

CHAPTER 14

ZONING CODE

- 14.01 Intent
- 14.02 Interpretation and Purposes
- 14.03 Districts Established
- 14.04 District Boundaries
- 14.05 Definitions
- 14.06 Building Permit Required
- 14.07 Compliance with Regulations Required
- 14.08 Location on Lot Required
- 14.09 Loading Space Required for Lots Abutting Alleys
- 14.10 Public Gathering Places, Parking Space Required
- 14.11 Yard Requirements Where Different Districts Abut
- 14.12 Development Plans
- 14.13 Special Authority
- 14.14 Height and Area Exceptions
- 14.15 Annexation
- 14.16 Signs
- 14.17 Traffic, Parking and Access
- 14.18 R-1, Single-Family Residential District
- 14.19 B-1, Business District
- 14.20 M-1, Industrial District
- 14.21 M-2, Quarrying District
- 14.22 A-I, Agricultural District
- 14.23 C-1, Conservancy District
- 14.24 F-1, Floodway District
- 14.25 F-2, Flood Plain District
- 14.255 Groundwater Protection Overlay (GPO) District
- 14.26 Conditional Uses
- 14.27 Nonconforming Uses
- 14.28 Amendments
- 14.29 Board of Zoning Appeals
- 14.30 Enforcement
- 14.31 Penalty
- 14.185 RB-1, Residential/Business District

14.01 INTENT. It is the general intent of this chapter to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence and other purposes; and to divide the Village into districts of such number, shape and area as are deemed best suited to carry out the purposes; and to provide a method for its administration and enforcement and provide penalties for its violation.

14.02 INTERPRETATION AND PURPOSES. The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village. It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easement, covenant or agreement between parties or with any rules, regulations or permits previously adopted or issued pursuant to law; provided, however, where this chapter imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.

14.03 DISTRICTS ESTABLISHED. For the purpose of this chapter, the Village is divided into eight districts, as follows:

- R-1 Single-Family Residential District
- B-1 Business District
- M-1 Industrial District
- M-2 Quarrying District
- A-1 Agricultural District
- C-1 Conservancy District
- F-1 Floodway District
- F-2 Flood Plain District
- GPO Groundwater Protection Overlay District (Created Ord 228)

14.04 DISTRICT BOUNDARIES.

(1) MAP. The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map, Village of Belmont, Wisconsin", dated July 18, 1978, which map is made a part of this chapter. All amendments to the Zoning Map shall be made by the Building Inspector. A record of all amendments shall be kept on file in the offices of the Clerk-Treasurer.

(2) STREET AND ALLEY LINES. The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the Zoning Map indicates that the various districts are approximately bounded by a street or alley line, such street or alley line shall be construed to be the district boundary line.

(3) LOT LINES. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the Zoning Map are

approximately bounded by lot lines, such lot line shall be construed to be the boundary of the district.

(4) UNSUBDIVIDED PROPERTY. In unsubdivided property, the district boundary lines shown on the Zoning Map shall be determined by the use of the scale shown on such map.

14.05 DEFINITIONS. For the purposes of this chapter, the following definitions shall be used:

(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) ALLEY. A special public right of way affording only secondary access to abutting properties.

(3) APARTMENT HOUSE. See "Dwelling, Multiple".

(4) ARTERIAL STREET. A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

(5) BASEMENT. That portion of any structure located partly below the average adjoining lot grade.

(6) BOARDINGHOUSE. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for 4 or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

(7) 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.

(8) BUILDING AREA. The total living 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.

(9) BUILDING HEIGHT. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.

(10) CONDITIONAL USES. Uses of a special nature as to make impractical their predetermination as a principal use in a district.

(11) CORNER LOT. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

(12) DWELLING. A building or portion thereof designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

(13) DWELLING UNIT. A room or suite of rooms used as a single-family dwelling including bath and culinary accommodations.

(14) DWELLING, ONE-FAMILY. A detached building designed for or occupied exclusively by one family.

(15) DWELLING, TWO-FAMILY. A detached or semi-detached building designed for and occupied exclusively by two families.

(16) DWELLING, MULTIPLE. A building or portion thereof designed for and occupied by more than 2 families including tenement houses, row houses, apartment houses and apartment hotels.

“(17) FAMILY. One (1) or more persons immediately related by blood, marriage, or adoption and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this Chapter if he is dwelling for the purpose of adoption or for a foster care program. Exceptions: Nothing in this Chapter shall prohibit, under the definition of “Family.” Priests, laybrothers, nurses or such other collective body of persons living together in one (1) house under the same management and care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in Missionaries of Our Lady of LaSalette vs. Village of Whitefish Bay Board of Zoning Appeals, 267 Wis. 609, which is hereby incorporated by reference.”

(18) FRONTAGE. The smallest dimension of a lot abutting a public street measured along the street line.

(19) HOUSEHOLD OCCUPATION. Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed 25 percent of the area of any floor, uses only household equipment, and no stock in trade is kept or sold except that made on the premises. A household occupation includes uses such as babysitting, millinery, dressmaking, laundering and crafts, but does not include the display of any goods nor such occupations as barbering, beauty shops, dance schools or photographic studios.

(20) LIVING ROOMS. All rooms within a dwelling except closets, foyers, storage areas, utility rooms and bathrooms.

(21) LOADING AREA. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

(22) 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, yard, parking area and other open space provisions of this chapter.

(23) LOT LINES AND AREA. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

(24) MINOR STRUCTURES. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under 4 feet in height.

(25) MOTEL. A series of attached, semi attached or detached sleeping units for the accommodation of transient guests.

(26) NONCONFORMING USES OR STRUCTURES. Any structure, land or water lawfully used, occupied or erected July 20, 1978, or the date of amendments thereto which does not conform to the regulations of this chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

(27) PARKING LOT. A structure or premises containing 10 or more parking spaces open to the public for rent or a fee.

(28) **PARKING SPACE.** A graded and surfaced area of not less than 9 feet by 20 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.

(29) **PARTIES IN INTEREST.** Includes all abutting property owners, all property owners within 100 feet and all property owners of opposite frontages.

(29a) **POWTS.** A private onsite waste water treatment system (POWTS) as defined at s. Com 81.01(194), Wis. Adm. Code. (Created Ord. 228)

(30) **PROFESSIONAL HOME OFFICES.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one half the area of only one floor of the residence and only one nonresident person is employed.

(31) **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.

(32) **SETBACK.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps.

(33) **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 street.

