

**22.25                    CHANGES AND AMENDMENTS.**

**(1)    AUTHORITY.**

**(A)** Pursuant to the provisions of 62.23(7), Wisconsin Statutes, 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 Ordinance or amendments thereto.

**(2)    INITIATION.**

**(A)** A change or amendment may be initiated by the Village Board, Village Planning 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.**

**(A)** All petitions for a change, amendment or supplement of the established zoning districts and regulations connected therewith shall be filed by the person requesting such action on forms furnished by the Village Clerk. The person requesting such action shall provide all information requested on the petition including:

- (1)** Name and street address of the petitioner.
- (2)** The lot number of any real estate owned by the petitioner adjacent to the area proposed to be changed.
- (3)** Legal description of the property to be altered.
- (4)** The existing use of all buildings on such land.
- (5)** The principal use of all properties within 300 feet of such land.
- (6)** Purpose for which such property is to be used.
- (7)** Reciting of facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this Ordinance.
- (8)** Names and addresses of all surrounding property owners within 175 feet of the property to be altered.
- (9)** Plat plan or survey plat, drawn to scale, showing the property to be rezoned, location of structures and property lines within 250 feet of the parcel.
- (10)** Any further information requested on the petition or which may be required by the Planning Commission to facilitate the making of a comprehensive report to the Village Board.

Failure to supply such information shall be grounds for dismissal of the petition.

(B) A petition for change or amendment submitted by a private property owner shall be filed with the Village Clerk and shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative processing.

**22.25 (4) PLANNING COMMISSION REVIEW AND RECOMMENDATION.**

(A) The Village Clerk shall transmit the petition to the Planning Commission.

(B) The Village Planning Commission shall conduct a study and investigation of 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 within sixty (60) days from which the petition is first received and shall be made in writing to the Village Board.

(C) The Village Clerk shall provide due notice of the Planning Commission meeting to the applicant and owners of record of properties which are located within 175 feet of the parcel involved in the application.

**22.25(5) HEARING.**

(A) The Village Board shall hold a public hearing upon each proposed change or amendment recommended by the Village Planning Commission, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice under Chapter 985, Wisconsin Statutes, to include a location sketch. The Village Board shall also give at least ten (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.

**22.25(6) VILLAGE BOARD ACTION.**

(A) Following such hearing and after careful consideration of the Village Planning Commission's recommendations, the Village Board shall vote on the passage of the proposed change or amendment.

**22.25(7) PROTEST.**

(A) In the event of a protest at the public hearing against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the surrounding land extending 1,000 feet from the parcel to be altered, such changes or amendment shall not become effective except by the favorable vote of three-fourths (3/4) of the full Village Board membership.

## **22.26     ADMINISTRATION**

### **22.26(1)   ZONING ADMINISTRATOR DESIGNATION.**

**(A)** The Building Inspector is hereby designated as the enforcement officer (Zoning Administrator) for the provisions of this Ordinance. The Village Clerk can act as the Building Inspector's representative. The duty of the Building Inspector shall be to interpret and administer this ordinance and, after on-site inspection, advise the Village Board on the issuance of all permits required by this Ordinance. The Building Inspector shall further:

**(1)** Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.

**(2)** Initiate, direct and review, from time to time, a study of the provisions of this Ordinance, and make reports of the recommendations to the Planning Commission for investigation and appropriate action.

**(3)** Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration, or use which is in violation of the provisions of this Ordinance, such revocation to be in effect until reinstated by the Building Inspector or the Board of Appeals, or take any other action as directed by the Village Board to ensure compliance with or to prevent violation of its provisions.

**(4)** Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.

**(5)** Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Village Board for referral to the Village Attorney in a manner specified by him/her [see Section 22.26(9)].

**(6)** Assist the Village Attorney in the prosecution of Ordinance violations [see Section 22.26(9)].

**(7)** Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this Ordinance. If, however, he/she is refused entry after presentation of his/her identification, he/she may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin Statutes.

**(8)** Prohibit the use or erection of any structure, land, or water until he/she or his/her representative has inspected and approved such use or erection.

(9) Request assistance and cooperation from the Village Planning Commission, Village Marshal and Village Attorney as deemed necessary.

**22.26(2) BUILDING PERMIT.**

(A) No building, structure, or fence above or below the ground, shall be erected, structurally altered, or relocated within the Village of New Auburn until a building permit has been issued by the Building Inspector certifying that such building would be in compliance with the provisions of this Ordinance and all applicable building codes. Exceptions are as follows:

(1) No building permit shall be required for re-roofing a structure, unless the design or form of the roof is changed, or for painting any structure.

