

**TOWN OF CEDARBURG  
ORDINANCE NO. 2009-16**

**An ordinance to amend Section 320-23 of the Town of Cedarburg, Wisconsin, Code of Ordinances, to make this section more consistent with the Town Comprehensive Plan: 2035 and Five Corners Master Plan.**

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

**WHEREAS,** the Town of Cedarburg has established Chapter 320: Zoning as part of the Town of Cedarburg Code of Ordinances under the authority granted by §§ 60.61 and 62.23(7), Wis. Stats., and amendments thereto; and

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

**WHEREAS,** the Town Board strives to make Chapter 320 consistent with the Town of Cedarburg Comprehensive Plan: 2035 and Five Corners Master Plan;

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

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

**(The text modified with a strikethrough shall be deleted).**

§ 320-23. M-2 Planned Industrial & Mixed Use District.

**[Amended 1-7-2009 by Ord. No. 2009-2; 5-6-2009 by Ord. No. 2009-9]**

A. Statement of purpose. The M-2 Planned Industrial & Mixed Use District is intended to provide for the continuation of the Town of Cedarburg's traditional single use Planned Industrial district, while including additional single and mixed uses. This possible mixture of uses is intended to implement the Town Comprehensive Plan: 2035 as well as the Five Corners Master Plan, which specifies the creation of a vibrant and pedestrian-friendly "town center," featuring a mixture of uses. Projects will result in orderly and attractive grouping development at appropriate locations including but not limited to existing commercial activities of general retail and wholesale, office, and service facilities serving a larger community area, as well as new single or mixed use activities in and around the Five Corners Master Plan area and Five Corners Business District, as identified in the Comprehensive Plan. Mixed use developments will contain at least a combination of two of the following general types of development: commercial, single-family homes and or multi-family condominium residential, industrial, institutional and/or public. The size and location of such districts shall be based upon relationships to the total community need and economy. Any new development, redevelopment or infill taking place in the M-2 district shall be consistent with the ~~If the business is located within the Five Corners Master Plan area,~~

the building construction and materials shall be consistent with the Five Corners Master Plan, and shall be subject to binding Town design guidelines and landscaping or other requirements as required by the Town Board.

B-(1). Principal uses: professional offices, trade and contractor's offices, storage and sale of machinery equipment, single-family homes and multi-family condominium residential, and commercial retail. Any single structure greater than 30,000 square feet shall be subject to the conditional use permit process.

C-(2). Conditional uses:

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

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

~~(3)~~(c) See §§ 320-56, 320-57, 320-58, 320-60, 320-61, 320-106 and 320-107.

~~D. Development. B. Single-use Industrial, Commercial, Residential or Institutional/Public Development. Single use developments in the M-2 district, regardless of property location within the Town, shall be consistent with the Five Corners Master Plan, and shall be subject to binding Town design guidelines and landscaping or other requirements as required by the Town Board.~~

(1) Area: minimum one ~~40~~ acre.s

(2) Lot frontage: minimum ~~200~~ 100 feet, or less than 100 feet with a minimum average lot width of 300 feet.

~~E.(3).~~ Building height: ~~maximum 45 feet.~~

(a) Principal structure: maximum two stories or 35 feet for residential, all other types of development maximum three stories or 45 feet.

(b) Accessory structure: maximum one story or 25 feet.

~~F.(4).~~ Yard setbacks.

~~(4)~~(a) Street: minimum ~~50~~ 25 feet.

(2)(b) Rear: minimum 50 30 feet.

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

(5). Building area for residential units: minimum 1,500 square feet.

(6). Residential density. The total number of residential units permitted is equal to 50% of the total acreage; if the number is not a whole number, the number of units permitted shall be rounded up to the nearest whole number. There shall be no more than four residential dwelling units per structure, and no more than one structure may be located on any one acre of land. The Town Board may, upon recommendation from the Plan Commission, grant bonus residential units. To qualify for bonus unit consideration, the developer must install public amenities (to be privately maintained) available to residents of the development as well as the greater community that increase the utility and appearance of the development. The maximum number of bonus units the Town Board may award is one unit per 10 acres of development area (gross contiguous land owned and a part of the development), with a maximum of four bonus units for any development. The bonus units may be attached to any structure, even if that results in more than four residential units in any one structure. The following criteria may be used when evaluating whether or not bonus units shall be awarded (other items may be considered):

(a) Preserving, rehabilitating, or reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The developer may also install new structures to imitate historical structures (barns etc.) or otherwise enhance Town history.