(34) **SIGNS.** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, 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.

(35) **STREET YARD.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards.

(36) **STREET.** A public right of way dedicated for public travel not less than 50 feet wide providing primary access to abutting properties.

(37) **STRUCTURE.** Anything erected or constructed such as buildings, towers, masts, poles, booms, signs, decorations and carports.

(38) **STRUCTURAL ALTERATIONS.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.

(39) **TEMPORARY STRUCTURE.** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

(40) **UTILITIES.** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

(41) **VISION CLEARANCE.** An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

(42) **YARD.** An open space on the same lot with a structure, unoccupied and

unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

(43) **MANUFACTURED HOME.** (created Ord. #146) "Manufactured home" means a structure certified and labeled as a manufactured home under 42 U.S.C. Secs. 5401 to 5436.

14.06. BUILDING PERMIT REQUIRED.

(1) **APPLICATION.** No building or part thereof shall be erected within the Village, until a permit therefore is obtained by the owner, or his authorized agent, from the building inspector. The term "building" as used in this section shall include any building or structure and any enlargement, alteration, heating or ventilating installation, or anything affecting the fire hazard or safety of any building or structure. The application shall include the following where applicable:

- (a) For new buildings and additions to buildings:
 1. Name of owner.
 2. Address and lot and block numbers where construction is proposed.
 3. A plot plan showing the size and location of the building or addition and distances to all lot lines.
 4. The intended use of the building or addition.
 5. The estimated cost of materials and labor.
- (b) For remodeling:
 1. Name of owner.
 2. Address of premises where remodeling is proposed.
 3. A description of the remodeling.
 4. The estimated cost of labor and materials.
 5. Any change of use, resulting from remodeling.

(2) **EXCEPTIONS.**

(a) Remodeling. No permit is required if the estimate cost of the proposed remodeling is less than \$1,000.00, including the fair market value of the labor of the owner or others.

(b) Replacements. No permit is required for replacement roofs, furnaces or fixtures. Replacement windows are also exempt if replaced with ones of equal size and area.

(c) One and Two Family Dwellings. (created Ord. #183) No building permit is required under this chapter for the construction or remodeling of buildings for which a building permit is required under Chapter 21 of this code. In lieu of a building permit under this section, a Zoning Permit must be obtained from the Zoning Administrator prior to applying for a building permit under Chapter 21 to ensure that all requirements of this Chapter have been met. The fees applicable to building permits under s. 14.06(3) shall be paid for Zoning Permits issued pursuant to this subsection in addition to any fees required under Chapter 21.

(3) **BUILDING PERMIT FEE.** The building permit fee shall be \$1.00 for each \$1,000.00 or part thereof of the cost of the proposed building, addition, or alteration up to \$25,000.00, plus \$.50 for every additional \$1,000.00 or part thereof up to \$50,000.00, plus \$.25 for every \$1,000.00 or part thereof in excess of \$50,000.00. The minimum fee shall be \$5.00.

(4) **GRANT OR DENIAL OF PERMIT.** The building permit shall be granted or denied by the building inspector within 30 days. In the event the permit is denied the Building

Inspector shall state the reasons therefore in writing. The permit shall expire within 6 months unless substantial work has commenced. Any permit issued in conflict with the provisions of this chapter shall be null and void.

(5) **APPEAL.** Any person aggrieved by any decision of the Building Inspector may file a written appeal with the Zoning Board of Appeals within 30 days.

14.07 COMPLIANCE WITH REGULATIONS REQUIRED.

(1) Except as otherwise provided, the use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.

(2) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area and yard regulations hereby established for the district in which a building or premises is located.

(3) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.

14.08 LOCATION ON LOT REQUIRED. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main building on one lot.

14.09 LOADING SPACE REQUIRED FOR LOTS ABUTTING ALLEYS. In any business or industrial district, wherever a lot abuts upon a public or private alley, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any business or industrial use so that the alley shall be, at all times, free and unobstructed to the passage of traffic.

14.10 PUBLIC GATHERING PLACES, PARKING SPACE REQUIRED. All theaters, auditoriums, churches or other places of public gathering hereafter erected shall provide an accessible parking space of sufficient size to accommodate at least one car for every 5 seats provided.

14.11 YARD REQUIREMENTS WHERE DIFFERENT DISTRICTS ABUT. (rev. and rec. Ord. #203)

(a) Any property zoned as a residential (R) zoning district after December 28, 2006, which abuts a quarrying (M-2) zoning district shall have a minimum setback of 400 feet from the district boundary line. Similarly, any property zoned as quarrying (M-2) after December 28, 2006, which abuts a residential (R) zoning district shall have a minimum setback of 400 feet from the district boundary line.

(b) Any other yard abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards in the two districts which abut the district boundary line.

14.12 DEVELOPMENT PLANS. When a housing project consisting of a group of 2 or

more buildings is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this chapter to the individual units, the Plan Commission may approve a development plan provided it complies with the regulation of this chapter as applied to the whole plat.

14.13 SPECIAL AUTHORITY. The Plan Commission, after notice and public hearing and subject to appropriate conditions and safeguards in harmony with the general purposes of this chapter, may authorize the location of any of the following buildings or uses in any district from which they are excluded by this chapter, provided that such building or use shall comply with all other regulations in the district in which it is proposed to be relocated:

- (1) Nurseries and greenhouses for the propagation and cultivation of plants.
- (2) Private clubs and lodges, excepting those the chief activity of which is a service customarily carried on as a business.
- (3) Hospitals and clinics.
- (4) Institutions of an educational, philanthropic or eleemosynary nature.
- (5) Cemeteries.
- (6) Storage garage or parking area in connection with a housing development project.
- (7) Sewage disposal plants.
- (8) Buildings or premises for such public utility purposes as are reasonably necessary for public convenience and welfare.
- (9) Day care centers.

14.14 HEIGHT AND AREA EXCEPTIONS. The regulations contained herein relating to the height of buildings and size of yards and other open spaces shall be subject to the following exceptions:

- (1) Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 35 feet nor 2 stories.
- (2) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tanks, water towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, micro-wave radio relay structures and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the Village.
- (3) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
- (4) Buildings on through lots and extending from street to street may have the requirements waived for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
- (5) Accessory buildings which are not a part of the main building shall not occupy more than 30% of the area of the required rear yard, shall be not more than 12 feet high, and shall be not nearer than 3 feet to any lot line.
- (6) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and

ornamental features projecting not more than 12 inches.

