the Plan Commission may reduce the minimum number of required off-street parking spaces in specific cases as described in this Section.
- (b) **Adjustments.** In all commercial and industrial districts, the minimum number of required parking spaces may be adjusted by the Plan Commission on a case-by-case basis. The petitioner for such an adjustment shall show to the satisfaction of the Plan Commission that adequate parking will be provided for customers, clients, visitors, and employees. The following provisions and factors shall be used as a basis to adjust parking requirements:
  - (1) Evidence that Actual Parking Demands will be Less than Ordinance Requirements.

The petitioner shall submit written documentation and data to the satisfaction of the Plan Commission that the operation will require less parking than the Ordinance requires.

- (2) Availability of Shared Parking. The petitioner shall submit written documentation to the satisfaction of the Plan Commission that off-site shared parking spaces are available to satisfy the parking demand. When a reduction of parking spaces attributable to shared parking is requested, the petitioner shall submit written verification that such parking is available and shall include copies of any contracts, joint lease agreements, purchase agreements, and other such documentation to show that such shared parking can be accomplished. The City 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.
  - (3) Use of On-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 two hundred fifty (250) feet of the entrance they are intended to serve.
  - (4) Use of Alternative Transportation. Upon demonstration to the Plan Commission that effective alternative transportation to the automobile will occur, the Plan Commission may reduce parking requirements. Alternative transportation may include, but is not limited to, bus transit, van pool operations, car pool/ride sharing, and bicycles. Parking management plans/operations may also be used as a basis to reduce required parking. Parking management plans may include, but are not limited to, flexible working hours, or shifts, preferential parking for car pools/van pools, transit/van pool fare subsidy, imposition of a charge for parking, and establishment of a transportation coordinator to implement car pool, van pool, and transit programs. Proposals for adjustments of parking requirements under this Section 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.
- (c) **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 Ordinance. 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.
  - (d) **Changes in Occupancy or Use.** When the use of a building, structure, or land is changed to another use or occupant that requires more parking spaces than required for the use existing immediately prior to such change, additional parking spaces shall be constructed for the new use or occupant in the amount necessary to conform to this Chapter.

- (e) **Changes in Intensity of Use.** When the intensity of use of a building, structure or land is increased by an addition of employees, gross floor area, seating capacity, or other unit of measurement, additional parking spaces shall be constructed for such additions in the amount necessary to conform to this Chapter.

**SEC. 13-1-84 DRIVEWAYS.** (Ord. 2000-33)

Except for the paving of existing driveways existing at the time of the effective date of this Chapter, all driveways installed, altered, changed, replaced, or extended after the effective date of this ordinance shall meet the following requirements:

- (a) Islands between drive approach openings shall be provided with a minimum of four (4) feet between all driveway approaches. Islands shall not be required between lots abutting a cul-de-sac or between vacant substandard lots meeting the minimum requirements set forth in Section 13-1-107 of this Chapter. Driveways in standard lots shall have a minimum offset of three (3) feet from the lot line. Existing driveways in the Rs-5 and Rs-6 Zoning Districts, which are closer than three (3) feet from the side lot line, may be replaced in the same location.
- (b) The maximum width of driveway openings in single-family and two-family residential districts are determined based on the size of the garage on the subject lot. Driveway widths for one-and two-car garages shall not exceed eighteen (18) feet in width at the right-of-way line in single- and two-family districts. Driveway widths for three-car and larger garages shall not exceed twenty-four (24) feet in width at the right-of-way line in single- and two-family districts. Driveway openings in all other districts shall not exceed thirty (30) feet in width at the right-of-way line and thirty-five (35) feet in width at the curb line or edge of pavement, unless required to be wider by the City Plan Commission. (Ord. 90-49)
- (c) Vehicular entrances and exits to drive-in banks; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall not be less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
- (d) Surfacing. All one (1) or two (2) family homes either completed or occupied for the first time after December 8, 1980, shall be required to have an approved hard-surfaced driveway installed within one (1) year or the following construction season after occupancy.

**SEC. 13-1-85 ARTERIAL STREET AND HIGHWAY ACCESS.**

No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, or 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 the following:

- (a) Freeways, interstate highways, and their interchanges or turning lanes nor to intersecting or

- interchanging streets within one hundred fifteen (115) feet of the most remote end of the taper of the turning lanes.
- (b) Arterial streets intersecting another arterial street within one hundred fifteen (115) feet of the intersection of the right-of-way lines.
  - (c) Local streets intersecting arterial streets within fifty (50) feet of the intersection of the right-of-way lines.
  - (d) Local streets intersecting local streets within thirty (30) feet of the intersection of the right-of-way lines.
  - (e) 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.
  - (f) Temporary access to the above rights-of-way may be granted by the Board of Public Works after review and recommendation by the highway agencies having jurisdiction. Such access shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.
  - (g) Driveway spacing along existing and planned arterial streets or highways, as identified in the adopted City master plan or component thereof, shall be determined as a function of arterial street or highway operating speed. Where adequate lot width permits, the minimum spacing between arterial street or highway access drives shall be determined by the following schedule:

**ARTERIAL STREET OR HIGHWAY OPERATING  
SPEED AND MINIMUM SPACING BETWEEN  
DIRECT-ACCESS DRIVEWAYS**

Highway Speed Limit (mph)	Minimum Spacing (feet)
25	105
30	125
35	150
40	185
45	230
50	275

**SEC. 13-1-86 THROUGH SEC. 13-1-99 RESERVED FOR FUTURE USE.**

## ARTICLE E

### Modifications

#### SEC. 13-1-100 HEIGHT.

The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modifications shall be in accord with the following:

- (a) Architectural projections, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this Chapter.
- (b) Special structures, such as elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this Chapter.
- (c) Essential services, utilities, water towers, electric power, and communication transmission lines are exempt from the height limitations of this Chapter.
- (d) Communications structures, such as radio and television transmission and relay towers, aerials and radio and television receiving and transmitting antennas, including ground and building-mounted antennas, shall not exceed a height equal to their distance from the nearest lot line.
- (e) Private communication structures, such as residential radio and television receiving and transmitting antennas, including ground and building-mounted antenna, shall not exceed a height equal to the maximum height permitted in the District. (See Section 13-1-25.)
- (f) Agricultural structures, such as barns, silos, and windmills, shall not exceed in height twice their distance from the nearest lot line.
- (g) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices, and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

#### SEC. 13-1-101 YARDS. (Ord. 2001-16)

The yard requirements stipulated elsewhere in this Chapter may be modified as follows:

- (a) Uncovered stairs, landings, and fire escapes may project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
- (b) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed three (3) feet.
- (c) Retaining walls are permitted on the property lines in the yards of residential districts, but shall not exceed a height of three (3) feet and shall not be closer than two (2) feet to any public right-of-way. The total height of a retaining wall in any yard may exceed three (3) feet provided that the wall shall be terraced in a manner that for each three (3) foot section of wall

- there shall be a three (3) foot horizontal terrace to the next three (3) foot section of wall.
- (d) Accessory structures and vegetation used for landscaping and decorating may be placed in the required street yard, side yards, or rear yard but shall not be placed or project into any public right-of-way. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs, and flowers.
  - (e) Off-street parking is permitted in all yards of the districts, but shall not be closer than twenty-five (25) feet to the right-of-way of streets in a residential district or when abutting a residential district.
  - (f) Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
  - (g) Accessory uses and detached accessory structures are permitted in the rear yard only except where they may be permitted in PUD Planned Unit Development Overlay Districts; they shall not be closer than ten (10) feet to the principal structure, shall not exceed twenty (20) feet in height, and shall not be closer than three (3) feet to any lot line nor five (5) feet to an alley line. For double-frontage lots, accessory structures shall comply with the building setback requirements as stipulated in Section 13-1-105 of this Zoning Code. In RM-2 Districts, detached garages may also be allowed as a Conditional Use in interior side yards and such garages shall be subject to the same maximum height limits and minimum yard requirements as noted herein in Section (g). Approval of interior side yard detached garages shall include a landscaping plan to enhance their visual appearance. (Ord. 2002-26) (Ord. 2006-27)
  - (h) Earth station dish antennas, roof-mounted antennas, and tower-mounted antennas are permitted as provided in Section 13-1-25 of this Chapter.

#### **SEC. 13-1-102 ADDITIONS TO STRUCTURES.**

Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels. (See Illustration No. 5.)

#### **SEC. 13-1-103 AVERAGE STREET YARDS.**

- (a) The required street yards may be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side but in no case less than fifteen (15) feet in any residential district and five (5) feet in any business district. (See Illustration No. 5.)
- (b) Additions to existing residential structures which lack the required street yard setback may be allowed if the addition is set back a distance greater than or equal to the average of the existing building setback and the required setback. (Ord. 2008-09)

#### **SEC. 13-1-104 CORNERLOTS.**

Structures shall provide a street yard as required by this Chapter on the street that the structure faces.

A second street yard shall be provided on the side of the structure abutting a second public or private street. The remaining yards shall be a side yard and a rear yard. The permit applicant may select which yard is the side yard and which is the rear yard. (See Illustration No. 6.)

**SEC. 13-1-105 DOUBLE-FRONTAGE LOTS.**

Lots abutting two (2) opposite streets shall provide the street yard setback required by the district in which the lot is located from each street upon which the lot abuts. (See Illustration No. 6.)

**SEC. 13-1-106 FLOODWAY LANDS ELIGIBLE FOR MEETING AREA REQUIREMENTS.**

Where a lot is located partially within the FWO Overlay or FCO Floodplain Conservancy District and partially within any other adjoining use district, that portion of the lot in the FWO Floodway Overlay or FCO Floodplain Conservancy District may be utilized to meet the area requirements of the adjoining use district.

**SEC. 13-1-107 EXISTING SUBSTANDARD LOTS.**

- (a) A lot located in a residential district which does not contain sufficient area to conform to the dimensional requirements of this Chapter, but which is at least fifty (50) feet wide and seven thousand two hundred (7,200) square feet in area, may be used as a single building site provided that the use is permitted in the zoning district, provided that the lot is a lot of record in the County Register of Deeds' office prior to the effective date of this Chapter.
- (b) A lot located in the business, manufacturing, or institutional districts which does not contain sufficient area to conform to the dimensional requirements of this Chapter may be used as a building site provided that the lot is a lot of record in the County Register of Deeds' office prior to the effective date of this Chapter.
- (c) Substandard lots granted permits under this Chapter shall be required to meet the setback and other yard requirements of this Chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance by the Zoning Board of Appeals.

**SEC. 13-1-108 NOISE.**

Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Chapter.