(b) The installation of a public feature such as a fountain, plaza or square.

(7). Industrial, commercial, institutional/public density. There are no density requirements. Structures larger than 30,000 square feet shall be subject to the conditional use permit process.

C. Mixed Use Development. Mixed use developments shall contain at least a combination of two of the following general types of development: commercial, single-family homes or multi-family condominium residential, industrial, institutional and/or public. All mixed use development projects in the M-2 district, regardless of property location within the Town, shall be consistent with the Five Corners Master Plan, and shall be subject to the binding Town design guidelines and landscaping or other requirements as required by the Town Board.

(1) Area: minimum one acre.

(2) Lot frontage: minimum 100 feet, or less than 100 feet with a minimum average lot width of 300 feet.

(3). Building height:

(a) maximum two stories or 35 feet for structures containing only residential. Structures containing only industrial, commercial, institutional/public or any mixture of these plus residential shall have a maximum of three stories or 45 feet.

(b) Accessory structure: maximum one story or 25 feet.

(4). Yard setbacks.

(a) Street: minimum 25 feet.

(b) Rear: minimum 30 feet.

(c) Side: minimum 15 feet.

(5). Building area for residential units: minimum 1,500 square feet.

(6). Residential density. The total number of residential units permitted is equal to 50% of the total acreage; if the number is not a whole number, the number of units permitted shall be rounded up to the nearest whole number. There shall be no more than four residential dwelling units per structure, and no more than one structure may be located on any one acre of land. The Town Board may, upon recommendation from the Plan Commission, grant bonus residential units. To qualify for bonus unit consideration, the developer must install public amenities (to be privately maintained) available to residents of the development as well as the greater community that increase the utility and appearance of the development. The maximum number of bonus units the Town Board may award is one unit per 10 acres of development area (gross contiguous land owned and a part of the development), with a maximum of four bonus units for any development. The bonus units may be attached to any structure, even if that results in more than four residential units in any one structure. The following criteria may be used when evaluating whether or not bonus units shall be awarded (other items may be considered):

(a) Preserving, rehabilitating, or reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The developer may also install new structures to imitate historical structures (barns etc.) or otherwise enhance Town history.

(b) The installation of a public feature such as a fountain, plaza or square.

(7). Industrial, commercial, institutional/public density. There are no density requirements. Structures larger than 30,000 square feet shall be subject to the conditional use permit process.

D. A General Development Plan (GDP) shall accompany the building permit application, along with the appropriate GDP review fee as established in the Town fee schedule, that contains useful information to the relationship of the proposed single or mixed use development to the Town's Comprehensive Plan, Five Corners Master Plan, and the binding Town design guidelines, as well as the general character of and the uses to be included in the development, including the following:

(1) Total area to be included in the development, area of open space, residential density computations, proposed number of dwelling units and number of structures per acre of land, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.

(2) A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.

(3) A general outline of the organizational structure of a property owners' or management association which may be proposed to be established for the purpose of providing any necessary private services.

(4) Any proposed departures from the standards of development as set forth in this chapter, Chapter 184, Land Division, of this Code, other Town regulations or administrative rules, or other universal guidelines.

(5) The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

(6) A legal description of the boundaries of the subject property included in the proposed development and its relationship to surrounding properties.

(7) The location of public and private roads, driveways, sidewalks and parking facilities.

(8) The type, size, arrangement and location of any individual building sites and proposed building groups on each individual site.

(9) The location of open space areas and areas reserved or dedicated for public uses, including schools and parks.

(10) Materials sample board(s) depicting samples of all proposed exterior materials and colors.