(7) Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet and into a required court not more than 3-1/2 feet, provided it be so located as not to obstruct light and ventilation.

(8) All fences placed on lands within the Village shall comply with the provisions of this subsection.

(a) For the purpose of this chapter, fence is herein defined as an enclosing barrier consisting of vegetation, wood, stone or metal, intended to prevent straying from within or intrusion from without.

(b) Fences shall not exceed 4 feet in height and shall not be closer than one foot from adjoining property lines.

(c) Fences exceeding 4 feet in height shall be classified as screens and shall conform to minimum setback and side yard requirements as a structure in the zoned district.

(d) Barbed wire, electrical and single, double or triple strand fences are prohibited except in areas zoned and used for agricultural purposes.

(e) Fences on junk yards and on publicly owned lands or semi-public lands such as churches, schools, educational institutions, utility substations, etc. are excluded from the provisions of this subsection except that such fences that incorporate the use of barbed wire, such barbed wire shall not be less than 7 feet above ground level.

14.15 ANNEXATION. Annexations to or consolidations with the Village subsequent to the effective date of this Code shall be placed in the A-1 Agricultural District unless the annexation ordinance temporarily places the land in another district. Within one year the Plan Commission shall evaluate and recommend a permanent district classification to the Village Board.

14.16 SIGNS.

(1) PERMIT REQUIRED. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit, except those signs excepted in sub. (2) and without being in conformity with the provisions of this chapter.

(2) SIGNS EXCEPTED. All signs are prohibited in all Residential Districts except the following:

(a) Real Estate Signs not to exceed 6 square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

(b) Name, Occupation and Warning Signs not to exceed one square foot located on the premises.

(c) Bulletin Boards for public, charitable or religious institutions not to exceed 15 square feet in area located on the premises.

(d) Memorial Signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(e) Official Signs such as traffic control, parking restrictions, information and notices.

(f) Temporary Signs or banners when authorized by the Village Board.

(3) SIGN RESTRICTION. Signs are permitted in all Business and Industrial

Districts subject to the following restrictions:

(a) Wall Signs placed against the exterior walls of buildings shall not extend more than 6 inches outside of a building to wall surface, shall not exceed 500 square feet in area for any one premises, and shall not exceed 20 feet in height above the mean centerline street grade.

(b) Projecting Signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for anyone premises; shall not extend more than 9 feet into any public right of way and in no case will the sign extend beyond the back of the curb line; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean centerline street grade; and shall not be less than 15 feet above a driveway and 12 feet above a sidewalk.

(c) Ground (“free-standing”) Signs. (Revoked and Reconstituted Ord. #224) Signs shall not exceed 40 feet in height above the mean centerline street grade and shall meet all the yard requirements for the district in which they are located, and shall meet the following additional requirements:

1. On-premises Ground Signs shall not exceed 300 square feet in size. Except as provided under s. (1a) below, no more than one (1) on-premises ground sign shall be permitted on any one premises. For purposes of this section, a “premises” is defined as a surveyed or platted lot or parcel upon which the principal structure or building of the business or industry is located. No on-premises ground sign shall be located on a premises that is less than ½ acre in size. Reduction in the size of the premises to less than ½ acre shall require removal of the ground sign.

(1a) A conditional use permit may be granted for an additional on-premises ground sign provided that the following conditions are met:

a. The additional ground sign shall be located at least 20 feet away from outer edge to outer edge at widest point of any other ground sign on the premises.

b. No ground sign may be connected to any other ground sign (signs located on the same pole are excluded from this prohibition).

c. The premises must be at least 2 acres in size.

d. The additional ground sign located on the same premises may not exceed 150 square feet in size.

e. The ground sign must comply with all other conditions as may be deemed necessary by the Planning Commission or Village Board.

(d) Roof Signs shall not exceed 10 feet in height above a roof, shall meet all the yard and height requirements for the district in which it is located, and shall not exceed 300 square feet on all sides for any one premises.

(e) Combinations of any of the above signs shall meet all the requirements for the individual sign.

(4) **TRAFFIC.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

(5) **EXISTING SIGNS.** Any sign which was a nonconforming sign on July 20, 1978, or which becomes a nonconforming sign at any future date, may be continued provided that no

increase in size, illumination or flashing of such sign shall be made.

14.17 TRAFFIC, PARKING AND ACCESS.

(1) **TRAFFIC VISIBILITY.** No obstructions such as structures, parking or vegetation shall be permitted in any district between the heights of 2 ½ feet and 10 feet above the plane through the mean curb-grades within the triangular space formed by any 2 existing or proposed intersecting streets and a line joining points on such lines located a minimum 15 feet from their intersection.

In the case of arterial streets intersecting with other arterial streets, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet.

(2) **LOADING REQUIREMENTS.** In all districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(3) **PARKING REQUIREMENTS.** In all districts and in connection with every use, there shall be provided at the time any use of building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:

(a) Adequate Access to a public street shall be provided for each parking space, and driveways shall be at least 10 feet wide for one and two-family dwellings and a minimum of 24 feet for all other uses.

(b) Size of each parking space shall be not less than 9 feet by 20 feet exclusive of the space required for ingress and egress.

(c) Location to be on the same lot as the principal use or not over 400 feet from the principal use. No parking stall or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street line opposite a residential district lot line or a street line opposite a residential district.

(d) Surfacing. All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained. Any parking area for more than 5 vehicles shall have the aisles and spaces clearly marked.

(e) Curbs or Barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.

(f) Number of Parking Stalls.

Single-family dwellings and mobile homes	2 stalls for each dwelling unit
Multi-family dwellings	1-1/2 stalls for each dwelling unit
Motels and hotels	1 stall for each guest room plus 1 stall for each 3 employees

Churches, theaters, auditoriums, community centers and other places of public assembly	1 stall for each 5 seats
Secondary and elementary schools	1 stall for each 2 employees
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 3 employees

(g) Uses Not Listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.

(h) Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.

(4) DRIVEWAYS. All driveways installed, altered, changed, replaced or extended after July 20, 1978, shall meet the following requirements:

(a) Openings for vehicular ingress and egress for residential occupancy shall not exceed 24 feet at the street line and 30 feet at the roadway. For all other uses openings will be determined by the Board of Public Works.

(b) Vehicular entrances and exits to banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, church, park, playground, library, public emergency shelter or other place of public assembly.