**SEC. 13-1-109 FENCE REGULATIONS.** (Ord. 2001-14)

All fences installed in the City of Cedarburg shall comply with the following requirements:

- (a) All fences shall be maintained in good repair and in structurally sound condition. All fences shall be constructed and maintained in a good aesthetic condition and in such a manner and of such materials and colors so as not to adversely affect the value of adjoining property or property in the immediate neighborhood. No fence may be constructed or maintained which is detrimental to human life or safety or causes a traffic hazard. All fences shall be constructed and maintained straight, plumb and have an even height along their length, except such deviations as required by grade.
- (b) Any sign placed on a fence shall comply with requirements in the City's Sign Code.
- (c) No material shall be stored between a fence located adjacent to a lot line and the lot line.
- (d) All fences shall be constructed with the more attractive or decorative side facing the adjacent or abutting property or street.
- (e) No fence may interfere with drainage easements or cause drainage blockage to adjacent properties. Fences shall comply with Section 6-1-5 related to prohibiting interference with drainage and utility easements.
- (f) Residential fences are permitted on the property lines in the yards of residential districts, but shall not in any case exceed a height of six (6) feet; shall not exceed a height of four (4) feet when placed in a street yard; and shall not be closer than two (2) feet to any public right-of-way. See Section (h) below for fences to be located on corner lots.
- (g) Fencing in non-residential zoning districts shall comply with the following restrictions:
  - (1) Fences may be located in side and rear yards only (not in street yard).  
Fences may be located in front yards or street yards in non-residential districts only after approval by the Plan Commission.
  - (2) Fences shall not exceed a height of six (6) feet in height, except when required to enclose outside storage areas and when approved by the Plan Commission, such fences may be up to ten (10) feet in height.
  - (3) Fencing constructed to enclose outside storage areas shall be at least six (6) feet in height and in no case lower in height than the enclosed storage area.
  - (4) All fencing constructed to enclose outside storage areas in nonresidential zoning districts shall be approved by the Plan Commission.
  - (5) When fences are used to screen business or industrial uses from adjacent uses, they may be located on the property line, shall be solid (such as brick walls, basket-weave fences, stockade fences, or woven wire with screening inserts), and shall not exceed eight (8) feet in height unless a higher fence is approved by the Plan Commission.
  - (6) Barbed wire may be allowed on top of fences eight (8) feet or more in height.
- (h) All fences on corner lots at street intersections shall comply with the requirements of Section 13-1-80 related to placement and height of fences to maintain traffic visibility through vision clearance triangle areas.
- (i) Fences shall not be placed on any part of a berm unless approved by the Plan Commission.
- (j) Fences in the Washington Avenue Historic District require review and approval by the Landmarks Commission. Such fences may be subject to special design, placement, and

appearance requirements due to the unique attributes of the Washington Avenue Historic District.

- (k) Fences around swimming pools shall comply with Section 13-1-23.
- (l) Fences existing prior to the date of adoption of this Amendment that do not comply with the requirements in this Amendment shall be considered non-conforming structures. Such fences may be maintained and continued, but any changes or substitutions with new fencing shall comply with the provisions in this Amendment. The provisions of Article G apply to non-conforming structures.

**SEC. 13-1-110 SETBACKS FROM WETLANDS** (Ord. 2001-36)

- (a) **Purpose.** To avoid locating buildings and parking areas immediately adjacent to wetlands and to minimize potential adverse effects there from such as flooding, wet basements, poor subsoil conditions and proximity to standing water, the following setback from wetlands shall be required for residential, commercial, or industrial uses:
  - (1) Twenty-five (25) feet for principal buildings or principal structures including their attached garages and decks.
  - (2) Five (5) feet for detached accessory buildings, detached accessory structures, and parking areas.
  - (3) Minor accessory structures, which do not involve grading or filling, including fences, light poles, flag poles, bird baths, lawn ornaments and landscaping/vegetation including trees and shrubs may be located immediately adjacent to wetlands.
  - (4) The setbacks noted above in (1) and (2) shall be minimum setbacks unless a greater setback is required by other regulations.

**SEC. 13-1-111 THROUGH SEC. 13-1-119 RESERVED FOR FUTURE USE.**

## ARTICLE F

### Site Plan and Architectural Review

#### **SEC. 13-1-120 PURPOSE OF SITE PLAN AND ARCHITECTURAL REVIEW.**

For the purpose of promoting compatible development, stability of property values, fostering the attractiveness and functional utility of the community as a place to live and work, preserving the character and quality of the built environment by maintaining the integrity of those areas which have a discernible character or are of a special historic significance, protecting certain public investments in the area, and raising the level of community expectations for the quality of its environment, this Section requiring site plan and architectural review is intended.

#### **SEC. 13-1-121 SITE PLAN REVIEW PRINCIPLES AND STANDARDS.**

To implement the purposes set forth in Section 13-1-120, the City Plan Commission shall review the site, existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading (in the case of commercial and industrial uses), highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. The City Plan Commission will approve said site plans only after determining that:

- (a) The proposed use(s) conform(s) to the uses permitted in that zoning district.
- (b) The dimensional arrangement of buildings and structures conform to the required area, yard, setback, and height restrictions of this Chapter.
- (c) The proposed use conforms to all use and design provisions and requirements (if any) as found in this Chapter for the specified uses.
- (d) There is a proper relationship between the existing and proposed streets and highways within the vicinity of the project in order to assure the safety and convenience of pedestrian and vehicular traffic.
- (e) 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.
- (f) Natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.
- (g) 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.

- (h) Land, buildings, and structures are readily accessible to emergency vehicles and the handicapped.
- (i) The site plan is consistent with the intent and purpose of this Chapter, which is to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, and to facilitate existing community development plans.
- (j) The site plan is consistent with the public goals, objectives, principles, standards, policies, and urban design criteria set forth in the City's adopted community master plan or components thereof.

**SEC. 13-1-122 ARCHITECTURAL REVIEW PRINCIPLES, STANDARDS AND PROCEDURES.** (Ord. 2002-09)

Architectural review and standards are required for all new principal buildings proposed for construction on all new lots created by a subdivision plat, by Certified Survey Map and on all infill lots. Architectural style is not restricted; however, structures must be compatible with the surrounding area. To provide criteria for the implementation of the purposes set forth in Section 13-1-120, the following architectural 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. New buildings and additions to existing buildings shall harmonize and correspond to the existing character of the immediate neighborhood. In approving infill projects, the FAR standard for the zoning district in which the building is located shall not govern the building size, but rather, building size will be established, on a case-by-case basis, to reflect the existing character of the neighborhood. (Ord. 2004-15)
- (b) **Building Rooflines and Roof Shapes.** The visual continuity of roofs and their contributing elements (parapet walls, coping, cornices, etc.) shall be maintained in building development or redevelopment.
- (c) **Materials.** Material selection for architectural design shall be based upon the prevailing material already used on existing buildings in the area. No building shall be permitted where any exposed facade is constructed or faced with a finished material which is aesthetically incompatible with other building facades in the area and which presents an unattractive appearance to the public and surrounding properties.
- (d) **Colors.** Since the selection of building colors has a significant aesthetic and visual impact upon the public and neighboring properties, color shall be selected in general harmony with the existing neighborhood buildings.
- (e) **Building Location.** No building shall be permitted to be sited in a manner which would unnecessarily destroy or substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area or which would

unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

- (f) **Historic Structures.** Any construction, rehabilitation and/or restoration of any landmark or historic building or structure within the Washington Avenue Historic District and proposed for any locally designated historic building shall conform to all the requirements of this Chapter and with the terms and conditions outlined by the Landmarks Commission and included in the City's Building/Historic Code.
- (g) **Infill Lot.** An infill lot is a single vacant lot located in a predominately built-up area, which is bounded on two or more sides by existing development. In addition any lot which contains an existing building, which will be removed and replaced with a new building, shall also be considered an infill lot. The infill status of a lot shall continue until building plans have been approved by the Plan Commission, a building permit acquired and the building constructed in accordance with the approved plans and an occupancy permit issued. Once the occupancy permit is issued, the status of the lot shall change to non-infill and any additions or modifications thereafter shall be processed under normal procedures in accordance with Article F. (Ord. 2006-25)
- (h) **Application of Standards and Review Procedures.**
  - (1) Architectural standards for new buildings on lots created by a subdivision plat or by Certified Survey Map shall be submitted as covenants or deed restrictions to the Plan Commission and Council at the time of an approval of the Certified Survey Map or preliminary and final plat. The Plan Commission and Council shall apply the above principles and either approve, approve conditionally or reject the architectural standards.
  - (2) On infill lots, architectural plans and data in accord with Section 13-1-124 shall be submitted to the Plan Commission. The Plan Commission shall apply the above principles and either approve, approve conditionally or reject the architectural plans.

**SEC. 13-1-123 COMPLIANCE FOR MULTIPLE-FAMILY RESIDENTIAL AND NON-RESIDENTIAL STRUCTURES** (Ord. 2002-09)

- (a) **Compliance for Multiple-Family Residential and Non-Residential Structures.** No use or structure [except single-family and two (2) family dwellings] shall hereafter be erected, moved, reconstructed, extended, enlarged, altered, or changed until the City Plan Commission has reviewed and approved plans for the site or structure. The City Plan Commission shall not approve any plans unless they find after viewing and study of the application that the use or structure, as planned, will not violate the intent and purposes of this Chapter, as well as the principles set forth in Sections 13-1-121 and 13-1-122.

**SEC. 13-1-124 APPLICATIONS FOR SITE PLAN REVIEW.**

Sixteen (16) copies of all site plan data shall be submitted to the City Clerk seventeen (17) days prior

to the next regularly scheduled City Plan Commission meeting, who shall transmit all applications and their accompanying plans to the appropriate City departments and staff and City Plan Commission for their review. Site plan data to be submitted with all site plan review applications shall include the following:

- (a) Site plans drawn to a recognized engineering or architectural scale with the name of project noted.
- (b) One (1) colored rendering of the site and landscaping plans.
- (c) Owner's and/or developer's name and address noted.
- (d) Architect's and/or engineer's name and address noted.
- (e) Date of plan submittal.
- (f) Scale of drawing, site size (area in square feet or acres), and building area and coverage noted on plan.
- (g) Existing and proposed topography shown at a contour interval of not less than two (2) feet at National Geodetic Vertical Datum, indicating proposed grade on a grading plan and location of improvements.
- (h) The characteristics of soils related to contemplated specific uses.
- (i) All building and yard setback lines indicated.
- (j) Where applicable, both the one hundred (100) year recurrence interval floodplain and the floodway indicated.
- (k) All drives, curb cuts, and both ingress and egress locations indicated.
- (l) The proposed location of all signage to be placed on the site.
- (m) The location and type of all outdoor lighting proposed to illuminate the site.
- (n) Total number of parking spaces noted.
- (o) The type, construction materials, size, and location of all structures with all building dimensions shown.
- (p) Indicate height of buildings.
- (q) Existing and proposed street names indicated.
- (r) Indicate existing and proposed public street rights-of-way and/or reservations and widths.
- (s) Indicate and locate all easements on the subject property.
- (t) North arrow shown.
- (u) Locate existing and general location of proposed sanitary sewers, storm sewers, water mains and fire hydrants (existing and proposed) and proposed electrical service easements. In addition, all locations for the proposed connections to such utilities should be indicated on the site plan.
- (v) Locate any proposed stormwater management facilities, including detention/retention areas.
- (w) Locate existing trees, including the delineations required in the Tree Preservation Ordinance..
- (x) Note location, extent, and type of proposed landscaping and landscape plantings as well as any proposed buffer areas for adjoining properties.
- (y) Note location of pedestrian sidewalks and walkways.
- (z) A graphic outline of any development staging which is planned.
- (aa) If the development abuts an existing or planned arterial street or highway, as identified on the

- City's master plan or component thereof, all driveway locations of all adjoining property within two hundred (200) feet of the subject property shall be indicated on the site plan.
- (bb) Written project summary including operational information, building schedule, and estimate of project value including all site improvement costs.
  - (cc) Other data which may be required by either the City staff or City Plan Commission to review the site plan.