(2) No building permit shall be required for the following when the cost does not exceed (total cost - all improvements) \$2,000.00:

- (a) Additional plumbing fixtures;
- (b) New siding;
- (c) New windows;
- (d) Basement expansion;
- (e) New foundation or basement walls;
- (f) New floor (not including replacement)
- (g) Extra or additional heating plant or central air conditioning;
- (h) Addition or major remodeling of bathrooms;
- (i) New fireplaces;
- (j) Basement finishing;
- (k) Attic finishing;

Any of the above work must be done in conformance with this Zoning Ordinance and all other ordinances in effect within the Village.

**22.26(2) (B)** No person, whether as owner, contractor, builder, etc. shall erect, construct, or structurally alter any building or other structure without obtaining a required building permit from the Building Inspector and such Building Inspector shall not issue any permit unless the requirements of this Ordinance are complied with.

(C) All applications for building permits shall be signed by the applicant or their agent, and shall be made to the Village Clerk for submission to the Building Inspector for approval or disapproval.

(D) The application is to be submitted on the form supplied by the Village of New Auburn which shall contain the following:

(1) A statement that the applicant will comply with all Village ordinances and all laws of the State of Wisconsin applicable to the premises.;

(2) A legal description of the property.; and,

(3) An estimated cost of the work to be done.

The application shall also be accompanied by plans, drawn to scale, showing the location, actual shape and dimensions of the lot to be built on, the exact size and location on the lot of the proposed or existing building and accessory building, the required setbacks, the existing and intended use of each building or part of a building, the number of families the building is intended to accommodate and such other information as may be required by the Village Board for the purpose of compliance with this Ordinance. All grades for building shall be provided by the applicant. Grades are to be checked by the Village Building Inspector before any new footings can be installed. An application for a Building Permit shall be made in conformity with the requirements of the Zoning Ordinance and all applicable building codes.

**22.26(2) (E)** A Building Permit shall be granted or denied in writing by the Building Inspector within thirty (30) days of application and the applicant shall post such permit in a conspicuous and prominent place at the site of the permitted building activity. The permit shall expire within six (6) months unless substantial work has commenced, or within eighteen (18) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, and the property must be returned to its original condition at the time of original issuance of said permit. The applicant shall reapply for a Building Permit before commencing work on the property or structure subject to an expired Building Permit. Substantial work or substantially completed as stated above shall be determined by the Building Inspector and any dispute of such determination shall be presented to the Village Board for final determination. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

**22.26(3) PLANNING COMMISSION.**

(A) The Village Planning Commission shall have the duties of making reports and recommendations relating to the plan and development of the Village to public officials, agencies, public utility companies, civic, educational, professional and other organizations, and citizens. The Commission, its members and employees, in performance of its functions, may enter upon any land and make examinations and surveys. In general, the Planning Commission shall have such powers as may be

necessary to enable it to perform its function and promote municipal planning. Ref. Section 62.23(2), Wisconsin Statutes.

#### **22.26(4) CONDITIONAL USE PERMIT.**

**(A) Purpose.** The formulation and enactment of a comprehensive zoning ordinance is based on the division of the entire Village into districts in each of which are permitted specified uses that are mutually compatible.

In addition to such permitted compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district, but which because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this Ordinance as "conditional uses".

In some cases, traditionally more restrictive uses such as Single-Family Dwellings are only allowed in less restrictive districts such as Light Industrial as a conditional use. While there may be merit in segregating such uses because of incompatibility with the less restrictive use, the size of the Village and necessity to preserve the tax base may be considered in determining that such more restrictive use shall be permitted as a conditional use.

Conditional uses may, **but are not required** to, be permitted in the district in which listed, (upon petition to the Village Board), and subject to the recommendation of the Planning Commission, approval of the Board and to such other conditions as hereinafter designated.

**22.26(4) (B) Application for Conditional Use Permit.** A request for conditional use grant shall be submitted in writing to the Village Clerk by the person requesting such action on forms furnished by the Village Clerk. The persons requesting such action shall provide all information requested on the application/petition including:

**(1)** Names and address of the applicant, owner of the site, architect, professional engineer, contractor, when engaged, and all opposite and abutting property owners of record.