(5) HIGHWAY ACCESS. No direct private access shall be permitted to the existing or proposed rights of way, not 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) Arterial streets intersecting another arterial street within 100 feet of the intersection of the right of way lines.

(b) Street intersecting an arterial street within 50 feet of the intersection of the right of way lines.

14.18 R-I. SINGLE-FAMILY RESIDENTIAL DISTRICT.

(1) PERMITTED USES.

(a) Single family dwelling (amend Ord. #146) includes a manufactured home as defined in Sec. 14.05(43).

(b) Accessory buildings and one private garage.

(c) Home occupations not involving conduct of a business. [See Sec. 14.05(19)]

(d) Professional offices. [See Sec. 14.05(30)]

(2) SINGLE FAMILY HEIGHT AND AREA REQUIREMENTS.

(a) Lots.

1. Minimum width. 60 feet.

2. Minimum area. 7,200 square feet.

(b) Setback and Yard Requirements.

1. Front. A minimum of 25 feet or average of setback of adjoining

lots.

2. Side. A minimum of 10 feet.
3. Rear. A minimum of 15 feet.

(c) Building. (amend Ord. 146)

1. Area. A minimum of 800 square feet.
2. Height. A maximum of 35 feet.
3. Width. A minimum of 24 feet.
4. Roof pitch. A minimum of 3-12.
5. Roof overhang. A minimum of 2 ft. sides, 1 ft. ends.
6. Permanent foundation required.
7. Must meet approval of the building inspector.

(d) Garage. (create Ord. 146),

1. Must conform with other buildings in area.
2. No vertical steel siding or metal roofs.
3. Must meet approval of the building inspector.

(3) **CONDITIONAL USES.**

- (a) Multi-Family dwellings. (See sub. (4) below).
- (b) Uses set forth in Sec. 14.26(7) and (8) of this chapter.

(4) **MULTI-FAMILY HEIGHT AND AREA REQUIREMENTS.**

(a) Lots.

1. Minimum width. 120 feet.
2. Minimum area, 14,000 square feet, with no less than 2,500 square feet for one-bedroom units and no less than 3,000 square feet for two-bedroom units.

(b) Setback and Yard Requirements.

1. Front. Minimum of 25 or average of setback of adjoining lots.
2. Side. Minimum of 15 feet.
3. Rear. Minimum of 15 feet.

(c) Building.

1. Area. Minimum of 600 square feet per unit for two-family units and 500 square feet per unit for multi-family units.
2. Height. Maximum of 35 feet.

14.185 RB-1 RESIDENTIAL/BUSINESS DISTRICT (Created Ord 229)

(1) **PURPOSE.** The RB-1 Residential/Business District is established to provide for residential and commercial use of property and is intended to permit dual uses of buildings and to act as a transition district between commercial and residential uses of property.

(2) **PERMITTED USES.**

- (a) All permitted uses in the R-1 District.
- (b) Two-family dwellings.
- (c) Home occupations and professional home offices.
- (d) Businesses that are consistent with dual residential use:

- i. Professional offices
- ii. Barber/beauty shops
- iii. Photography studios
- iv. Child care facilities and preschools
- v. Fitness and dance studios
- vi. Bed and breakfast establishments
- vii. Funeral homes
- viii. Catering
- ix. Insurance and travel agencies
- x. Laundromats
- xi. Bar and/or Restaurant

- (e) Customary accessory uses.
- (f) Signs as permitted in Ch. 14 of this Code.

(3) **CONDITIONAL USES.**

- (a) All uses permitted in the B-1 District other than those listed as permitted uses under (2) above.
- (b) Governmental administrative and protective facilities such as municipal halls and fire and police stations.

(4) **MINIMUM STANDARDS FOR THE RB-1 DISTRICT.**

- (a) Setback and Yard Requirements.
Rear. Minimum of 15 feet
- (b) Principal Building.
 - 1. Area. Minimum of 800 square feet
 - 2. Height. Maximum of 35 feet
- (c) Accessory buildings.
 - 1. Side and rear yard construction only.
 - Side yard Minimum of 8 feet
 - Rear yard Minimum of 8 feet
 - 2. Building height Maximum of 15 feet

14.19 **B-1. BUSINESS DISTRICT.**

(1) **PERMITTED USES.** Appliance stores, bakeries, barber shops, bars, beauty shops, business offices, clinics, clothing stores, clubs, cocktail lounges, drug stores, electrical supply, fitness center/health club, florists, furniture stores, gift stores, grocery stores, hardware stores, hearing supply, house occupations, hobby shops, meat markets, music stores, newspaper offices, office supplies, optical stores, packaged beverage stores, plumbing supplies, professional

offices, restaurants, self-service and pickup laundry and dry cleaning establishments, soda fountains, sporting goods, supermarkets, upholsterer's shops and variety stores.

- (2) HEIGHT REQUIREMENT. Maximum 35 feet.
- (3) SETBACK AND YARD REQUIREMENTS. None.
- (4) CONDITIONAL USES.

(a) Apartment hotels, caterers, churches, repair shops, crockery stores, department stores, financial institutions, fitness center, furniture upholstery shops, hotels, press rooms, night clubs, pawn shops, personal service establishments, pet shops, places of entertainment, printing, private clubs, publishing, signs, and trade and contractor's offices.

- (b) Uses as set forth in Sec. 14.26(7), (8) and (9) of this chapter.

14.20 M-1, INDUSTRIAL DISTRICT.

(1) PERMITTED USES. Any use permitted in the Business District and freight yards, freight terminals and transshipment, creameries, depots, inside storage, brewers, cheese factories, printing and light manufacturing, except paper making, tanning leather, manufacturing of glue and canning.

- (2) CONDITIONAL USES.

(a) Uses set forth in Sec. 14.26(10) of this chapter.

(b) Manufacturing excluded in sub. (1) above.

(c) Uses set forth in Sec. 14.26(9) of this chapter only on property in the Industrial District that is located within 1,500 feet of the right of way of U.S. Highway 151.

- (3) SETBACK AND YARD REQUIREMENTS.

(a) Front. Minimum of 25 feet.

(b) Side. Minimum of 20 feet.

(c) Rear. Minimum of 20 feet.

14.21 M-2, QUARRYING DISTRICT.

(1) PERMITTED USES. Mineral extraction operations existing on July 20, 1978, including gravel and lime.

(2) CONDITIONAL USES. Extension of legally existing mineral extraction operations permitted under sub. (1) above or new mineral extraction operations, manufacture of concrete and concrete products and utilities. (See also Sec. 14.26(11) of this chapter)

- (3) SETBACK REQUIREMENTS.