**SEC. 13-1-125 APPLICATION FOR ARCHITECTURAL REVIEW.**

Architectural data shall be submitted to the City Clerk prior to a regularly scheduled Plan Commission meeting, who shall transmit all applications and their accompanying plans to the appropriate City departments and staff and Plan Commission for their review. The Plan Commission shall review and act upon the plans within a reasonable amount of time. Architectural data to be submitted with all architectural review applications shall include the following:

- (a) Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of all proposed structures. A color perspective rendering of the exterior of the proposed building(s) shall be required for review by the Plan Commission. Said elevations and perspective drawings shall indicate the location and placement of all auxiliary building equipment such as heating, ventilating, and/or air conditioning equipment. These drawings are to be drawn to a recognized architectural scale with the name of the project noted.
- (b) Owner's and/or developer's name and address noted.
- (c) Architect's and/or engineer's name and address noted.
- (d) Date of submittal of plans.
- (e) Scale of drawings noted on each drawing.
- (f) The type, size, and location of all structures with all building dimensions shown.
- (g) Indication of the height of building(s).
- (h) Site plan indicating building location drawn to a recognized engineering or architectural scale, with the name of the project noted and north arrow shown.
- (i) Notation on fire protection measures to be installed according to the City of Cedarburg Fire Prevention and Protection Code.
- (j) Samples of exterior materials and their colors.
- (k) Additional information and data which may be required by the Plan Commission may include the following upon request:
  - (1) Photographs from the site of adjacent neighboring structures.
  - (2) Detailed drawings of decorative elements of the building(s) or structure(s).
  - (3) Sectional building or site drawings.

**SEC. 13-1-126 FINDINGS LAPSE OF APPROVAL.** (Ord. 93-19) (Ord. 2001-07) (Ord. 2002-09)

The City Plan Commission shall not approve any application unless it finds by a preponderance of the evidence after viewing the site plan and/or building plans that the intent and purpose of this

Chapter, as well as the principles and requirements set forth in Sections 13-1-121, 13-1-122, and 13-1-124, have been complied with. The findings of the City Plan Commission shall be indicated in the minutes of its meeting and shall be a public record. Plans shall be stamped approved, conditionally approved, or denied and signed and dated by the Secretary of the Plan Commission and retained as a permanent record by the City Clerk.

Lapse of Site Plan Approval. If a developer of a project which has been granted site and/or architectural plan approval has not obtained and complied with the provisions of a building permit consistent with said site plan approval within one year of the date of the initial approval, the plan approval shall lapse. Upon application, the Plan Commission may renew its approval of the site and/or architectural plan as initially granted or may require changes as deemed appropriate.

Retroactivity. This ordinance shall be retroactive to all site and/or architectural plan approvals for which as of the date of enactment of this ordinance the developer has not obtained and complied with the provisions of a building permit consistent with the initial approval.

**SEC. 13-1-127 APPEALS.** (Ord. 2002-09)

Any person or persons aggrieved by any decisions of the Council or Plan Commission related to site plan or architectural review , except as to infill lots, may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the City Clerk within thirty (30) days after filing of the decision of the Zoning Administrator. Person(s) aggrieved by any decision of the Plan Commission as to infill lots may appeal the decision to the Common Council within thirty (30) days after filing of the decision by the Plan Commission.

**SEC. 13-1-128 THROUGH SEC. 13-1-139 RESERVED FOR FUTURE USE.**

## ARTICLE G

### Nonconforming Uses, Structures, and Lots

#### SEC. 13-1-140 EXISTING NONCONFORMING USES.

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter, however:

- (a) Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, substituted, or moved, except when required to do so by law or order or so as to comply with the provisions of this Chapter.
- (b) Total lifetime structural repairs or alterations shall not exceed fifty percent (50%) of the City's equalized assessed value of the structure at the time of its becoming a nonconforming structure unless it is permanently changed to conform to the use provisions of this Chapter. In the case of tax-exempt structures, fair market value shall be used instead of the City's equalized assessed value. [See Section 13-1-70(o)(1)c regarding exemption from nonconforming status for historic structures.]
- (c) Substitution of new equipment may be permitted by the Plan Commission if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- (d) Repairs and alterations permitted under the provisions of this Chapter to nonconforming structures located on floodlands shall include floodproofing to those portions of the building or structure involved in such repairs or alterations. Certification of floodproofing shall be made to the Zoning Administrator and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred (100) year recurrence interval flood level for the particular area.
- (e) Conforming conditional uses. See Section 13-1-226 for uses existing at the effective date of this Chapter, which would be classified as conditional uses under this Chapter.

#### SEC. 13-1-141 ABOLISHMENT OR REPLACEMENT.

- (a) **Discontinued Use.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Chapter.
- (b) When a nonconforming structure is damaged by fire, explosion, flood, or other calamity, to the extent of more than fifty percent (50%) of its current equalized value, it shall not be restored except so as to comply with the use provisions of this Chapter.
- (c) A current file of all nonconforming uses and structures shall be maintained by the Zoning Administrator listing the following: property location; use of the structure, land or water; and the date that the structure or use became nonconforming.

**SEC. 13-1-142 EXISTING SUBSTANDARD STRUCTURES.**

The use of a structure existing at the time of the adoption or amendment of this Chapter may be continued although the structure's size or location does not conform with the established building setback line along streets, or the yard, height, parking, loading, access, and lot area provisions of this Chapter. Structures designated as "Preservation Structures" pursuant to Section 13-1-70 shall be exempt from the provisions of this Section:

- (a) Additions and enlargements to existing substandard structures are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Chapter. The provisions of this Section with respect to additions or enlargements are applicable only if the lot or parcel conforms with the existing sanitary code requirements or is served by a public sanitary sewer.
- (b) Existing substandard structures which are damaged or destroyed by fire, explosion, flood, or other calamity may be reconstructed and insofar as is practicable shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Section. The provisions of this Section with respect to reconstruction are applicable only if the lot or parcel conforms with the existing sanitary code requirements or is served by public sanitary sewer.
- (c) Existing substandard structures may be moved and, insofar as is practicable, shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Ordinance. The provisions of this Section, with respect to moving, are applicable only if the lot or parcel conforms with the existing sanitary code requirements or is served by public sanitary sewer.
- (d) All buildings classified as legal conforming and legal nonconforming as regards Floor Area Ratio and Lot Coverage Percentage prior to January 16, 2004 shall be classified and considered as legal conforming subsequent to this ordinance change. Any building so classified that is damaged or destroyed may be rebuilt at its previous Floor Area Ratio and Lot Coverage Percentage unless located within an area in which the zoning has changed since the building was constructed, or in the City's ultimate road right-of-way or within a documented easement area. Such damaged or destroyed structures that are located within an area that has been rezoned shall be treated in accordance with Sec. 13-1-141 of the City's Zoning Code. Such damaged or destroyed structures that are located within the City's ultimate road right-of-way or documented easement area shall be rebuilt in accordance with a Plan Commission approved location. (Ord. 2004-01)

**SEC. 13-1-143 CHANGES AND SUBSTITUTIONS.**

Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with this Chapter, it shall not revert back to a nonconforming use or substandard structure. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the prior existing use shall lose its status as a

legal nonconforming use and the substituted use shall become subject to all the conditions required by the Zoning Board of Appeals.

**SEC. 13-1-144 FLOODLAND NONCONFORMING USES.**

- (a) Floodland nonconforming uses repaired or altered under the nonconforming use provisions of this Code shall provide for floodproofing to those portions of the structures involved in such repair or alteration. Certification of floodproofing shall be made to the Zoning Administrator and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred (100) year recurrence interval flood.
- (b) Nonconforming mobile homes (manufactured homes), mobile home parks, and mobile home subdivisions shall comply with the requirements for nonconforming residential structures. Existing mobile homes in any floodland district that have been substantially damaged shall be elevated on a permanent foundation or pad such that the elevation of the foundation or pad is at or above the one hundred (100) year recurrence interval flood elevation; the first floor of the mobile home is at or above the floodplain protection elevation; and the mobile home shall be securely anchored to the foundation system to resist flotation, collapse, and lateral movement. Recreational vehicles shall not be considered to be mobile homes (manufactured homes).

**SEC. 13-1-145 WETLAND NONCONFORMING USES.**

Notwithstanding Sec. 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure located in the C-1 Shoreland Wetland/Conservancy District and in existence at the time of adoption or subsequent amendment of this Chapter adopted pursuant to Sec. 62.231 of the Wisconsin Statutes, or of an environmental control facility in existence on May 7, 1982, related to that structure is permitted pursuant to Sec. 62.231(5) of the Wisconsin Statutes. Section 62.23(7)(h), however, applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this Chapter or amendment.

**SEC. 13-1-146 EXISTING SUBSTANDARD LOTS.**

For existing substandard lots, see Section 13-1-107.

**SEC. 13-1-147            MODIFICATIONS TO NONCONFORMING USES AND  
STRUCTURES TO ACCOMMODATE HANDICAPPED PERSONS**  
(Ord. 99-28)

If the Zoning Administrator determines that the Federal Fair Housing Act, the Wisconsin Open

Housing Law or the Americans with Disabilities Act requires the allowance of any portion of a building addition or remodeling or reconstruction project, that portion of the project costs that are necessary to provide equal housing opportunity, or equal access to public accommodations, for handicapped or disabled persons shall not be counted in determining whether or not the 50% limit on structural repairs or alterations would be exceeded.

**SEC. 13-1-148 THROUGH SEC. 13-1-159 RESERVED FOR FUTURE USE.**

**ARTICLE H**

Performance Standards

**SEC. 13-1-160 COMPLIANCE.**

This Chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air, and waters shall hereafter, in addition to their use, site, and sanitary regulations, comply with the following performance standards.

**SEC 13-1-161 AIR POLLUTION.**

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding established City, state, or federal air pollution standards.

**SEC. 13-1-162 FIRE AND EXPLOSIVE HAZARDS.**

All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed those permitted by the City Fire Code or the following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187° F	400,000
105° F to 187° F	200,000
Below 105° F	100,000

**SEC. 13-1-163 GLARE AND HEAT.**

No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

**SEC. 13-1-164 WATER QUALITY PROTECTION.**

- (a) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating, or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.
- (b) In addition, no activity shall withdraw water or discharge any liquid, or solid materials so as to exceed or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Chapter NR 102 of the Wisconsin Administrative Code.

**SEC 13-1-165 NOISE.** (Ord. 2001-30)

- (a) No activity in a M-1, M-2, or M-3 District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

Octave Band Center Frequency (Cycles Per Second)	Sound Level (Decibels)
31.5	79
63	78
125	72
250	64
500	57
1000	51
2000	45
4000	40
8000	39

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

Octave Band Center Frequency (Cycles Per Second)	Sound Level (Decibels)
31.5	72
63	71
125	65
250	57
500	50

1000	44
2000	38
4000	33
8000	32

- (c) 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.

**SEC. 13-1-166 ODORS.**

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual-- 1960, prepared by the Manufacturing Chemists' Association, Inc., Washington, D.C.