**(2)** Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

**(3)** A map drawn to scale showing the location, property boundaries, dimensions, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions, existing and proposed street, side and rear yards; and areas subject to inundation by flood waters.

- (4) Purpose of which the Conditional Use Permit is requested.
- (5) Reciting of facts indicating that the proposed use will not be detrimental to the general public interest, the purposes of this Ordinance and the general area in which it is located.
- (6) Drainage and sewage disposal plans.
- (7) Architecture and landscape treatment.
- (8) Planting screen and operational control devices plan, where necessary, to eliminate noise, dust, odor, smoke, or other objectionable operating conditions.
- (9) All applicable Material Safety Data Sheets.
- (10) Any further information requested on the application/petition which may be required by the Planning Commission to render its decision.

Failure to supply such information shall be grounds for dismissal of the application /petition.

**22.26(4) (C) Planning Commission Review and Recommendation.**

- (1) The Village Clerk shall transmit the petition to the Planning Commission.
- (2) The Village Planning Commission shall conduct a study and investigation of all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The Planning Commission may consult with the Building Inspector regarding the petition. The recommendation shall be made within sixty (60) days from which the petition is first received and shall be made in writing to the Village Board.

**(D) Hearings.** The Village Board shall hold a public hearing upon each proposed conditional use after action by the Village Planning Commission, giving notice of the time, place and change or amendment proposed by publication of a Class 1 notice under Chapter 985, Wisconsin Statutes. In addition, the Village Board may at its option, require that notice be given to owners of record of properties located within 175 feet of the parcel involved. Ref. Section 22.26(6)(A). Ref. 62.23(7)(e)6 and 985.07(3)(b), Wis. Stats.

**(E) Review and Decision.** Within thirty (30) days following the public hearing and any necessary study and investigation, the Village Board shall so soon as practical, render its decision in writing and a copy made a permanent part of the Board's records. Such decisions shall include an accurate description of the conditional use

permitted, of the property on which permitted, and any and all conditions made applicable thereto, or if disapproved, shall indicate the reasons for disapproval.

**(F) Standards for Conditional Use Permit Approval.** The Planning Commission and Village Board shall apply the following general standards when reviewing, recommending and approving or disapproving a conditional use permit:

(1) No grant of a conditional use shall violate the spirit or intent of this Ordinance.

(2) No conditional use shall be allowed which could be contrary to the public health, safety, morals or general welfare, or which would be substantially adverse to property value in the neighborhood affected.

(3) No use shall be permitted by conditional use permit that would constitute a nuisance by reason of noise, dust, smoke, odor or other similar factors.

(4) The conditional use will not be injurious to the use, value and enjoyment of other property in the immediate vicinity for purposes already permitted.

(5) The conditional use will not, in any way, impede or diminish the normal and orderly development and improvement of the surrounding property or the district.

(6) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

(7) Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

**22.26(4) (G) Authority to Impose Conditions.** The Planning Commission and the Village Board may make the granting of an application for a conditional use permit contingent upon such express conditions as it considers necessary to further the aims of this Ordinance and to achieve the standards of paragraph F above. The applicant must agree to the conditions prior to the approval of a conditional use permit. These conditions may include, but are not limited to, specifications of:

(1) The period of time in which all or part of the use may be permitted.;

(2) Setback and yard dimensions.;

(3) Specified sewage disposal and water supply facilities.;

(4) Landscaping and planting screens.;

(5) Operational controls.;

- (6) Sureties.;
- (7) Deed restrictions.;
- (8) Location of structures, docks, piers or signs.;
- (9) Location and amount of parking facilities.;
- (10) Type of construction.;
- (11) Type of shore cover.;
- (12) Sign and lighting limitations.;; and,
- (13) Number of employees.

**22.26(4) (H)** When a Conditional Use Permit is approved, the building permit shall be appropriately noted and such permit shall be applicable solely to the structures, use and property so described. Indication of such permit shall also be made on the Zoning District Map by appropriate symbol.

**(I)** Except as may be specifically otherwise provided, any use shall conform to the building location, height, lot size and open space regulations of the district in which it is located.

**(J) Lapse of Conditional Use Permit.** A Conditional Use Permit shall lapse and become void one (1) year after passage by the Village Board unless the conditional use is fully established or a building permit has been issued and/or construction has commenced and is being pursued diligently according to the requirements of the permit. A Conditional Use Permit may be renewed for an additional period of one (1) year by application to and approval of the Village Board.