(a) Minimum of 200 feet from any right of way or property line.

(b) Minimum of 100 feet for accessory uses such as offices, parking areas and stock piles.

- (4) HEIGHT LIMITATION. Maximum of 45 feet.

14.22 A-1, AGRICULTURAL DISTRICT.

(1) PERMITTED USES. Agriculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, stables, truck farming and viticulture. Farm dwellings for those resident owners and laborers actually engaged in the principal permitted uses are accessory

uses and shall comply with all the provisions of the R-1 Residential District.

- (2) **CONDITIONAL USES.** See Sec. 14.26(7) and (10) of this chapter.
- (3) **PROHIBITED USES.** Feed lots, finishing lots and dairy parlors are prohibited within the Village limits.
- (4) **FARM HEIGHT AND AREA REQUIREMENTS.**
 - (a) Frontage. Minimum of 200 feet. Area. Minimum of 10 acres.
 - (b) Building Height. Maximum of 35 feet, except silos.
- (5) **SETBACK AND YARD REQUIREMENTS.**
 - (a) Front. Minimum of 80 feet.
 - (b) Side. Minimum of 50 feet.
 - (c) Rear. Minimum of 50 feet.

14.23 CONSERVANCY DISTRICT.

- (1) **PERMITTED USES.** Public parks and public or private wildlife preserves.
- (2) **CONDITIONAL USES.** Private parks and outdoor recreational uses.

14.24 F-1, FLOODWAY DISTRICT

- (1) **PERMITTED USES.** Drainage, movement of flood water, navigation, stream bank protections, water measurement and water control facilities.
- (2) **CONDITIONAL USES.** Grazing; horticulture; open parking and loading areas; open markets; open recreational uses such as parks, sport fields, fishing, camping, playgrounds, skating rinks, golf courses and driving ranges; outdoor plant nurseries; pasturage; parks; sod farming; transient amusements uses such as circuses and carnivals; truck farming; utilities; viticulture; wild crop harvesting; and wildlife preserves. The above uses shall not involve the dumping, filling or any other use that would obstruct the floodway, retard drainage or retard the movement of flood waters.
- (3) **STRUCTURES PROHIBITED.** No structure shall be permitted except navigation and water measurement and water control facilities.

14.25 F-2, FLOOD PLAIN DISTRICT.

- (1) **PERMITTED USES.** Flood overflows, impoundments, parks, sustained yield forestry, fish hatcheries, wildlife preserves, water measurement and control facilities.
- (2) **CONDITIONAL USES.**
 - (a) All uses permitted in the A-1 Agricultural District except residential uses; and except the caging of animals; warehousing, storage, parking and loading areas. The above uses shall not include the storage of materials that are buoyant, flammable, explosive or injurious to human, animal or plant life, nor substantially reduce the flood water storage capacity of the flood plain.
 - (b) See Sec. 14.26(7) and (10) of this chapter.
- (3) **BUILDING REQUIREMENTS.** All buildings shall have their first floors constructed at an elevation no less than 2 feet above the level of the 25 year recurrent interval flood; or the standard project flood.

14.255 GROUNDWATER PROTECTION OVERLAY (GPO) DISTRICT (Created Ord 228)

(1) STATEMENT OF PURPOSE.

(a) Village residents depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this section is to institute land use regulations and restrictions to protect the Village's municipal water supply, and to promote the health, safety and general welfare of the residents of the Village.

(b) This section, which may be cited and referred to as the Village of Belmont Wellhead Protection Ordinance, institutes land use regulations and restrictions in the Groundwater Protection Overlay District in order to protect the portion of the recharge area for the Village wells that lies within the Village's limits. The recharge areas for the Village wells are that land areas which contribute water to the Village wells by infiltration of water into the subsurface and movement with groundwater toward the wells.

(c) It is further intended that the Groundwater Protection Overlay District shall be operated in conjunction with the regulations governing the underlying zoning districts and other overlay districts, if any, in the subject area. Uses permitted by such other districts, but subject to the provisions of this section, may not be undertaken unless they are also permitted by the terms of this section. In the event of conflicting standards between the underlying zoning and these groundwater regulations, the more restrictive will apply. If conditional use permits are required for both this overlay district and the underlying zoning district for a proposed use, the processing of the two permits shall be treated separately under the terms applicable to each district.

(d) The boundary of the Groundwater Protection Overlay District is described in the Village of Belmont Wellhead Protection Plan dated November, 2013 as "Wellhead Protection Area(s)", and are fully incorporated by reference into this ordinance. A copy of the Wellhead Protection Plan can be obtained from the Village Clerk.

(2) PRINCIPAL PERMITTED USES. Uses within the Groundwater Protection Overlay District must be permitted uses in the underlying zoning district as well as in this overlay district. The following are permitted uses within the Groundwater Protection Overlay District provided the separation distances set forth in subsection (5) are maintained.

(a) Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.

(b) Playgrounds.

(c) Wildlife areas.

(d) Non-motorized trails, such as bike, skiing, nature and fitness trails.

- (e) Municipally-sewered residential development, free of:
 1. Underground storage tanks containing flammable and combustible liquid; and
 2. Aboveground storage tanks larger than 20 gallons in size, containing flammable and combustible liquid other than heating oil or propane.

(f) Municipally-sewered business development zoned B-1 or M-1, except for the following uses, which are conditional uses under subsection (3) below:

1. Above-ground storage tanks.
2. Asbestos product sales.
3. Automotive service and repair garages, body shops.
4. Blue printing and photocopying services.
5. Car washes.
6. Equipment repair services.
7. Laundromats and diaper services.
8. Dry cleaning.
9. Gas stations.
10. Holding ponds or lagoons.
11. Infiltration ponds.
12. Nurseries, lawn and garden supply stores.
13. Small engine repair services.
14. Underground storage tanks.
15. Wells, private, production, injection or other.
16. Any other use determined by the Village Board to be similar in nature to the above listed items.

(g) Agricultural uses in accordance with the Lafayette County land conservation department's best management practices guidelines and the requirements of the A-1 zoning district.

(3) **CONDITIONAL USES.** The uses listed above in subsection (2)f are conditional uses. Although they are conditional uses, the presumption is that these uses are disfavored and that a conditional use permit will not be granted unless conditions may be imposed that will ensure to a reasonable degree of certainty to the Village's satisfaction that the groundwater will be protected. An application for a conditional use permit shall be processed in accordance with section 14.26 of as supplemented by the terms of this section.

