

## **22.11 COMPLIANCE.**

(1) Within the Village, the use of any land; the size, shape and placement of lots; the use, size, height, location and types of structures thereon; and the provision of open spaces shall be in compliance with the regulations established herein and made applicable to the district or districts in which such land or structure is located.

(2) Where a building permit for a structure has been issued in accordance with law prior to the effective date of this Ordinance, and provided that construction is completed within twelve (12) months of such effective date, such structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further may upon completion be occupied by the use for which originally designated. An extension of up to twelve (12) months may be allowed by the Village Board provided good cause is shown.

## **22.12 LOT PROVISIONS.**

(1) All principal structures shall be located on a lot; and only one principal structure shall be located, erected or moved onto a lot in the single-family residential districts.

The Planning Commission may permit more than one principal structure per lot in other districts where more than one principal structure is needed for the orderly development of the parcel. When additional structures are permitted, the Planning Commission may impose additional yard requirements, landscaping requirements, or parking requirements, or may require a minimum separation distance between principal buildings. Reference, Sec. 17.07, Code of Ordinances for Certified Survey requirements if no subdivision.

### **(2) EXISTING SUBSTANDARD LOTS.**

(A) A lot located in a residential district which does not contain sufficient area to conform to the dimensional requirements of this Ordinance, but which is at least fifty (50) feet wide and 6,000 square feet in area, may be used as a single building site provided that the use is permitted in the zoning district and provided that the lot is a lot of record in the County Register of Deeds Office prior to the effective date of this Ordinance.

(B) A lot located in a business or manufacturing district which does not contain sufficient area to conform to the dimensional requirements of this Ordinance may be used as a building site provided that the lot is a lot of record in the County Register of Deeds Office prior to the effective date of this Ordinance.

(C) Substandard lots granted permits under this Section shall be required to meet the setback and other yard requirements of this Ordinance. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance is granted by the Board of Appeals.

(3) All lots shall abut a public street or approved private road or way which is constructed to applicable standards.

(4) No yard or other open space existing on the effective date of this Ordinance shall be reduced below the minimum required by this Ordinance.

(5) No yard or other open space allocated to a structure or parcel of land shall be used to satisfy yard, other open spaces or minimum lot area requirements for any other structure or parcel.

**22.13 YARD REGULATIONS.** Measurements shall be taken from the nearest point of building to the lot line in question, subject to the following:

(1) On lots having double frontage (through lots), the required front yard shall be provided on both street sides.

(2) On a corner lot, the width of the yard along the side street shall not be less than any required front yard on such street, provided, the buildable width of a lot of record shall not be reduced to less than twenty-eight (28) feet nor closer than six (6) feet to any side lot line. In no case shall the setback required for a side yard abutting a street be reduced to less than twenty (20) feet, except in the C-1 District. See Section 22.21(7)(E), page 43. See Section 22.17 for Traffic Visibility Triangle. See also Section 22.10(127).

**22.14 HEIGHT REGULATIONS.** Except as provided below, all buildings and structures shall conform to the height regulations for the zoning district in which they are located:

(1) Architectural projections, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys are exempt from the height limitations of this Ordinance.

(2) Special structures, such as elevator penthouses, tanks, grain elevators, silos, observation towers, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.

(3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.

(4) Communication structures, such as radio and television transmission and relay towers, aerials, radio and television receiving and transmitting antennas, are exempt from the height limitations of this Ordinance. This does not include earth station dish antennas.

(5) Public or semi-public facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, government offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structures exceed the district's maximum height requirement.

**22.15 ACCESSORY BUILDINGS, USES, STRUCTURES AND USE OF REQUIRED YARDS.** Any accessory building, use or structure shall conform to the applicable regulations of the district in which it is located except as specifically otherwise provided hereinafter.

(1) Any permanent roofed structure serving an accessory use if attached to the principal building shall be considered as part of such principal building for all regulatory purposes.

(2) Accessory buildings and structures are permitted in the rear yard and side yard; however, when an accessory building or structure is located forward of the rear building line of the principal building, it shall satisfy the same side yard requirements as the principal building. The provisions of this section do not apply to fences.

(3) Detached accessory buildings and structures shall not exceed 900 square feet and not occupy more than thirty percent (30%) of the rear yard area in all districts except the commercials, industrial, rural development and agricultural districts in which such uses and structures shall not occupy more than fifty percent (50%) of the rear yard area. Private swimming pools shall be exempt from the thirty percent (30%) rear yard occupancy limitation in residential districts. The provisions of this section do not apply to fences.

(4) Detached accessory buildings and structures shall not be closer than five (5) feet to the principal structure nor closer than three (3) feet to an alley or platted easement, except that when the accessory building is a garage that has its entrance facing the alley, the rear yard setback shall be twenty (20) feet for the garage. The provisions of this section do not apply to fences.