**SEC. 13-1-167 RADIOACTIVITY AND ELECTRICAL DISTURBANCES.**

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

**SEC. 13-1-168 VIBRATION.**

No activity in any district shall emit vibrations which are discernible without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three (3) component measuring system:

Frequency	Displacement (Inches)	
(Cycle Per Second)	<u>Outside the Premises</u>	<u>Outside the District</u>
O to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and Over	.0002	.0001

**SEC. 13-1-169 PERFORMANCE STANDARDS IN M-3 BUSINESS PARK DISTRICTS - ARTICLE INTENT AND COMPLIANCE.** (Ord. 95-02)

It is the intent of this Article to describe performance standards for the regulation of industrial and commercial uses in the M-3 Business Park District to establish an objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air and water shall hereafter comply with the following performance standards.

**SEC. 13-1-170 CONTROL OF HAZARDOUS AIR POLLUTANTS AND EMISSIONS.**  
(Ord. 95-02)

Operations or activities which emit into the ambient air from any direct or portable source any matter that will affect air quality shall perform in accord with the limitations and procedures established in Ch. NR 400 through NR 449, Wis. Adm. Code. Hazardous pollutants are specifically controlled in accord with NR 445.

**SEC. 13-1-171 CONTROL OF PARTICULATE EMISSIONS AND DUST.** (Ord. 95-02)

- (a) Operations or activities which emit into the ambient air from any direct or portable source any particulate emissions shall perform in accord with the limitations and procedures established in Ch. NR 415, Wis. Adm. Code, or in other applicable Chapters which regulate particulate emission.
- (b) Fugitive dust and other types of emissions and air pollution from sources such as storage areas, outdoor operation yards, and roads or parking lots with any lot shall be kept to a minimum by appropriate paving, spraying/watering, application of suitable chemicals, landscaping, or other acceptable and environmentally safe methods in accord with Ch. NR 415.04, Wis. Adm. Code.

**SEC. 13-1-172 CONTROL OF ODORS.** (Ord. 95-02)

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 429, Wis. Adm. Code.

**SEC. 13-1-173 CONTROL OF FIRE AND EXPLOSIVE HAZARDS.** (Ord. 95-02)

- (a) All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire fighting and fire suppression equipment and devices as may be required by the Cedarburg Fire Prevention Code.
- (b) All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.

- (c) The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Cedarburg Fire Department and in accord with their requirements to minimize fire and explosive hazards.

**SEC. 13-1-174 GLARE, HEAT AND EXTERNAL LIGHTING.** (Ord. 95-02)

- (a) No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of a M-3 District. Operations producing light, glare, or heat shall be conducted within an enclosed building.
- (b) External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

**SEC. 13-1-175 WATER QUALITY STANDARDS.** (Ord. 95-02)

- (a) No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.
- (b) No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.

**SEC. 13-1-176 NOISE.** (Ord. 95-02)

No operation or activity shall transmit any noise beyond the boundaries of the M-3 District so that it becomes a nuisance.

**SEC. 13-1-177 VIBRATION.** (Ord. 95-02)

- (a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- (b) 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.

**SEC. 13-1-178 PERFORMANCE STANDARDS FOR CONSERVATION SUBDIVISIONS**  
(Ord. 2001-32)

- (a) **Purpose.** These Performance Standards are established for the following purposes:
  - (1) To preserve environmentally sensitive lands through permanent preservation of open space and natural resources with housing concentrated on portions of the site that have lower quality natural features.
  - (2) To provide open space areas that are commonly owned for passive and/or active recreational use by residents of the development, and where specifically established, for use by the general public.
  - (3) To minimize disturbance to environmentally sensitive areas, protect biological diversity, and maintain environmental corridors in their natural state to the extent practical.
  - (4) To preserve scenic views by minimizing views of new development from existing roads.
  - (5) To provide buffering between residential development and non-residential uses.
- (b) **Definition of Conservation Subdivision.** A Conservation Subdivision is a housing development characterized by extensive open space where natural features of the land are maintained in their natural state to the extent practical. Residential dwellings in such subdivisions are located on portions of the site with lower quality natural features and should be adjacent to or overlook open space.
- (c) **Platting Methods and Applicability of Other Regulations.** Conservation Subdivisions may be created by platting methods including Certified Survey Maps, subdivision plats, or condominium plats. All of the City's Land Development regulations applying to each of the platting methods shall be applicable to a Conservation Subdivision, except as noted in this Section.
- (d) **Density and Lot Size Standards.** The density and lot size standards of a Conservation Subdivision shall be as required in the underlying Zoning District.
- (e) **Setback and Yards.** The minimum setback and yard requirements in the underlying zoning district may be modified in a Conservation Subdivision to provide flexibility in the siting of homes relative to the attributes of the individual lots or sites in the development.
- (f) **Common Open Space.** A Conservation Subdivision shall provide Common Open Space as follows:
  - (1) A minimum of 50% of the subject parcel shall be Common Open Space.
  - (2) Prior to any final approval action on a Conservation Subdivision, the City shall review the proposed Common Open Space to determine if any public parklands or any other public land dedication is necessary in conjunction with the Conservation Subdivision.
  - (3) The ownership, maintenance, and stewardship of Common Open Space shall be accomplished by a Homeowners Association and/or Condominium Association in accord with Chapter 703 of Wisconsin Statutes. The subdivision applicant shall provide the City a description of the bylaws of the proposed association, and all documents governing the ownership, maintenance, and use restrictions for common facilities. The Association shall be established by the owner or the subdivision

developer prior to the sale of any lots or dwelling units in the development. All documents to establish such Associations shall be approved by the City Attorney prior to their use by the developer.

- (4) No such Owners' Association shall be allowed to default and result in the Common Open Space being owned and maintained by the public.
- (5) Any amendments to the common open space documents after their initial approval shall be reviewed and approved by the City Attorney prior to such amendments taking effect.
- (6) The following uses are permitted in Common Open Space land areas:
  - a. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
  - b. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
  - c. Neighborhood open space uses such as common areas, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Plan Commission.
  - d. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not encroach on environmentally sensitive areas. Playing fields, playgrounds, and courts shall not be located within 50 feet of abutting properties. Parking facilities for the same shall also be permitted.
  - e. Golf courses may comprise the open space land. Their parking areas and any associated structures shall not be included within the 50 percent minimum open space requirement; their parking and access ways may be paved and lighted.
  - f. Water supply and sewage disposal systems, and storm water detention areas designed, landscaped, and available for use as an integral part of the open space.
  - g. Easements for drainage, access, sewer or water lines, or other public purposes.
  - h. Underground utility rights-of-way and street rights-of-way may traverse conservation areas but shall not count toward the minimum required open space land.
  - i. Public use of Common Open Space may be allowed if agreed to by the developer and the City.
- (g) **Required Improvements and Design Standards.** Required improvements and design standards related to Conservation Subdivisions may be reduced to create a lower impact on the natural environment and provide a greater degree of environmental protection. Infrastructure requirements and modifications shall be reviewed on an individual

development basis to determine the appropriate infrastructure based on each site's unique attributes. Modifications to infrastructure design standards may include, but are not limited to, the following:

- (1) Reduced street pavement width.
  - (2) Elimination of vertical-faced concrete curb and gutter.
  - (3) Elimination of concrete sidewalks and substitution with a trail system.
  - (4) Utilizing natural open drainageways in place of storm sewers.
  - (5) Installing lower intensity street lighting with greater spacing between fixtures and lower wattage fixtures.
  - (6) Different landscape treatments in lieu of planting conventional street trees.
- (h) **Financial Guarantees and Impact Fees.** Financial guarantees, including those required as part of a conventional subdivision development agreement, and impact fees, shall be applied to a Conservation Subdivision.

**SEC. 13-1-179 RESERVED FOR FUTURE USE.**

**ARTICLE I**

Changes and Amendments

**SEC. 13-1-180 AUTHORITY.**

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Common Council may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the City Plan Commission.

**SEC. 13-1-181 INITIATION.**

A change or amendment may be initiated by the Common Council, Plan Commission, or by a petition of one (1) or more of the owners or lessees of property within the area proposed to be changed.

**SEC. 13-1-182 PETITIONS.**

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the City Clerk which describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

- (a) Plot plan drawn to a scale of one (1) inch equals one hundred (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 three hundred (300) feet of the area proposed to be rezoned.
- (b) Owner's names and addresses of all properties lying within three hundred (300) feet of the area proposed to be rezoned.
- (c) Additional information required by the City Plan Commission or Common Council.

**SEC. 13-1-183 REVIEW AND RECOMMENDATION.**

The Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made at a Plan Commission meeting subsequent to the Common Council meeting at which the petition is first submitted and shall be made in writing to the Common Council.

**SEC. 13-1-184 HEARINGS.**

- (a) The Common Council shall hold a public hearing upon each proposed change or amendment recommended by the Plan Commission, giving notice of the time, place, and the change or

amendment proposed by publication of a Class Two (2) notice under Chapter 985 of the Wisconsin Statutes and as specified in Section 13-1-229 of this Chapter.

- (b) The Common Council may delegate to the Plan Commission the responsibility to hold public hearings as required under this Section.

### **SEC 13-1-185 COMMON COUNCIL'S ACTION.**

Following such hearing and after careful consideration of the City Plan Commission's recommendations, the Common Council shall vote on the passage of the proposed change or amendment.

### **SEC. 13-1-186 FLOODLAND DISTRICT BOUNDARY CHANGES LIMITED.**

The Common Council shall not permit changes to the floodland district boundaries that are inconsistent with the purpose and intent of this Ordinance or in conflict with the applicable rules and regulations of the Wisconsin Department of Natural Resources(DNR) and the Federal Emergency Management Agency (FEMA), described as follows:

- (a) Changes in the FW Cedar Creek Floodway and FPC Floodplain Conservancy District boundaries shall not be permitted for flood stage increases equal to or exceeding 0.01 foot in height unless the petitioner has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase. Petitions for floodway changes shall show the effects of the change within the associated flood fringe and shall provide adjusted water surface profiles and adjusted floodland limits to reflect the increased flood elevations. No increase in flood stage shall be permitted to exceed one (1.0) foot.
- (b) Removal of land from the floodland districts shall not be permitted unless the land has been filled to an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood and further provided that such lands are contiguous to lands lying outside of the floodlands.
- (c) Amendment to unnumbered "A" Zones shall not be permitted unless the petitioner provides the City with engineering data showing the flood profile, necessary river cross-sections, flow elevations, and any effect the establishment of a floodway/flood fringe will have on flood stages. The effects shall be limited as set forth in this Section. If the unnumbered "A" Zone is less than five (5) acres in area and where the cost of the proposed development is estimated to be less than One Hundred Twenty-five Thousand Dollars (\$125,000.00), the Department of Natural Resources (DNR) will assist the petitioner in determining the required flood elevations.
- (d) No river or stream shall be altered or relocated until a floodland zoning change has been applied for and granted in accordance with the requirements of this Section and until all adjacent communities have been requested to review and comment on the proposed alteration or relocation. The flood-carrying capacity of the altered or relocated watercourse shall not be reduced to less than the flood-carrying capacity before the watercourse was altered or

- relocated.
- (e) Notice to DNR and FEMA. A copy of all notices for amendments or rezoning in the floodland districts shall be transmitted to the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA). Amendments to the floodland district boundaries or regulations shall not become effective until approved by the DNR and the FEMA. In the case of floodland district boundary changes, an official letter of map amendment from the FEMA shall also be required.