(4) **PROHIBITED USES.** All uses not expressly identified as permitted or conditional uses are prohibited within the Groundwater Protection Overlay District. Consistent with section 14.29(3)(b), no use variances shall be granted.

(5) **SEPARATION DISTANCES FROM WELL.** Uses shall maintain the following minimum separation distances within the Groundwater Protection Overlay District.

(a) Fifty feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints.

(b) Two hundred feet between a well and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.

(c) Three hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of s. Comm 10.260, Wis. Admin. Code, and receive written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(d) Three hundred feet between a well and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of s. Comm 10.260, Wis. Admin. Code, and receive written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(e) Four hundred feet between a well and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.

(f) Six hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. Comm 10.260, Wis. Admin. Code, and receive written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(g) One thousand feet between a well and land application of municipal, commercial, or industrial waste; the boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.

(h) Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110, Wis. Admin. Code, for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

(6) **CONDITIONAL USE APPLICATIONS.** Section 14.26 shall apply to all applications for conditional use permits under this section except as expressly modified by this section.

(a) Required Application Materials. In addition to the application materials required under section 14.26(2), each application for a conditional use permit under this section shall include the following:

1. A statement with supporting evidence showing that the use seeking the proposed conditional use shall conform to the standards set forth in subsection (6)(c) below.
2. An operational plan and/or other documentation which describes in detail the use, activities, and structures proposed.
3. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring as required.
4. A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.
5. An environmental risk assessment report prepared by a licensed environmental professional which details the risk to, and potential impact of, the proposed use, activities, and structures on groundwater quality.
6. Additional information deemed necessary to determine and provide for

enforcement of this section may be required.

7. Pre-payment of the required fee.

(b) Referral to Plan Commission. A properly filed application shall be referred to the Plan Commission for its review and determination as to whether a conditional use permit should be issued. Upon receipt of the application, the Plan Commission shall hold a hearing as required under section 14.26(3).

(c) Standards for Conditional Use. In addition to the standards for conditional uses set out in section 14.26(3), the Plan Commission shall apply the following factors:

1. The Village's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.
2. The degree to which the proposed land use practice, activity or facility may threaten or degrade groundwater quality in the Village or the Village's recharge area.
3. The economic hardship which may be faced by the landowner if the application is denied.
4. The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.
5. The proximity of the applicant's property to other potential sources of contamination.
6. The then existing condition of the Village's groundwater public water wells and well fields, and the vulnerability to further contamination.
7. The direction of flow of groundwater and other factors in the area of the applicant's property which may affect the speed of the groundwater flow, including topography, depth of soil, extent of aquifer, depth to water table and location of private wells.
8. Any other hydrogeological data or information which is available from any public or private agency or organization.
9. The potential benefit, both economic and social, from the approval of the applicant's request for a permit.

(d) Types of Conditions Which the Commission May Require. In addition to the conditions and restrictions set out in section 14.26(5), the Plan Commission may stipulate conditions and restrictions including but not limited to the following:

1. A requirement for periodic environmental and safety sampling, testing, and reporting to establish the continued protection of the public water supply. The Village may require an application to install one or more groundwater monitoring well(s), at the expense of the applicant;
2. The establishment of safety structures to prevent groundwater contamination;
3. The establishment of an operational safety plan to define processes and procedures for material containment, operations monitoring, best management practices, and stormwater runoff management to prevent groundwater contamination;
4. Written policies and procedures for reporting and cleaning up any spill of a hazardous material;
5. The provision of copies of all federal, state and local facility operation approvals or certificates, and on-going environmental monitoring results to the Village.
6. A written agreement pursuant to which the applicant agrees to be held financially responsible for all environmental cleanup costs in the event of groundwater contamination;
7. Bonds and/or securities satisfactory to the Village for future monitoring and cleanup costs if groundwater contamination occurs in the future.

The foregoing conditions are listed for illustration purposes and are not exclusive.

(e) Transfers of Interest in Property. Conditional use permits issued under this section are non-transferable to successor owners of the property subject to the permit without the express written consent of the Plan Commission. The Plan Commission may set conditions and restrictions on the transfer including but not limited to a stipulation that the permit shall not be transferred unless the new owner expressly and in writing assumes the same terms, if any, for personal liability as were required of the former owner in the conditional use permit to be transferred. The Plan Commission may also stipulate as a condition of the transfer that the new owner provide assurances and guarantees deemed satisfactory by the Village in its sole discretion that the new owner has at least the same means and ability, including but not limited to insurance, to pay potential liabilities as were required of the former owner in the conditional use permit. Written permission shall be obtained prior to the voluntary transfer of the subject property. When an involuntary transfer occurs, the new owner, trustee, or other successor to an interest in the real property shall apply to the Village within 60 days for permission to continue the use granted by the conditional use permit.

(f) Payment of Costs. The applicant shall be solely and exclusively responsible for any and all costs associated with the application. The conditional use will become effective only

after any costs incurred by the Village during the conditional use application review process and billed to the applicant are paid by the applicant. Those costs may include:

1. The Village's expenses, including consultant's and attorney's fees, if any, associated with the review at the invoiced amount plus administrative costs.
2. The cost of an environmental impact study if so required by the Village or its designee.
3. The cost of groundwater monitoring or groundwater wells if required by the Village or its designee.
4. The costs of an appraisal for the property or other property evaluation expense if required by the Village or its designee.

(7) **EXISTING NON-CONFORMING USES.** Non-conforming uses lawfully in existence within the Groundwater Protection Overlay District at the adoption of the ordinance creating this district may continue to exist in the form and scope in which they existed at that time subject to the provisions of section 14.27. In the event a lawful non-conforming use poses a direct hazard to the Village's public water supply, the Village may take any action permitted by law to abate the hazard.

(8) **NO ACCEPTANCE OF LIABILITY BY VILLAGE.** Nothing in this section shall be construed to imply that the Village has accepted any of an owner or operator's liability if a facility or use, whether permitted as of right or pursuant to a conditional use permit, contaminates groundwater in any aquifer.

(9) **PENALTIES FOR VIOLATION OF GPO RESTRICTIONS.** Violation of this section shall be subject to enforcement and penalties as provided in Section 14.31 of the Zoning Code.

14.26 CONDITIONAL USES.

(1) **CONDITIONS FOR ISSUING A PERMIT.** The Plan Commission may authorize the Building Inspector to issue a conditional use permit for conditional uses after review 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 Village.