(5) Uncovered stairs, porches, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than six (6) feet to any lot line.

(6) Architectural projections, such as chimneys, flues, sills, eaves, and ornaments, may project into any required yard, but such projections shall not exceed three (3) feet.

(7) Residential fences are permitted on the property lines in residential districts, but shall not in any case exceed a height of six (6) feet to include the post. Fences placed in the front yard principal building setback shall not exceed a height of thirty-two inches (32") in the setback and shall have 75% of the surface of the fence

open. The finished surface of wood or screening fence shall be installed facing the exterior of the lot which is viewed by the neighbors.

**(8)** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

**22.15 (9) EARTH STATION DISH ANTENNAS.** No earth station dish antenna shall be erected, constructed, maintained or operated except in conformance with the following regulations. An earth station dish antenna is permitted as an accessory use/structure. (See Section 62.23(7)(He), Wis. Stats., for monetary limit on conditions which may be imposed.)

**(A) Definition.** An earth station dish antenna shall mean a combination of: (a) a dish antenna whose purpose is to receive communication or other signals from orbiting satellites; (b) a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and (c) a coaxial cable whose purpose is to carry the signals into the interior of the building. This definition shall not include satellite antennas with a diameter of 36" or less."

**(B) Permit.** The installation of an earth station dish antenna shall require a building permit. The property owner shall submit, to the Building Inspector, plans which indicate the appearance, proposed location and installation method of the dish. All earth station dish antennas, and the construction and installation thereof, shall conform to applicable Village building code and applicable electrical code regulations and requirements.

**(C) Ground-Mounted Earth Station Dish Antennas.**

**(1)** In all residential zoning districts, such earth station dish antennas shall be located only in the rear yard of any lot subject to the provisions contained herein:

**(a)** The dish antenna shall be at least six (6) feet from any side or rear lot line or any alley.

**(b)** The dish antenna shall be at least five (5) feet from the principal building on the lot.

**(c)** The dish antenna shall have a maximum height of fourteen (14) feet above the natural grade.

**(d)** In the event that a usable satellite signal cannot be obtained by locating the antenna in the rear yard of the property, such antenna may be placed in the side yard of the property, provided that it shall be not closer than five (5) feet to the principal structure and six (6) feet to any side yard lot line, nor shall any portion of the dish antenna extend into any front yard area. In the case of a corner lot,

the dish antenna is not permitted in the side yard area abutting the street. A building permit shall be issued only upon showing by the applicant that a usable satellite signal is not obtainable from any other permitted locations on the property.

(e) Earth station dish antennas shall be located and designed to reduce visual impact from surrounding properties at street level and from public streets through the addition of architectural features and/or landscaping that is compatible with the elements and characteristics of the property.

(2) In any commercial, rural development, agricultural or industrial zoning district, such earth station dish antennas shall be allowed in any yard area subject to the provisions contained herein:

(a) The dish antenna shall be at least six (6) feet from any rear property line or any alley.

(b) The dish antenna shall be at least six (6) feet from any side yard lot line, except when abutting a residential district, in which case the dish antenna shall be at least ten (10) feet from any side yard lot line and be screened to reduce visual impact from adjacent properties at street level.

(c) In cases where the dish antenna will be located in the front yard area or in the side yard area abutting a street or a corner lot, the dish antenna shall be set back at least fifteen (15) feet from any public right-of-way.

(d) The dish antenna shall have a maximum height of thirty (30) feet above the natural grade.

**22.15 (9) (D) Roof-Mounted Earth Station Dish Antennas.**

(1) In all residential zoning districts, roof-mounted earth station dish antennas shall be permitted subject to the provisions contained herein:

(a) Earth station dish antennas exceeding thirty-six (36) inches in diameter shall not be permitted on the roof.

(b) A roof-mounted dish antenna shall not extend higher than fifteen (15) feet above the highest point of the roof.

(2) In the commercial, rural development, agricultural and industrial zoning districts, earth station dish antennas shall not extend more than twenty (20) feet above the height limit established for the district in which the structure is located.

(E) All electric lines, cables and conduits running to or from any earth station dish antenna shall be underground.

(F) All dish antennas must be adequately grounded for protection against a direct strike of lightning.

(G) All dish antennas shall meet all manufacturer's specifications and be constructed of non-combustible and corrosive-resistant materials.

(H) Not more than one earth station dish antenna shall be permitted on a zoning lot in a residential district.

## **22.16 NONCONFORMING BUILDINGS, STRUCTURES AND USES.**

(1) **PURPOSE.** The purpose of this Section is to minimize the hardships that may unintentionally occur to citizens whose present use of their lots, buildings and structures thereon do not conform wholly with the provisions of this Ordinance. Only uses which are lawful under the existing Ordinance before the adoption of this Ordinance are protected by the provisions of this Section.