### **SEC. 13-1-187 SHORELAND WETLAND BOUNDARY CHANGES LIMITED.**

Changes to the C-1 Shoreland Wetland/Conservancy District shall further be limited to the following:

- (a) **Notice to DNR.** The City shall transmit a notice of any change (text or map) in the SW Shoreland Wetland/Wetland Overlay District if such change affects land in the shoreland, as defined in this Chapter, to the Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:
  - (1) A copy of every petition for a text or map change mailed within five (5) days of filing with the City Clerk.
  - (2) At least ten (10) days' prior notice of any public hearing on a SW Shoreland Wetland/Wetland Overlay District zoning amendment.
  - (3) Notice of a City Plan Commission recommendation no later than ten (10) days following the recommendation.
  - (4) Notice of a Common Council decision no later than ten (10) days following the decision.
- (b) **Review Standards.** No wetland in a SW Shoreland Wetland/Wetland Overlay District shall be rezoned if the rezoning may result in a significant adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow; the discharge of groundwater from wetland to another area; or the flow of groundwater through a wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning, breeding, nursery, or feeding grounds; wildlife habitat; or areas of special recreational, scenic, or scientific interest, including scarce wetland types.
- (c) **DNR Objections.** If the DNR has notified the Plan Commission that an amendment to the shoreland portion of the SW Shoreland Wetland/Wetland Overlay District may have a significant adverse impact upon any of the criteria listed above, that amendment, if approved by the Common Council, shall contain the following provision:

This amendment shall not take effect until more than 30 days have elapsed since written notice of the Common Councils' approval of this amendment was mailed to the Department of Natural Resources. During that 30-day period, the Department of Natural Resources may notify the Common Council that it will adopt a superseding

shoreland ordinance for the City, pursuant to Section 62.231 of the Wisconsin Statutes. If the Department does so notify the Common Council, the effect of this amendment shall be stayed until the Section 62.231 adoption procedure is completed or otherwise terminated.

**SEC. 13-1-188 PROTEST.**

In the event of a protest against such district change or amendment to the regulations of this Chapter, duly signed and acknowledge by the owners of twenty percent (20%) or more either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Common Council membership present and voting on the proposed change.

**SEC. 13-1-189 THROUGH SEC. 13-1-100 RESERVED FOR FUTURE USE.**

## ARTICLE J

### Zoning Board of Appeals

#### **SEC. 13-1-200 ESTABLISHMENT.**

There is established in Section 2-4-4 of the City of Cedarburg Code of Ordinances a Zoning Board of Appeals for the City of Cedarburg for the purposes of hearing appeals and applications and for granting variances and exceptions to the provisions of this Zoning Ordinance.

#### **SEC. 13-1-201 Membership.**

The Zoning Board of Appeals shall be composed as prescribed in Section 2-4-4.

#### **SEC. 13-1-202 POWERS.**

In addition to the powers enumerated in Section 2-4-4, the Zoning Board of Appeals shall have the following powers:

- (a) **Errors.** To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by any administrative official.
- (b) **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficult or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.
- (c) **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
- (d) **Permits.** The Board may reverse, affirm wholly, or partly modify the requirements appealed from, and may issue or direct the issue of a permit.
- (e) **Assistance.** The Board may request assistance from other town officers, departments, commissions, and boards.
- (f) **Oaths.** The chairman may administer oaths and compel the attendance of witnesses.

#### **SEC. 13-1-203 APPEALS AND APPLICATIONS.**

Appeals of the decision of the Zoning Administrator or any administrative official concerning the literal enforcement of this Chapter may be made by any person aggrieved or by any officer, department, board, or bureau of the City. Such appeals shall be filed with the secretary within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator or any

administrative official. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and applications shall include the following:

- (a) Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- (b) Plat of survey prepared by a registered land surveyor showing all of the information required under Section 13-1-225 for a Zoning Permit.
- (c) Additional information required by the City Plan Commission, City Engineer, Zoning Board of Appeals, or Zoning Administrator.

#### **SEC. 13-1-204 HEARINGS.**

The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, shall give public notice thereof as specified in Section 13-1-229 of this Chapter and shall give due notice to the parties in interest, the Zoning Administrator, and the City Plan Commission. At the hearing the appellant may appear in person, by agent, or by attorney.

#### **SEC. 13-1-205 NOTICE TO DNR.**

The Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in a shoreland or to floodland regulations, and a copy of all shoreland and floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten (10) days prior to any public hearings. Final action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to conservancy regulation in a shoreland or to floodland regulations, and a copy of all decisions to shoreland and floodland appeals shall be transmitted to the DNR within ten (10) days of the date of such decision.

#### **SEC. 13-1-206 FINDINGS.**

No variance to the provisions of this Chapter shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicate such in the minutes of its proceedings:

- (a) **Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted district.
- (b) **Exceptional Circumstances.** There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the property that do not apply generally to other properties in the same district, and the granting of the variance should not be of such general or recurrent nature as to suggest that the Zoning Chapter should be changed.
- (c) **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.** No

variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

- (d) **Preservation of Property Rights.** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- (e) **Absence of Detriment.** No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.
- (f) **Additional Requirements in Floodland Districts.** No variance shall be granted where:
  - (1) Filling and development contrary to the purpose and intent of the FWO Cedar Creek Floodway Overlay District or FCO Floodplain Conservancy District would result.
  - (2) A change in the boundaries of the FWO Cedar Creek Floodway Overlay District, FCO Floodplain Conservancy District, or the FFO Floodplain Fringe Overlay District would result.
  - (3) A lower degree of flood protection than a point two (2) feet above the one hundred (100) year recurrence interval flood for the particular would result.
  - (4) Any action contrary to the provisions of Chapter NR 116 of the Wisconsin Administrative Code would result.

#### **SEC. 13-1-207 WETLAND AND FLOODLAND MAPPING DISPUTES.**

- (a) **Wetland Disputes.** Whenever the Board of Appeals is asked to interpret a C-1 Conservancy District boundary where an apparent discrepancy exists between the City's Final Wetland Inventory Map and actual field conditions, the City shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the Plan Commission to initiate appropriate action to rezone the property within a reasonable amount of time.
- (b) **Floodland Disputes.** Whenever the Board of Appeals is asked to interpret a floodland boundary where an apparent discrepancy exists between the federal Flood Insurance Study and actual field conditions, the following procedure shall be used. The floodland boundary shall be determined by use of the flood profiles contained in an engineering study, or where such information is not available, by experience flood maps or any other evidence available to the Board of Appeals. The person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the Plan Commission of its findings and the Plan Commission shall proceed to petition the Common Council for a map amendment.

#### **SEC. 13-1-208 DECISION.**

- (a) **Time for Decision.** The Zoning Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and Plan Commission.
- (b) Conditions may be placed upon any building permit ordered or authorized by this Board.
- (c) Variances, substitutions, or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
- (d) Applicants receiving variances in floodlands shall be notified, in writing, by the Board of Appeals that increased flood insurance premiums and threat to life and property may result from the granting of the variance. The Board shall keep a record of the notifications in its files.

**SEC. 13-1-209 REVIEW BY COURT OF RECORD.**

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the 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 thirty (30) days after the filing of the decision in the office of the Zoning Board of Appeals.

**SEC. 13-1-210 THROUGH SEC. 13-1-219 RESERVED FOR FUTURE USE.**

**ARTICLE K**

Administration

**SEC. 13-1-220 PLAN COMMISSION.**

The Plan Commission shall have the duties of making reports and recommendations relating to the plan and development of the City to public officials, agencies, public utility companies, civic, educational, professional, and other organizations, and citizens. The Plan Commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.

**SEC. 13-1-221 ZONING ADMINISTRATOR DESIGNATED.**

The City Building Inspector is hereby designated as the administrative and enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

- (a) Maintain records of all permits issued, inspections made, work approved, and other official actions.
- (b) Record the lowest floor elevations of all structures erected, moved, altered, or improved in the floodland districts.
- (c) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (d) Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.
- (e) 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 City Attorney in a manner specified by him.
- (f) Assist the City Attorney in the prosecution of Chapter violations.
- (g) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Chapter. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Sec. 66.122 of the Wisconsin Statutes.
- (h) Prohibit the use or erection of any structure, land, or water until he has inspected and approved such use or erection.
- (i) Request assistance and cooperation from the City Police Department and City Attorney as deemed necessary.
- (j) Make available to the public, to the fullest extent possible, all reports and documents

concerning the City's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed. The Plan Commission may set fees necessary to recover the cost of providing information to the public. Where useful, the Zoning Administrator, or his agent, may set marks on bridges or buildings or other markers which show the depth of the one hundred (100) year recurrence interval flood or may set marks delineating the boundaries of wetlands.

**SEC. 13-1-222 SITE PLAN REVIEW.**

For site plan review, see Article F of this Chapter.

**SEC. 13-1-223 ARCHITECTURAL REVIEW.**

For architectural review, see Article F of this Chapter.

**SEC. 13-1-224 SIGN REVIEW.**

(See Title 15, Chapter 5.)

**SEC. 13-1-225 OCCUPANCY PERMIT REQUIRED.** (Ord. 90-42)

- (a) **Occupancy Permit Requirement.** An occupancy permit shall be issued by the Zoning Administrator before any vacant land is occupied, and before any new or existing building is occupied as defined below:
- (1) For all types of residential buildings (single and two-family, and multi-family), an occupancy permit shall be issued for the first occupants of the building after its initial construction. Subsequent residential tenants need not obtain occupancy permit unless their occupancy is preceded by construction, remodeling or structural alterations requiring the issuance of a building permit.
  - (2) For all types of commercial, retail, office, industrial and institutional buildings and uses, an occupancy permit shall be issued for the first occupants of the building after its initial construction. All subsequent owners, users, or tenants shall also obtain an occupancy permit prior to their occupancy.
  - (3) For temporary uses as defined in Section 13-1-22(f), a temporary occupancy permit shall be required and may be issued by the Zoning Administrator without Plan Commission approval.
  - (4) For the commercial outdoor vending and sales of merchandise conducted on private property, a temporary occupancy permit shall be required from the Zoning Administrator. Excluded from this requirement are rummage sales, craft sales, and yard sales held on private property used for solely residential purposes. Rummage, garage, craft or occasional sales are limited to a total of four (4) such sales in a

calendar year, each not to exceed four (4) consecutive days per private residential unit. (Ord. 2005-32)

- (b) **Application.** Applications for an occupancy permit shall be made on forms furnished by the Zoning Administrator and shall include such of the following as required by the Zoning Administrator for the issuance of a permanent or temporary occupancy permit:
- (1) The name, address, and telephone number of the applicant or agent to be contacted with regard to the application.
  - (2) Description of the property by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; a narrative description of the existing and proposed operation or use of the structure or site; number of employees; the zoning district within which the subject site lies and any other information pertinent to an adequate understanding of the intended use by the Zoning Administrator.
  - (3) An accurate drawing and/or plat of survey prepared by a registered land surveyor, or a location sketch drawn to scale, showing the location, boundaries, dimensions, elevations, uses and sizes of the following: subject site, existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; existing and proposed street, side, and rear yards; a detailed plan of proposed surface drainage, topographic data or pertinent grade elevations where necessary for proper interpretation of the plans; and a small locational diagram showing the property in relation to the surrounding area, and U.S. Public Land Survey Section number; additional data as required by the Zoning Administrator. In addition, the drawing and/or plat or survey shall show the location, elevations, and use of any abutting lands and their structures within forty (40) feet of the subject site.
  - (4) The City Clerk shall transmit the application and related data to the Zoning Administrator and other appropriate City departments for their study and/or comment.
- (c) **Issuance of Zoning Permit.** If the use described in the application for an occupancy permit complies with the requirements of the chapter, the Zoning Administrator shall issue an occupancy permit within thirty (30) days after submittal of the application accompanied by all applicable fees and all related data required by the Zoning Administrator and after compliance with all contingencies required for issuance of the permit.
- (d) **Enforcement.** Failure to comply with this section relating to occupancy permits may be enforced pursuant to this article or any other provision of law including, but not limited to, revocation of the permit, injunction, civil suite. The building inspector shall have authority to require any party occupying or using property in violation of this code to cease such use and/or vacate the subject property, as is necessary to eliminate the violation. Each day of noncompliance of this section shall constitute a separate violation. Appeals of decisions under this section shall be to the Board of Appeals pursuant to Section 13-1-203 of the Municipal Code.