(2) **APPLICATION.** Applications for conditional use permits shall be made in duplicate to the Building Inspector on forms furnished by the Building Inspector and shall include the following:

(a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.

(b) 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.

(c) Plat or survey prepared showing all of the information required under Sec. 14.06 for a building permit and, in addition, the following:

1. Existing and proposed landscaping.
2. Additional information as may be required by the Plan Commission; Village Engineer; and Zoning, Building or Health Inspectors.

(d) Fee receipt from the Clerk-Treasurer in the amount of \$75. (Ord. #203)

(3) REVIEW AND APPROVAL. (Re-created Ord. 227) (a) 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.

(b) Hearing on application. Upon receipt of the application and supporting documents referred to in subsection (2), the Plan Commission shall hold a public hearing on each application for conditional use at such time and place as shall be established by the Plan Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

(c) Notice of public hearing shall be given by posting or publication of a Class 1 notice as provided for in chapter 985 of the Wisconsin Statutes. Notice shall also be provided to owners and occupants of land within 100 feet of the property for which a conditional use permit is sought.

(d) Standards. No application for a conditional use shall be granted by the Plan Commission unless the Plan Commission shall find that all of the following conditions are present:

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

(4) **HIGHWAY RESTRICTIONS.** Any development within 500 feet of the existing or proposed rights of way of freeways, expressways, interstate and controlled access trafficways and within 1,500 feet of their existing or proposed interchange or turning lane rights of way shall be specifically reviewed by the highway agency that has jurisdiction over the trafficway. The Plan Commission shall request such review and await the highway agency's recommendations for a period not to exceed 60 days before taking final action.

(5) **CONDITIONAL APPROVAL.** Conditions, such as landscaping, architectural design, type of construction, 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.

(5m) (Created Ord. #203) In the event the Plan Commission denies an application for a conditional use permit, the applicant may not file an application requesting the same conditional use permit for a period of six (6) months from the date of the denial.

(6) **COMPLIANCE.** Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic and highway access, shall be required of all conditional uses. Variances shall only be granted as provided by Sec. 14.29(3)(b).

(7) **PUBLIC AND SEMIPUBLIC USES.** The following public and semipublic uses shall be conditional uses and may be permitted as specified:

(a) Airports, airstrips and landing fields in A-1 Agricultural District and F-2 Flood Plain District, provided the site area is not less than 20 acres.

(b) Governmental and cultural uses such as fire and police stations, churches, community centers, libraries, public emergency shelters, parks, playgrounds and museums, in all residential, business and industrial districts.

(c) Utilities in all districts provided all principal structures and uses are not less than 50 feet from any residential district lot line.

(d) Public, parochial and private elementary and secondary schools and churches in the residential and business district provided principal structures are not less than 30 feet from any lot line.

(e) Colleges; universities; hospitals; sanitariums; religious, charitable, penal and correctional institutions; cemeteries and crematories in the A-1 Agricultural District provided all principal structures and uses are not less than 50 feet from any lot line.

(f) Rest homes, nursing homes, homes for the aged and children's nurseries in the residential districts provided all principal structures and uses are not less than 50 feet from any lot line.

(8) **RESIDENTIAL USES.** The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

Planned residential developments such as cluster developments, multi-family apartments, garden apartments, row housing and group housing in the residential district. The district regulations may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be not greater than that permitted for the district in which it is located. The proper preservation, care and maintenance by the original and all subsequent owners of the exterior design; all common structures, facilities, utilities, access and open spaces shall be assured by deed restrictions enforceable by the Village. The following

provisions shall be complied with:

(a) Lot Requirements.

1. Area. Minimum of 2/3 of the minimum lot area for the district in which located. Minimum of 3,000 square feet for row houses.

2. Width. Minimum of 2/3 of the minimum lot width for the district in which located. Minimum of 20 feet for row houses.

(b) Building Requirements.

1. Area. Minimum building area for the district in which located.

2. Height. Maximum of 35 feet.

3. Rooms. All living rooms shall have windows opening onto a yard.

(c) Yards.

a. Front. Minimum of 25 feet.

b. Rear. Minimum of 50 feet except duplexes which shall be a minimum of 15 feet.

c. Side. Minimum of 20 feet from street rights of way, exterior property lines of the development and other buildings, except duplexes which shall meet single family residence requirements.

(9) HIGHWAY ORIENTED USES. The following commercial uses shall be conditional uses and may be permitted as specified:

(a) Drive-in establishments serving food or beverages for consumption outside the structure in the business or industrial district.

(b) Motels in the business or industrial district.

(c) Funeral homes in the business or industrial district provided all principal structures and uses are not less than 25 feet from any lot line.

(d) Drive-in banks in the business or industrial district.

(e) Tourist homes in the business or industrial district provided such district is located on a state trunk or U. S. numbered highway.

(f) Vehicle sales, service, washing and repair stations, convenience stores, garages and public parking lots in the business or industrial district provided all gas pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed street line.

(g) Any development within 500 feet of the existing or proposed rights of way of freeways, expressways, interstate and controlled access traffic ways and within 1,500 feet of their existing or proposed interchange or turning lane rights of way shall be deemed to be conditional uses; and no structures shall be erected closer than 50 feet to their rights of way.

(10) INDUSTRIAL AND AGRICULTURAL USES. The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

(a) Animal hospitals in the A-1 Agricultural and Industrial District, provided all principal structures and uses are not less than 100 feet from any residential district.

(b) Disposal areas, incinerators and sewage disposal plants in all districts except residential districts and floodway districts. Municipal earth and sanitary landfill operations may be permitted in the Agricultural District according to DNR rules and regulations.

(c) Commercial raising, propagation, boarding or butchering of animals such as dogs, mink, rabbits, foxes, goats and pigs; the commercial production of eggs; and the hatching, raising, fattening or the butchering of fowl in the A-1 Agricultural District, butchering, creameries and condenseries in the Industrial District.

(d) Manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal, tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickle, plaster of paris, plastics, poison, polish, potash, pyroxylin, radium, rope, rubber, sausage, shoddy, shoe and lampblacking, size, starch, stove polish, textiles and varnish. Manufacturing, processing and storage of building materials, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, shellac, soap, turpentine, vinegar and yeast. Manufacturing and bottling of alcoholic beverages. Bag cleaning, bleacheries, canneries, cold storage warehouses; electric and steam generating plants; electroplating; enameling; forges, foundries; garbage; incinerators; lacquering; lithographing; offal, rubbish or animal reduction; oil, coal and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving in the Industrial District and shall be at least 600 feet from Residential Districts.