### **(2) GENERAL PROVISIONS.**

(A) Any lawfully established use of a building, structure or land, on the effective date of this Ordinance, or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued except as otherwise provided herein.

(B) A legal nonconforming use of a building, structure or land use existing on the effective date of this Ordinance may be continued, provided no such nonconforming building, structure or use shall be in any way expanded or extended, except as provided in 22.16(2)(D), Conditional Use Alternative.

(C) Total lifetime structural repairs or alterations to a nonconforming building or structure, or to the building or structure of a nonconforming use, shall not exceed fifty percent (50%) of the municipality's current equalized value of the building or structure, unless permanently changed to a conforming building, structure or use, except as provided in 22.16(2)(D), Conditional Use Alternative.

(D) **Conditional Use Alternative.** A lawful nonconforming use of a building, structure or land may conditionally be permitted to be extended or enlarged, and total lifetime structural repairs or alterations may exceed fifty percent (50%) of the municipality's current equalized value of the structure, only pursuant to the terms of this section and only if there is no negative impact on neighboring properties of their occupants. Whether to conditionally permit such extension, enlargement, or structural repair or alteration, of a nonconforming use is a discretionary decision of the Planning Commission, and the Planning Commission may grant a request subject to certain conditions and/or for a term certain. Owners and operators of lawful nonconforming uses do not have an automatic or vested right to such extension or enlargement, or structural repair or alteration. If permitted, any extension or enlargement, or structural repair or alteration, to a lawful nonconforming use shall be deemed a conditional use for

the zoning district in which the property is situated and shall be strictly limited to its terms. Any request to extend or enlarge, or to structurally repair or alter, a lawful nonconforming use must be made by application for a conditional use permit as set forth in Section 22.26(4) of this chapter. A hearing on the application for conditional use permit shall be held in accordance with Section 22.26(4)(D) of this chapter. No request to extend or enlarge, or structurally repair or alter, a lawful nonconforming use may be granted unless the Planning Commission finds that all of the conditions identified in Section 22.26 (4)(F) of this chapter are present, and that there is no negative impact on neighboring properties or their occupants.

If a conditional use permit is granted to authorize the extension or enlargement, or structural repair or alteration, of a lawful nonconforming use, the conditional use permit shall be subject to all of the ordinances governing conditional use permits, including, but not limited to Section 22.25(4).

### **22.16 (3) CHANGES AND SUBSTITUTIONS.**

(A) When any legal nonconforming use of a building, structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

(B) If no structural alterations are made, a nonconforming use of a building, structure or land may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use, such use shall not thereafter be changed to a less restricted use. For the purpose of this regulation, uses permitted in the R-1 Single Family District shall be deemed to be those in the most restricted classification.

### **22.16 (4) REPAIR OF DAMAGES AND/OR DISCONTINUANCE.**

(A) When a nonconforming building or structure is damaged by fire, explosion, flood or other calamity, to the extent of more than fifty percent (50%) of its current fair market value, it shall not be restored except so as to comply with the regulations of the district in which such building is located. [See exception noted in Section 22.21(9)(b)(16)]. See Conditional Use alternative in 22.16(2)(D)

(B) Whenever a nonconforming use is discontinued for a period of twelve (12) consecutive months, any future use of the building, structure or land shall conform to the regulations of the district in which it is located.

### **22.17 TRAFFIC VISIBILITY TRIANGLE.**

(1) Vision setback lines at the intersection of public streets are hereby established as follows:

(A) Across each sector between intersecting streets, a vision setback line shall be established by a straight line connecting two points of the intersecting

street right-of-way lines, which points are located twenty (20) feet from the intersection of said right-of-way lines.

(2) In the vision setback area, no structure of any kind shall be permitted which exceeds a height of two (2) feet above the elevation of the center of the intersection, except for necessary highway and traffic signs and public utility lines, nor shall any plant material or natural growth be permitted which obscures safe vision of the approaches to the intersection.

(3) The requirements for vision setback lines shall not apply within the Central Business District.

## **22.18 HOME OCCUPATIONS.**

(1) **PURPOSE:** The purpose of this Section of the Ordinance is to regulate the conditions under which occupations may be carried on in homes in order that such home occupations may not undermine the general intent and purpose of this Ordinance and the specific purposes of the residential districts. The standards for home occupations in this Ordinance are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, plus a clearly secondary or incidental status in relation to the residential use of the main building as the criteria for determining whether a proposed accessory use qualifies as a home occupation.

(2) **STANDARDS.** Home occupations shall be subject to the following standards:

(A) The occupation or profession shall be carried on wholly within the principal building or other structure accessory thereto, and it shall utilize no more than fifty percent (50%) of the gross floor area of the building.