**SEC. 13-1-226 CONDITIONAL USE PERMIT.**

- (a) **Permit.** The Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, 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) **Existing Uses.** All uses existing at the effective date of this Chapter which would be classified as a conditional use in the particular district concerned if they were to be established after the effective date of this Chapter are hereby declared to be conforming conditional uses. Any proposed change in the existing operation shall be subject to the conditional use procedures as if such use were being established anew.
- (c) **Application for Conditional Use Permit.** Except as provided herein, application for conditional use permit shall be made in duplicate to the City Clerk and shall include the following where pertinent and necessary for proper review by the Plan Commission:
  - (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, when engaged, and all opposite and abutting property owners of record.
  - (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - (3) Plat of survey prepared by a land surveyor registered in Wisconsin or other map drawn to scale and approved by the Zoning Administrator, showing the location, property boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; existing and proposed street, side, and rear yards; a detailed plan of proposed surface drainage, topographic data or pertinent grade elevations where necessary for proper interpretation of the plans, and a small locational diagram showing the property in relation to the surrounding area, and U.S. Public Land Survey Section number; and areas subject to inundation by floodwaters.
  - (4) In areas subject to inundation by floodwaters, the plat of survey shall also include first floor elevations, utility elevations, historic and probable future floodwater elevations, depth of inundation, floodproofing measures, and plans for proposed structures, giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effects on flood flows. Where floodproofing is required, the applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequate to withstand the flood forces and velocities associated with the one hundred (100) year

recurrence interval flood. Prior to the issuance of an occupancy permit, the applicant shall also submit a certification by the registered professional engineer that the finished floodproofing measures were accomplished in compliance with the provisions of this Chapter.

- (5) In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within forty (40) feet of the subject site; soil mapping unit lines, types, and slopes, ground surface elevations; mean and historic highwater lines, on or within forty (40) feet of the subject premises, and existing and proposed landscaping when so required by the City Plan Commission.
  - (6) Additional information, as may be required by the Common Council, Plan Commission, City Engineer, or the Zoning Administrator.
- (d) **Applications for Conditional Use Permits for an Outdoor Soda Water Vending Machines** shall be made in duplicate to the City Clerk on forms furnished by the City Clerk and shall include the following:
- (1) Name and address of the applicant, owner of the site, and all opposite and abutting property owners of record.
  - (2) Description of the subject site by address, identification of zoning district within which the subject site is located, and description of the proposed location of the outdoor soda water vending machine.
- (e) **Review and Approval.** 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. Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter. The foregoing is not an exclusive list of the types of conditions which may be imposed. Conditional uses shall comply with all other provisions of this Chapter unless variances are granted by the Zoning Board of Appeals. On city-owned property, the Plan Commission shall make a recommendation to the Common Council concerning applications for conditional use permits, and the Common Council shall have final approval regarding conditional use permit applications. (Ord. 2001-07)
- (f) **Hearings.** The Plan Commission shall fix a reasonable time and place for the hearing, publish a Class Two (2) notice thereof, and shall give due notice to the parties in interest and Zoning Administrator, and as specified in Section 13-1-228. At the hearing the applicant may appear in person, by agent, or by attorney.
- (g) **Notice to DNR.** The City Plan Commission shall transmit a copy of each application for a conditional floodland use to the Wisconsin Department of Natural Resources (DNR) for review and comment. Action on the application shall not be taken for thirty (30) days or until

the DNR has made its recommendation, whichever comes first. A copy of all floodland conditional use permits shall be transmitted to the DNR within ten (10) days of the effective date of such permit.

- (h) **Recordation of Conditional Use Permits.** The City Clerk shall cause the recording of all conditional use permits with the Ozaukee County Register of Deeds.

#### **SEC. 13-1-227 PRIVATE RESIDENTIAL SWIMMING POOL PERMIT.**

- (a) **Permit Requirement.** Before work is commenced on the construction or erection of a private residential swimming pool or on any alterations, additions, remodeling, or other improvements (not including repairs), a swimming pool permit to construct, erect, alter, remodel, or add a swimming pool must be obtained from the Building Inspector of the City of Cedarburg. Plans, specifications, and pertinent explanatory data shall be submitted to the City at the time of application for the permit. No work or any part of the work shall be commenced until a permit for such work is obtained by the applicant.
- (b) **Fee.** Please refer to Section 15-1-101 for the fee for a private swimming pool permit.
- (c) **Occupancy.** No private residential swimming pool for which a swimming pool permit is issued for the construction, alteration, remodeling, or other improvements shall be used by the owner, operator, or lessee until the Building Inspector has inspected the pool and has ascertained that said private residential swimming pool conforms to the requirements of this Ordinance and has issued a swimming pool permit for the same. Such swimming pool permit shall be issued without further fee and shall be prominently displayed at or near the swimming pool at all times as such pool is being used.

#### **SEC. 13-1-228 OTHER PERMITS.**

It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, or local agency. This includes, but is not limited to, a water use permit pursuant to Chapters 30 or 31 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act.

#### **SEC. 13-1-229 NOTICE OF PUBLIC HEARINGS.**

- (a) **Publication.** Published notice of any public hearing required to be held shall be given pursuant to the requirements set forth in Sec. 62.23(7)(e)(d), Wis. Stats., or any succeeding legislation.
- (b) **Posting.** When the hearing involves a proposed change in the zoning of any property or the granting of a conditional use, one of the uses shall be posted in the vicinity of such proposed change or conditional use, where practical.
- (c) **Notice to Interested Persons.** The City Clerk shall mail notice of the public hearing to the owners of all lands within three hundred (300) feet of any part of the land included in such

proposed change or conditional use at least ten (10) days before such public hearing. The City Clerk shall also give at least ten (10) days' prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed action. The failure of such notice to reach any property owners provided such failure be not intentional, shall not invalidate any amending ordinance or grant of conditional use. Such mailed notice shall not be required where the change is of such a comprehensive nature that such notice would involve unreasonable administrative effort and expense and is not necessary for reasonable notification of affected property owners except that municipalities within one thousand (1,000) feet of the land affected shall be notified as set forth herein.

- (d) **Content of Notice.** Such notice shall state the time and place of the public hearing, the purpose for which hearing is held, and shall include, in the case of map changes, a description of the area involved and in the case of text changes, a description of the proposed change, in sufficient detail for general public identification. Reference shall also be made to the fact that detailed descriptions are available for public inspection at the Clerk's office at City Hall.

**SEC. 13-1-230 PERMIT FEES.** (Ord. 92-54) (Ord. 93-43) (Ord. 98-39) (Ord. 98-43) (Ord. 2008-29)

- (a) All persons, firms, or corporations performing work which, by this Chapter, requires the issuance of a permit shall pay a fee for such permit to the City Treasurer to help defray the cost of administration, investigation, advertising, and processing of permits and variances. The permits for which a fee is required are the Zoning Permit, Conditional Use Permit, Site Plan Review, Architectural Plan Review, Parking Lot Permit, Swimming Pool Permit, and Planned Unit Development Review. A fee shall also be required for a zoning text or map amendment and a zoning appeal or variance.

- (b) The fee for permits shall be as follows:

(1) Building Permit	As specified in the City of Cedarburg Building Code
(2) Temporary Occupancy Permit	\$ 27.50
(3) Planned Unit Development	\$350.00
(4) Conditional Use Permit	\$300.00
(5) Variance or Appeal	\$150.00
(6) Amendment to Ordinance (Text)	\$200.00
(7) Amendment to Ordinance (Map-Rezoning)	\$250.00
(8) Annexation	\$150.00
(9) Minor Site Plan Modifications Only (Minor modifications, including changes to paving, landscaping, lighting, etc. not affecting the building envelope)	\$100.00
(10) Site, Architectural, Lighting and Landscaping Plan Review	\$350.00

(11)	Individual Architectural Plan Review	\$110.00
(12)	Residential Infill Lot Architectural Review	No fee
(13)	Conceptual/Consultation Fee	\$100.00
(14)	Accessory or Minor Structure Review	\$100.00
(15)	Land Use Plan Amendment	\$200.00

- (c) Permit fees do not include and are in addition to permit fees established by the City Building, Plumbing, and Electric Codes.

### **SEC. 13-1-231 DOUBLE FEE.**

A double fee may be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.

### **SEC. 13-1-232 VIOLATIONS.**

- (a) **Violations Generally.** 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 Common Council, the Zoning administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Chapter or cause a structure to be vacated or removed. Each day shall constitute a separate violation.
- (b) **Every Structure, Fill, or Development** placed or maintained within any floodland area in violation of this Chapter is a public nuisance and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of the State, the County, the City or any citizen hereof.
- (c) **Notice of Violation.** The Building Inspector shall serve notice by regular mail to the property owner of alleged violations of this Chapter. If the alleged violation has not been corrected within thirty (30) days, the Building Inspector shall serve a second notice of violation on the owner by registered mail. If the alleged violation has not been corrected within thirty (30) days following the second notice, the Building Inspector shall issue an ordinance violation citation or refer the matter to the City Attorney for prosecution.
- (d) **Nuisance.** Any building erected, structurally altered or placed on a lot or any use carried on in violation of this ordinance is hereby declared to be a nuisance.

### **SEC. 13-1-233 REMEDIAL ACTION.**

Whenever an order of the Zoning Administrator has not been complied within thirty (30) days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Common Council, the Zoning Administrator, or the City Attorney may institute appropriate legal

action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

**SEC. 13-1-234 PENALTIES.**

Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of this Chapter shall be subject to a forfeiture of not less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00) for each offense, together with the costs of said action. In default of payment thereof, such person shall be imprisoned in the county jail for a period not to exceed six (6) months or until such forfeiture and costs have been paid. Each day that a violation continues to exist shall constitute a separate offense.