(e) Outside storage and manufacturing areas in the Industrial District. Wrecking, junk, demolition and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right of way and shall be at least 600 feet from residential districts.

(f) Commercial service facilities such as fueling stations in the Business District provided all such services are physically and sales-wise oriented toward Business District users and employees and other users are only incidental customers.

(11) MINERAL EXTRACTION.

(a) General. Mineral extraction operations including washing, crushing or other processing are conditional uses and may be permitted in the M-2 Quarrying District.

(b) Application. The application for the conditional use permit shall include an adequate description of the operation; a list of equipment, machinery and structures to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of 5 feet, trees, proposed and existing access roads, the depth of all existing and proposed excavations; and a restoration plan.

(c) Restoration Plan. The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Village's inspection and administrative costs and the necessary sureties which will enable the Village to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the Village Engineer and the form and type of such sureties shall be approved by the Village Board. The Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

(12) RECREATIONAL USES. The following public recreational facilities shall be conditional uses and may be permitted as specified:

Archery ranges, bathhouses, camps, conservatories, driving ranges, firearm ranges, gymnasiums, music halls, pools, riding academies, skating rinks, sport fields, stadiums,

swimming pools and zoological and botanical gardens in all districts provided all structures are not less than 50 feet from any district boundary. Commercial recreation facilities such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, race tracks, rifle ranges, turkish baths, skating rinks and theaters are conditional uses and may be permitted in the Business District.

14.27 NONCONFORMING USES.

(1) **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, only that portion of the land or water in actual use may be so continued and the structure may not be reconstructed, substituted or moved except when required to do so by law or order or so as to comply with the provisions of this chapter.

(2) **EXISTING NONCONFORMING STRUCTURES.** The lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading and access provisions of this chapter; however, it shall not be reconstructed or moved except when required to do so by law or order or so as to comply with the provisions of this chapter.

(3) **CHANGES AND SUBSTITUTIONS.** Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Zoning Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Zoning Appeals.

(4) **SUBSTANDARD LOTS.** In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deeds office before the effective date or amendment of this chapter. Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter.

14.28 AMENDMENTS.

(1) **AUTHORITY.** Whenever the public necessity, convenience, general welfare or good zoning practice require, the Village Board 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 Plan Commission, pursuant to §62.23(7), Wis. Stats.

(2) **INITIATION.** An amendment may be initiated by the Village Board, Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

(3) **PETITIONS.** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Clerk-Treasurer describing the premises to be rezoned or the regulations to be amended, listing the reasons justifying the petition, specifying the proposed

use and having attached the following:

(a) Plot plan drawn to a scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all property within 200 feet of the area proposed to be rezoned.

(b) Owners' names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.

(c) Additional information required by the Plan Commission or Village Board.

(d) Fee receipt from the Clerk-Treasurer in the amount of \$150. (rev. Ord #203)

(4) **RECOMMENDATIONS.** 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 meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the Village Board.

(5) **HEARINGS.** The Village Board shall hold a public hearing upon each recommendation giving at least 10 days' prior notice by publication of the hearing at least twice, listing the time, place and the changes or amendments proposed. The Village Board shall also give at least 10 days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

(6) **VILLAGE BOARD ACTION.** Following such hearing and after careful consideration of the Plan Commission's recommendation, the Village Board shall vote on the passage of the proposed change or amendment. However, in the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Village Board membership.

14.29 BOARD OF ZONING APPEALS.

(1) **MEMBERSHIP.** See Sec. 1.03(3) of this Code.

(2) **ORGANIZATION.**

(a) The Board of Zoning Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

(b) The secretary shall be the Clerk-Treasurer.

(c) Meetings shall be held at the call of the chairman and shall be open to the public.

(d) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, the reasons for the Board's determination and its finding of facts. These records shall be immediately filed in the office of the Clerk-Treasurer and shall be a public record.

(e) The concurring vote of 4 members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary,

unclassified or substituted use.

(3) **POWERS AND DUTIES.** The Board of Zoning Appeals shall have the following powers:

(a) Errors. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Inspector.

(b) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty 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) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.

(d) 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.

(e) Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.

(f) Temporary Uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Zoning Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.

(g) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and issue or direct the issuance of a permit.

(h) Assistance. The Board may request assistance from other Village officers, departments, commission and boards.

(i) Oaths. The chairman may administer oaths and compel the attendance of witnesses.

(4) **APPEALS AND APPLICATIONS.** Appeals from the decision of the Building Inspector concerning the literal enforcement of this chapter may be made by any person aggrieved or by any officer, department, board or bureau of the Village. Such appeals shall be filed with the secretary within 30 days after the date of written notice of the decision or order of the Building Inspector. Applications may be made by the owner or lessee of the structure, land or water to be affected at any time 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 or survey prepared by a registered land surveyor showing all of the information required under Sec. 14.06 of this chapter for a building permit.

(c) Additional information required by the Plan Commission, Village Engineer, Board of Zoning Appeals or Building Inspector.

(d) Fee receipt from the Clerk-Treasurer in the amount of \$75. (rev. Ord. #203)

(5) **HEARINGS.** The Board of Zoning Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least 10 days prior, and shall give due notice to the parties of interest, the Building Inspector and the Plan Commission. At the hearing the appellant or applicant may appear in person, by agent or by attorney.

(6) **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 indicates in the minutes of its proceedings.

(a) **Exceptional Circumstances.** There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

(b) **Preservation of Property Rights.** That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(c) **Absence of Detriment.** The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(7) **DECISION.**

(a) **General.** The Board of Zoning Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector and Plan Commission.

(b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by the Board.

(c) **Time Limitation.** Variances, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.

(8) (Created Ord. #203) In the event the Board denies an application or appeal for a variance, substitution or use request, the appellant or applicant may not file an application or appeal requesting the same variance, substitution or use request for a period of six (6) months from the date of the denial.

14.30 **ENFORCEMENT.** The Building Inspector, with the aid of the Police Department, shall enforce the provisions of this chapter.

14.31 **PENALTY.** Any person who violates any provision of this chapter or any order, rule or regulation thereunder shall be subject to the penalty set forth in the VILLAGE OF BELMONT SCHEDULE OF PENALTIES which is part of the Village Ordinances or such other penalty or amount as the Court or Village shall deem appropriate in accordance with Section 20.04.