(11) Landscape plan prepared by a registered landscape architect depicting the entire site and pertinent adjacent areas that identifies the location, quantity, common name, botanical name, and size when planted of all plants and sod/seeded lawn areas. The landscape plan shall also include the total site area in acres and square feet, and the percentage of the site that is landscaped. Any existing trees should be accurately located and the species and size indicated (color exhibit).

(12) Exterior lighting plan depicting all exterior lighting fixtures and related details including, but not limited to, pole, ground and wall-mounted lighting, including photometric analysis.

(13) Roof plan depicting any mechanical equipment.

(14) If applicable, a sign plan including, but not limited to, all ground and wall-mounted signs (color exhibit).

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

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

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

(18) Existing topography on the site with contours at no greater than two-foot intervals.

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

(20) A plan showing how the entire development can be further subdivided in the future.

E. Plan Commission and Town Board Review. The building permit application and completed General Development Plan for a single or mixed use development shall be referred to the Plan Commission for its review and recommendation to the Town Board.

(1) Recommendation. The Plan Commission, in making recommendations for approval, and the Town Board, in making a determination approving a petition for the development, shall find as follows:

(a) That the development works to implement the Town's Comprehensive Plan, Five Corners Master Plan, and the binding Town design guidelines.

(b) That the development will not over burden public services and facilities as recommended by the Plan Commission and determined by the Town Board.

(2) Proposed construction schedule. The Plan Commission and Town Board, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical construction of the proposed development, with commencement of the physical development within one year of approval being deemed reasonable.

(3) Residential considerations. The Plan Commission and Town Board, in making their respective recommendation and determination as to any proposed residential component, shall further consider whether:

(a) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community, and shall be compatible with and not adversely affecting the property values of the surrounding neighborhood

(b) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.

(c) Provision has been made for adequate, continuing fire and police protection.

(d) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.

(e) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.

(4) Commercial considerations. The Plan Commission and Town Board, in making their respective recommendation and determination as to a proposed commercial component, shall further consider whether:

(a) The economic practicality of the proposed development can be justified.

(b) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.

(c) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.

(d) The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.

(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.

(5) Industrial considerations. The Plan Commission and Town Board, in making their respective recommendations and determination as to a proposed industrial component, shall further consider whether:

(a) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.

(b) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.

(c) The proposed development will include provision for off-street parking and truck service areas in accordance with this chapter and will be adequately served by easy-access rail and/or arterial highway facilities.

(d) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(6) Mixed use considerations. The Plan Commission and Town Board, in making their respective recommendation and determination as to a proposed mixed use component, shall further consider whether:

(a) The proposed mixture of uses produces an attractive and compatible development in terms of architectural design, landscaping, control of lighting and general site development that will also be compatible with the surrounding neighborhood and not adversely affect the property values of the surrounding neighborhood.

(b) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.

(c) The proposed development will include provision for off-street parking and truck service areas in accordance with this chapter and will be adequately served by easy-access rail and/or arterial highway facilities.

F. Action by Town Board. The Town Board, upon receipt of recommendation from the Plan Commission, and after due consideration, shall either deny the building permit application, approve the application as submitted or approve the application subject to any additional conditions and restrictions the Town Board may impose.

(1). Approval. The general and detailed approvals of a single or mixed use development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Town Board.

(a) General approval. The general development plan submitted with the single or mixed use development application need not necessarily be completely detailed at the time of petition, provided that it is in sufficient detail to satisfy the Town Board as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building sites. The approval of such general development plan, by way of approval of the application, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.

(b) Detailed approval. Detailed plans must be furnished to the Plan Commission and Town Board for their consideration, and the detailed approval by the Town Board of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will be approved, the petitioner shall give satisfactory proof that he has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Town Board.

G. Changes and additions. Any subsequent substantial change or addition to the plans or uses shall first be submitted for approval to the Plan Commission, and if, in the opinion of the Plan Commission, such change or addition constitutes a substantial alteration of the original application, it shall make its recommendation to the Town Board for their consideration. The Town Board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.



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

(The text modified with a strikethrough shall be deleted).

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

**PASSED AND ADOPTED** by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, this 7<sup>th</sup> day of October, 2009.



David M. Valentine

Town Chairman



Dawn Priddy

Town Clerk