**Sec. 13-1-235 ADMINISTRATIVE PROVISIONS RELATED TO FACILITIES FOR THE HANDICAPPED OR DISABLED.** (Ord. 99-28)

- (a) Definitions. For purposes of this section, the following terms shall be defined as follows:
- (1) “Commercial facility” means a commercial facility defined in 42 U.S.C. § 12181(2).
  - (2) “Covered multifamily housing” means any of the following:
    - a. Housing that is first ready for occupancy on or after October 1, 1993, consisting of three or more dwelling units; or
    - b. Housing consisting of three or more dwelling units if the housing is to be remodeled, as that term is defined in 101.132(1)(h), Wis. Stats.; or
    - c. Housing that is first ready for occupancy on or after March 13, 1991, consisting of four or more dwelling units.
  - (3) “Dwelling” means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
  - (4) “Public place of accommodation or amusement” shall be interpreted broadly to include, but not be limited to, places of business or recreation; lodging establishments; restaurants; taverns; barber or cosmetologist, aesthetician, electrologist or manicuring establishments; nursing homes; clinics; hospitals; cemeteries; and any place where accommodations, amusement, goods or services are available either free or for a consideration, subject to subd. (e).
  - (5) “Public place of accommodation or amusement” does not include a place where a bona fide private, nonprofit organization or institution provides accommodations, amusement, goods or services during an event in which the organization or institution provides the accommodations, amusement, goods or services to the following individuals only:
    - a. Members of the organization or institution.
    - b. Guests named by members of the organization or institution.

- c. Guests named by the organization or institution.
- (6) “Qualified historic property” means a building or facility which is eligible for listing in the National Register of Historic Places under the NHPA or those buildings or facilities designated as historic, as landmarks, or as part of a historic district, under State or local ordinance.
- (b) The Zoning Administrator shall have the following powers and duties:
  - (1) The Zoning Administrator may advise applicants as to the provisions of this Ordinance, the Wisconsin Open Housing Law, the Federal Fair Housing Act, and the Americans with Disabilities Act, and assist them in preparing permit applications and appeal forms.
  - (2) The Zoning Administrator may issue permits and certificates of compliance and inspect properties or compliance with this Ordinance, the Wisconsin Open Housing Law, the Federal Fair Housing Act, and the Americans with Disabilities Act.
  - (3) The Zoning Administrator may determine whether or not specific ordinance requirements shall be waived and a permit should be issued in situations where the applicant alleges that a dwelling is to be occupied by a handicapped or disabled person and “reasonable accommodations” under the Federal Fair Housing Act, 42 U.S.C. §§ 3601-3631 or the Wisconsin Open Housing Law, § 106.04, Wisconsin Statutes, are necessary to afford the handicapped or disabled person equal opportunity to use and enjoy the premises, or where the owner of a public place of accommodation or amusement, commercial facility, or covered multifamily housing alleges that certain zoning restrictions must be waived in order to make the public place of accommodation or amusement, commercial facility, or covered multifamily housing accessible to the disabled as required by the Americans With Disabilities Act, 42 U.S.C. §§ 12131-12213, the Wisconsin Open Housing Law, or the Federal Fair Housing Act. In all such cases, the applicant shall provide the following information to the Zoning Administrator:
    - a. The nature of the handicap or disability;
    - b. An explanation of the need for a waiver of specified zoning restrictions; and
    - c. A discussion of alternative solutions that have been considered, if any.
  - (4) The Zoning Administrator may issue a building permit that waives specified zoning ordinance requirements if the Zoning Administrator determines that all of the following conditions have been met:
    - a. The accommodations (i.e. the waiver of zoning restrictions) that have been requested, or another less extensive accommodation, is necessary to afford a handicapped or disabled person equal opportunity to use and enjoy a dwelling and is the minimum accommodation that will afford the handicapped or disabled person full enjoyment of the premises as required by the Fair Housing Act or the Wisconsin Open Housing Law; and
    - b. The accommodation is reasonable, will not impose undue financial and administrative burdens, and will not fundamentally alter the zoning code or

unreasonably undermine the basic purposes that the zoning ordinance seeks to achieve; and

- c. The accommodation will not threaten or destroy the historic significance of a Qualified Historic Property.
- (5) The Zoning Administrator may issue a building permit that waives specified zoning ordinance requirements if the Zoning Administrator determines that the waiver of the zoning ordinance is the minimum necessary for covered multifamily housing to comply with the handicapped accessible construction and design specifications required by the Wisconsin Open Housing Law or the Federal Fair Housing Act, and will not threaten or destroy the historic significance of a Qualified Historic Property. With respect to a Qualified Historic Property, which becomes subject to the Wisconsin Open Housing Law's handicapped accessible construction and design specifications due to remodeling, the Zoning Administrator may require the use of the alternative minimum accessibility requirements provided for under the State Historic Building Code, § 101.121, Wis. Stats. and regulations thereunder.
- (6) The Zoning Administrator may issue a building permit that waives specified zoning ordinance requirements if the Zoning Administrator determines that the waiver of the zoning ordinance is the minimum necessary for a public place of accommodation or amusement or a commercial facility to comply with the handicapped accessible requirements of the Americans With Disabilities Act or the Wisconsin Open Housing Law, and will not threaten or destroy the historic significance of a Qualified Historic Property.
- (7) The Zoning Administrator shall not issue a building permit that waives zoning ordinance requirements if the waiver of the zoning ordinance will threaten or destroy the historic significance of a Qualified Historic Property. In such cases, the Zoning Administrator shall work with the property owner, the Landmarks Commission, and the Plan Commission to determine alternative accommodations which will provide handicapped accessibility to the maximum extent possible without threatening or destroying the historic significance of a Qualified Historic Property.
- (8) The Zoning Administrator shall not issue a building permit or waive zoning ordinance requirements for a Qualified Historic Property until the Landmarks Commission and the Plan Commission have, in accordance with Sections 13-1-70, 15-1-14, or 15-1-15 of the City's land use codes, reviewed the application or petition and have recommended approval or approval with conditions.
- (9) Where needed to protect the historic significance of a Qualified Historic Property, the Zoning Administrator may attach to the building permit the condition that the building addition or other structure (such as entrance ramps) that is authorized by the permit must be constructed in such a way that it can easily be removed when the handicapped or disabled person no longer occupies the Qualified Historic Property or when the Qualified Historic Property is no longer used as a public place of accommodation or amusement or a commercial facility. If such a condition is

attached to the permit, the property owner is required by this Ordinance to notify the Zoning Administrator no later than 30 days after the handicapped or disabled person vacates the Qualified Historic Property or after the Qualified Historic Property ceases to be used as a place of public accommodation or amusement or a commercial facility. In cases where the Zoning Administrator issues such a conditional permit, the permit shall not become effective until the owner of the property signs an affidavit giving notice of the conditional nature of the permit, and records the affidavit at the Ozaukee County Register of Deeds Office.

- (10) If the Zoning Administrator issues a building permit to a dwelling to be occupied by a handicapped or disabled person, or the owner of a public place of accommodation or amusement or commercial facility or covered multifamily housing, that waives certain specified zoning requirements, the permit shall state that issuance of the permit is required by the Federal Fair Housing Act, the Wisconsin Open Housing Law, or the Americans with Disabilities Act.

**SEC. 13-1-236 THROUGH SEC. 13-1-239 RESERVED FOR FUTURE USE.**

## ARTICLE L

### Definitions

#### SEC. 13-1-240 DEFINITIONS. (Ord. 2014-04)

- (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 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 used exclusively by one (1) family as a dwelling. “Dwelling” is defined in #45 above.
- (49) Dwelling Two-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 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.
- (80) Landowner. Any person holding title to land.
- (81) 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.
- (82) 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.
- (83) Land Use, Commercial. The use of land for the retail or wholesale sale of goods or services.
- (84) 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.
- (85) 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.
- (86) Local Street. (See Street, Minor.)
- (87) 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.
- (88) 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.
- (89) 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.
- (90) 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.

- (91) Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines.
- (92) 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.
- (93) 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.
- (94) Lot Coverage. (See Floor Area Ratio and Lot Coverage.) (Ord. 2004-01)
- (95) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (96) 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.
- (97) Lot Width. The width of a parcel of land measured at the setback line.
- (98) 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.
- (99) Manufacturing. When used in describing an industrial operation, the making or processing of a product with machinery.
- (100) 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)
- (101) 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.
- (102) Minor Street. (See Street, Minor.)
- (103) 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.
- (104) 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.

- (105) Municipal Code. The Code of Ordinances of the City of Cedarburg, Ozaukee County, Wisconsin.
- (106) 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.
- (107) Nonconforming Uses/Structures. (See Use, Nonconforming and Structure, Nonconforming.)
- (108) 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.
- (109) 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.
- (110) 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.
- (111) Official Zoning Map. (See Zoning Map.)
- (112) 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.
- (113) 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.
- (114) Parking Lot. A structure or premises for the parking of vehicles excluding parking areas accessory to single-family and two (2) family dwelling units.
- (115) 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.
- (116) 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.

- (117) Party Wall. (See Common Wall.)
- (118) Permitted Use. (See Use, Permitted.)
- (119) Plan Commission. The City Plan Commission of the City of Cedarburg, Ozaukee County, Wisconsin.
- (120) Private Residential Swimming Pool. (See Swimming Pool, Private Residential.)
- (121) 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.
- (122) 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.
- (123) 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)
- (124) 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.
- (125) Runoff. The rainfall, snowmelt, or irrigation water flowing over the ground surface.
- (126) 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.
- (127) 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.
- (128) 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.
- (129) 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.
- (130) 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.
- (131) 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.
- (132) 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.
- (133) 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.
- (134) 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.
- (135) 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.
- (136) Street. A public right-of-way not less than fifty (50) feet wide providing primary access to abutting properties.
- (137) 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.
- (138) 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.
- (139) Street, Minor. A street used, or intended to be used, primarily for access to abutting properties.
- (140) Street Yard. (See Setback.)
- (141) 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.

- (142) 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.
- (143) 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.
- (144) Structure, Substandard. (See Structure, Nonconforming.)
- (145) 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.
- (146) 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.
- (147) Sustained Yield Forestry. Management of forested lands to provide annual or, periodic crops of forest products.
- (148) 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 regardless if the tourist or transient is there for the season, the month, a week, a day or less.