(B) The home occupation is to be conducted only by members of the family residing in the dwelling unit, plus no more than one nonresident assistant or employee employed on the premises at any one time. Persons engaged in building trades, similar fields and other activities using their dwelling units or residential premises as an office for business activities carried on off the premises, may have more employees than the limitations set forth in subsection (B) of this Section if they are not employed on the premises.

(C) The home occupation shall be incidental and subordinate to its use for residential purposes.

(D) In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction and lighting.



(E) No home occupation shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard of nuisance beyond what normally occurs in the applicable zoning district.

(F) There shall not be outside storage of any kind related to the home occupation.

(G) The home occupation shall not involve the use of commercial vehicles, other than those owned by the applicant for delivery of products or materials to and from the premises. This shall not be interpreted to include delivery and/or pick-up services such as United Parcel Service, Federal Express, etc., in the conduct of their normal operations.

(H) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

(I) There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two (2) additional vehicles to be parked on or near the premises.

(J) Activities which involve the manufacture, utilization, processing or storage of chemicals or inflammable and explosive material shall not be permitted.

**22.18 (3) NAMEPLATE ALLOWED:** Only one nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation. It shall not exceed two (2) square feet in area, and shall be non-illuminated. The limitation of one nameplate is intended to apply to all lots, including corner lots.

**22.18 (4) PERMITTED HOME OCCUPATIONS.** Permitted home occupations include, but are not necessarily limited to, the following.

(A) Artists or sculptors.

(B) Authors or composers.

(C) Home crafts such as rug weaving and sewing.

(D) Office facility of a minister, rabbi, or priest.

(E) Office facility of an attorney, architect, professional engineer, surveyor, landscape architect, insurance agent or real estate agent.

(F) Private tutoring limited to three (3) pupils at any one time.

(G) Musical instruction limited to two (2) pupils at a time.

(H) Dressmaking.

**22.18 (5) HOME OCCUPATIONS NOT PERMITTED.** The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, home occupations not permitted include, but are not necessarily limited to, the following:

- (A) Antique shops.
- (B) Stables and kennels.
- (C) Automobile repair or paint shops.

**22.18 (6)** Any proposed home occupation that is neither specifically permitted by paragraph 4 nor specifically prohibited by paragraph 5 shall be considered a conditional use and be granted or denied by the Village Board upon consideration of those standards contained in paragraph 2 and in accordance with the procedures as required in Section 22.26(4) of this Ordinance.

**22.19 CLASSIFICATION OF UNLISTED USES.**

(1) Any use not specifically listed as a permitted use or a conditional use in the district established in Section 22.21 shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of question as to the classification of an unlisted use, the question shall be submitted to the Planning Commission for determination in accordance with the following procedure:

(A) **Application.** Application for determination for classification of an unlisted use shall be made in writing to the Planning Commission and shall include a detailed description of the proposed use and such other information as may be required by the Planning Commission to facilitate the determination. Material Safety Data Sheets will be required for all materials being uses, unless specifically exempted by the Planning Commission.

(B) **Investigation.** The Planning Commission shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the ordinance and to determine its classification.

(C) **Public Hearing.** The Planning Commission shall fix a reasonable time and place for a public hearing following the receipt of an application for the determination of a classification of an unlisted use, publish a Class 1 notice thereof and shall give due notice to the parties in interest and the Building Inspector.

(D) **Determination.** The determination of the Planning Commission shall be rendered in writing within forty (40) days from the date of the public hearing and shall include findings supporting the conclusion. The Planning Commission shall

determine if the classification of the unlisted use is a permitted use, conditional use or prohibited use in one or more of the districts established in Section 22.21(1).

(E) **Effective Date of Determination.** At the time of the determination of the classification of the unlisted use by the Planning Commission, the classification of the unlisted use shall become effective.

## **22.20 SANITARY SEWER PROVISION.**

(1) **PURPOSE.** The purpose of this Section of the Ordinance is to maximize public investment in sanitary sewer and sewage treatment infrastructure, and protect surface and ground water, in the interest of public health, safety and welfare.

(2) **STANDARD.** Soils, geologic and hydrogeologic conditions within the Village are not suitable for on-site sewage treatment systems and holding tanks. The Village has made a substantial investment in its sanitary sewer and sewage treatment infrastructure and this system has significant capacity for future growth. Therefore, no new building, structure, activity or use shall be allowed to employ on-site sewage treatment systems and holding tanks within the Village of New Auburn, unless exempted by specific action of the Village Board. If the municipal sewer serves the proposed site or can be constructed to serve the proposed site, an exemption will not be granted or will be granted conditioned upon hook-up to the Village sewer when it is available. Nothing contained herein will bar the use of existing on-site sewage treatment systems provided they are "not failing", (as defined by Section 145.245, Wis. Stats., and regulations adopted thereunder including any revisions of such law), and lawful.