**(K) Automatic Termination of Conditional Use Permit.** In the event the use for which the permit was granted shall cease or be abandoned for a period of one (1) continuous year, the conditional Use Permit granted herein shall automatically cease.

**(L) Revocation of Conditional Use Permit.** If, in the opinion of the Village Board, the terms of a Conditional Use Permit have been violated, or that the use is substantially detrimental to persons of property in the neighborhood, the Village Board shall, following notice to all parties, hold a public hearing on the revocation of the permit. If, upon finding of fact that the terms of the permit have been violated, the Village Board may revoke, modify or leave the permit unchanged. The Village Board may thereafter direct the Village Attorney to secure such additional court orders as are necessary to implement its action.

(M) All conditional use petitions shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative processing, as provided for in Section 22.26(5).

**22.26(5) FEES FOR PERMITS, VARIANCES, REZONINGS, CONDITIONAL USES, AND SIGNS.**

(A) All persons, firms, or corporations performing work which by this Ordinance requires an action of the Building Inspector, the Planning Commission, or the Village Board shall pay such fee for consideration to the Village Clerk to help defray the cost of administration, investigation, advertising and processing of such actions as may be set in accordance with the fee schedule established by the Village Board and presented as a separate attachment in support of these regulations. See Appendix E, Fee Schedule. No fee is required if not established in Appendix E.

**22.26(6) PUBLIC HEARINGS.** In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provisions of this Ordinance in the manner hereinafter defined or as may be otherwise specifically designated elsewhere in this Ordinance.

(A) The notice to be given concerning any appeals or variances, conditional use permits shall be given by publishing a Class 1 notice under Chapter 985 of the Wisconsin Statutes, and for changes and amendments of this ordinance by a Class 2 notice under Chapter 985 of the Wisconsin Statutes, and by giving due notice of the hearing to all parties in interest.

(1) Due notice to parties in interest shall mean that the Village Clerk will mail, by ordinary postage, reasonable advance notice of all hearings and meetings on any pending matter to the applicant and to owners of record of properties which are located within 175 feet of the parcel involved in the application (1,000 feet in the case of changes and amendments to the zoning districts and regulations). In addition, at least ten (10) days prior to written notice of any such hearings shall be given to the Clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the application. Failure of the office to accomplish such provision of notice shall not invalidate or prejudice the proceedings, provided that reasonable efforts were made to so notify the parties in interest.

**22.26(7) ANNEXATIONS.** Any area annexed to the Village of New Auburn after the effective date of this Ordinance shall automatically be placed in the R-1, Single-Family residence District, and shall remain in such district until the appropriate zoning district(s), zoning district boundaries and regulations are studied and recommended by the Planning Commission and adopted by the Village Board in accordance with the requirements of Section 22.25 of this Ordinance; except that such adoption be completed within ninety (90) days of the annexation.

**22.26(8) MUNICIPALITIES AND STATE AGENCIES REGULATED.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all required permits. State agencies are required to comply if Section 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when Section 30.12(4)(a) of the Wisconsin Statutes applies.

**22.26(9) VIOLATIONS AND PENALTIES.**

**(A)** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Ordinance. In case of any violation, the Building Inspector, Village Board, Village Planning Commission or any property owner who would be specifically damaged by such violation, may institute appropriate action or proceeding to enjoin a violation of this Ordinance or cause a structure to be vacated or removed.

**(B)** Whenever an order of the Building Inspector, Planning Commission, Board of Appeals or Village Board has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident, agent or occupant of the premises, Building Inspector, Planning Commission, Board of Appeals, Village Board or the Village Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent or occupant from using such structure, land or water.

**(C)** Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance or any order of the Building Inspector, Village Board, Board of Appeals or Planning Commission issued in accordance with this Ordinance shall, upon conviction thereof, forfeit to the Village of New Auburn, a penalty of not less than \$50 together with the taxable cost in such action and not more than \$500, and in default of payment thereof shall be imprisoned for a term of not more than 30 days or until such penalty and costs are paid. Each and every day of violation shall constitute a separate offense in addition to any penalties. All footings, construction, buildings and structures installed in violation of this Ordinance shall, at the request of the Village, immediately be removed by the violator at the violator's expense. Compliance with this Ordinance is mandatory, and no building or structure shall be allowed without full compliance. Compliance therewith may also be enforced by injunctive order at the suit of the Village or the owner or owners of real estate within the district affected by the regulations of this ordinance.