- (151) 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.
- (152) Use, Accessory. A subordinate use on the same lot which is incidental and customary in connection with the principal use.
- (153) Use, Conditional. A use of a special nature as to make impractical their predetermination as a permitted use in a district.
- (154) Use Permitted. A use by right which is specifically authorized in a particular zoning district.
- (155) Use, Principal. The main use of land or building as distinguished from a subordinate or accessory use.
- (156) 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.
- (157) 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.
- (158) 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.
- (159) 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.
- (160) 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.
- (161) Micro-Distilleries. A facility that produces by distillation, not more than 60,000 gallons per year of spirits for consumption, the sale and distribution of which are regulated by federal, state and local laws. (Ord. 2014-17)
- (162) Columbarium. A building, structure, or part of a building or structure that is used or intended to be used for the inurnment of cremated remains. (Wis. Stat. § 440.70 (4)). (Ord. 2016-09)

**SEC. 13-1-241 – ILLUSTRATIONS**

**ILLUSTRATION NO. 1**

**MEASURING HEIGHT AND SETBACK OF ANTENNAS**

EARTH STATION DISH ANTENNA  
TOWER MOUNTED ANTENNA  
ROOF MOUNTED ANTENNA

s= setback h = height

**ILLUSTRATION NO. 2**

EXAMPLE OF ZERO LOT LINE DEVELOPMENT

**ILLUSTRATION NO. 3**

VISION CLEARANCE TRIANGLE

**ILLUSTRATION NO. 4**

VISION CLEARANCE TRIANGLE

**ILLUSTRATION NO. 5**

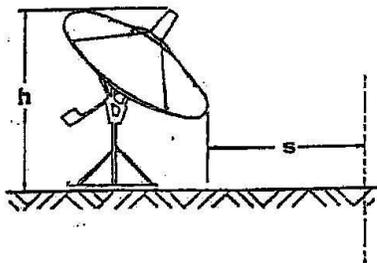
ADDITIONS AND AVERAGE STREET YARDS

**ILLUSTRATION NO.6**

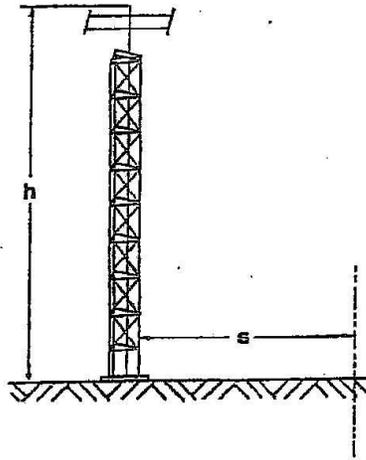
LOCATION OF YARDS ON A TYPICAL INTERIOR LOT, CORNER LOT,  
AND DOUBLE FRONTAGE LOT

ILLUSTRATION NO. 1  
MEASURING HEIGHT AND SETBACK OF ANTENNAS

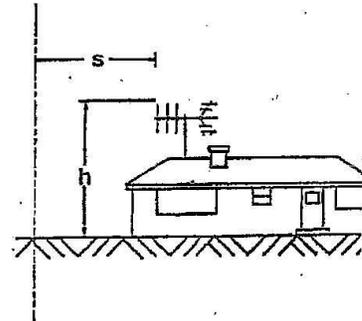
EARTH STATION DISH ANTENNA



TOWER MOUNTED ANTENNA



ROOF MOUNTED ANTENNA



s - setback  
h - height

ILLUSTRATION NO. 2  
EXAMPLE OF ZERO LOT LINE DEVELOPMENT

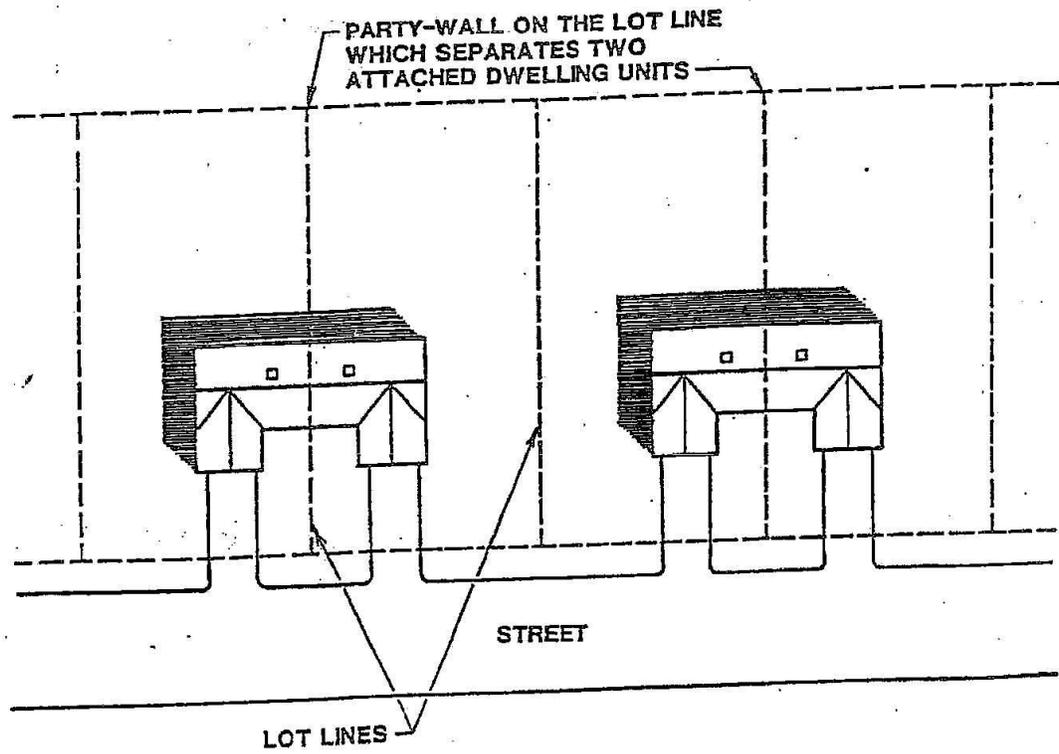


ILLUSTRATION NO. 3

VISION CLEARANCE TRIANGLE  
(CROSS-SECTIONAL VIEW)

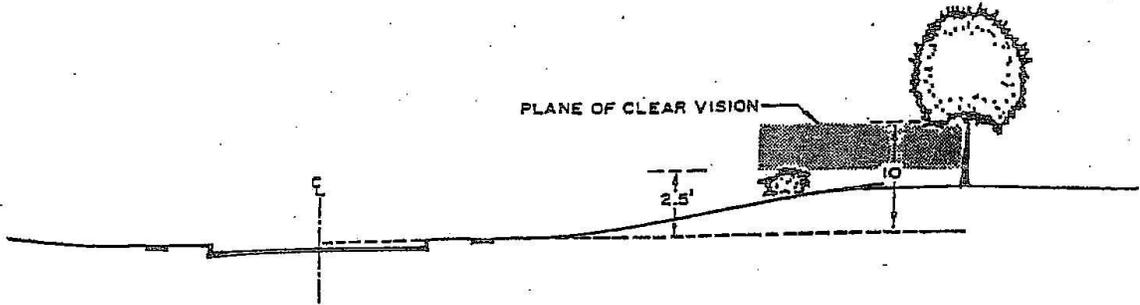
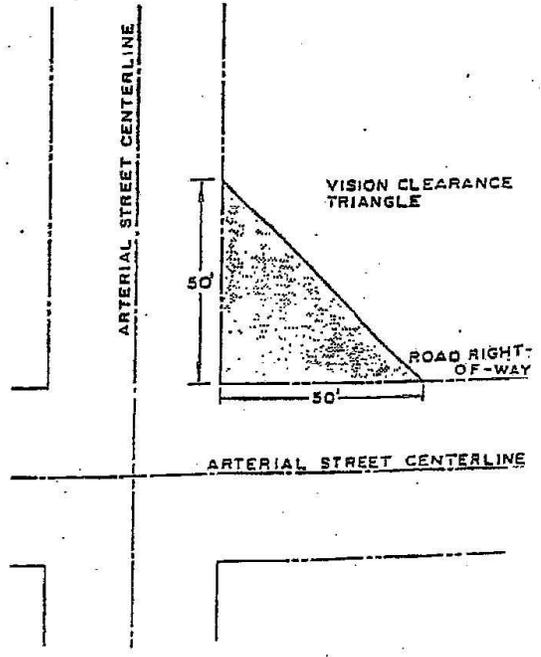
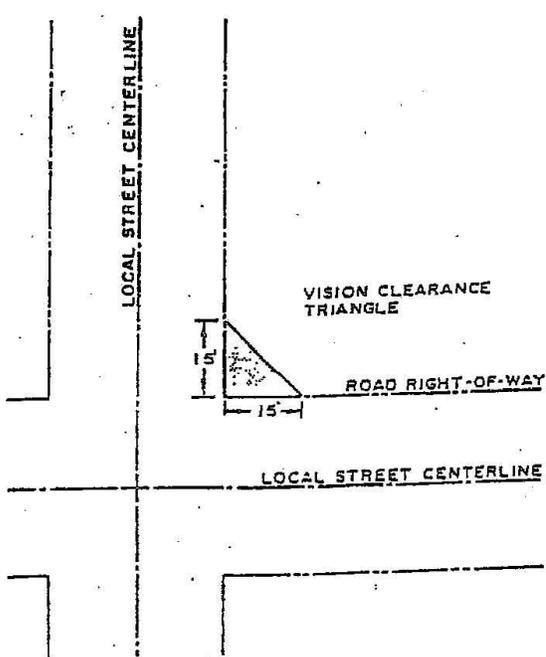


ILLUSTRATION NO.4

VISION CLEARANCE TRIANGLE  
(PLAN VIEW)

TWO LOCAL STREETS INTERSECTING

TWO ARTERIAL STREETS INTERSECTING



**ILLUSTRATION NO. 5**  
**ADDITIONS AND AVERAGE STREET YARDS**

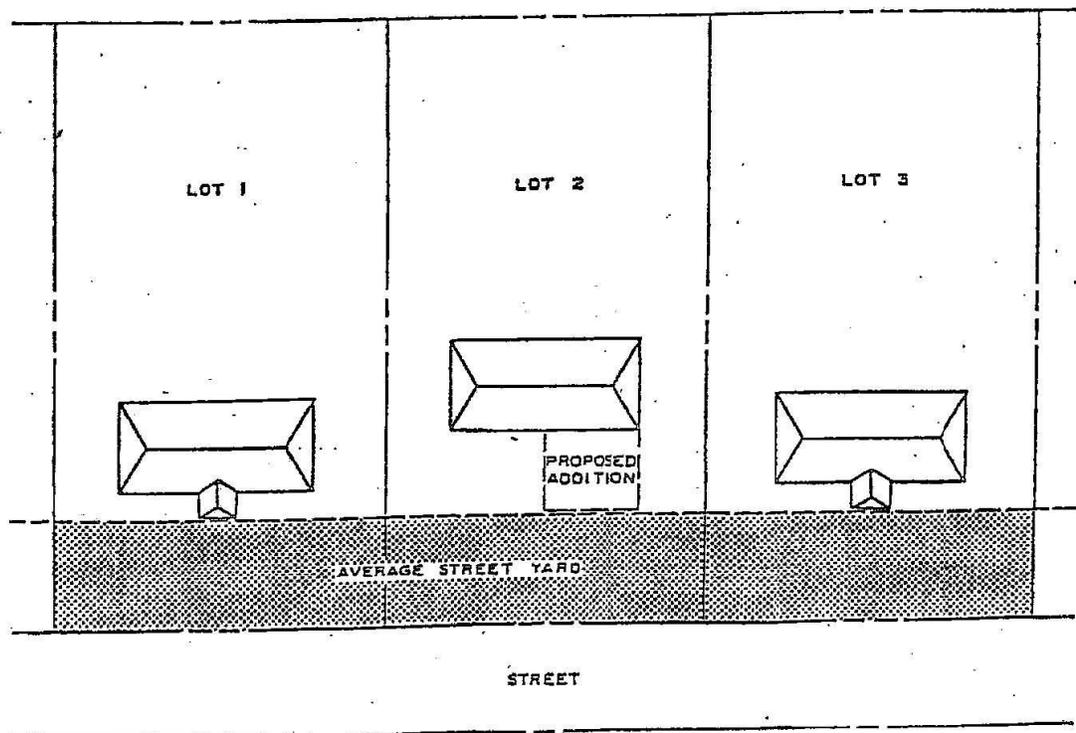


ILLUSTRATION NO.6

LOCATION OF YARDS ON A TYPICAL INTERIOR LOT,  
CORNER LOT, AND DOUBLE FRONTAGE LOT

