

CHAPTER 6

Administration

- 12-6-1 Purpose
- 12-6-2 Zoning Administrator
- 12-6-3 Board of Appeals
- 12-6-4 Reasonable Accommodation Request
- 12-6-5 Variance
- 12-6-6 Conditional Use
- 12-6-7 Amendments

SEC. 12-6-1 PURPOSE

The purpose of this section of the Ordinance is to outline specific rules and procedures whereby the provisions of this Ordinance shall be administered and enforced.

SEC. 12-6-2 ZONING ADMINISTRATOR

The Zoning Administrator shall have the responsibility of administering and enforcing the provisions of this Ordinance by means of the following duties and powers:

- (a) Examine and approve an application pertaining to the use of land, buildings or structures to determine if the application conforms with the provisions of this Ordinance.
- (b) Issue all zoning permits and certificates and keep permanent records thereof.
- (c) Conduct inspection of buildings, structures and uses of land to determine their compliance with this Ordinance.
- (d) Receive, file and forward for action all applications for appeals, variations, conditional uses and amendments to this Ordinance.
- (e) Initiate, direct and review, from time to time, a study of the provisions of this Ordinance and make reports of his recommendations to the Planning Commission and to the City Council not less frequently than once a year.
- (f) Maintain permanent and current records of the Zoning Ordinance including all maps, amendments, conditional uses and variances.
- (g) Provide and maintain public information relative to all matters arising out of this Ordinance.

SEC. 12-6-3 BOARD OF APPEALS

- (a) **Creation and Membership.** A Zoning Board of Appeals shall be appointed pursuant to §62.23 of the Wisconsin Statutes. The Board of Appeals shall consist of five (5) members appointed by the Mayor subject to confirmation by the City Council. The members of the Board shall serve at such compensation as is fixed by the City Council and shall be removable by the Mayor for cause upon written charges only after a public hearing. The Mayor shall designate one of the members as chairman. The board may appoint a secretary and other employees.
- (b) **Meeting and Rules.** All meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. All hearings conducted by the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or indicating the fact of absence or failure to vote, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the Office of the Board and shall be public record. The Board shall adopt its own rules of procedure not in conflict with this Ordinance or with the applicable Wisconsin Statutes.
- (c) **Offices.** The City Council shall provide suitable offices for holding hearings and presenting records, documents and accounts.
- (d) **Appropriations.** The City Council shall appropriate funds to carry out the duties of the Board, and the Board shall have the authority to spend, under regular procedure, all sums appropriated to it for the purpose and activities authorized herein.
- (e) **Jurisdiction and Authority.** The Board of Appeals shall have the following jurisdiction and authority:
 - (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.
 - (2) To determine the classification of unlisted uses, whether permitted or conditional, as outlined in Section 12-2-12 of this Ordinance.
 - (3) To authorize upon appeal in specific cases variances from the terms of the Ordinance where, owing to

special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- (4) To permit in appropriate cases, subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this Ordinance, a building or premise to be erected or used for public utility proposes in any location which is reasonable and necessary for the public convenience and welfare.
- (f) **Decisions of the Board.** The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which the Board is required to pass under the provisions of the Ordinance. The grounds of every such determination shall be stated in writing.
- (g) **Scope of Appeals.** Appeals to the Board may be made by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision made by an administrative official in the enforcement of this Ordinance. Such appeal shall be made within thirty (30) days of the alleged grievance or judgement in question.
- (h) **Hearings of Appeals.** The Board shall fix a time, not more than thirty (30) days from the date of filing, for the hearing or an appeal and shall give due notice thereof to all parties involved. The Board or any of its officers it may designate shall cause such hearings to be published in a newspaper of general circulation in the City.

SEC. 12-6-4 REASONABLE ACCOMMODATION REQUEST

- (a) **Purpose.** It is the policy of the City to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide use and zoning decisions and procedures for people with disabilities.
- (b) **Definitions.**
 - (1) Act. The Fair Housing Amendments Act of 1988.

- (2) Applicant. The individual making the request for reasonable accommodation.
 - (3) Disability. Any physical or mental impairment that Substantially limits one or more major life activities; anyone who is regarded as having such impairment or anyone who has a record of such impairment. People who are currently using illegal substances are not covered under the Act, unless they Have a separate disability.
- (c) **Requesting Reasonable Accommodation.** In order to make specific housing available to an individual with a disability, in place of an application for a variance Or a conditional use permit, an applicant may file with the Zoning Administrator a Reasonable Accommodation Request in the form prescribed by the Clerk/Administrator. If an individual needs assistance in making the request for reasonable accommodation, the Zoning Administrator shall provide assistance necessary to ensure that the process is accessible to the applicant.
- (d) **Review of Requests for Reasonable Accommodation.** The Zoning Administrator shall issue a written decision within thirty (30) days of the date of the application and may grant the reasonable accommodation request or deny the request. If necessary to reach a decision on the request for reasonable accommodation, the Zoning Administrator may request further information from the applicant consistent with the Act, specifying in detail what information is required. Not more than thirty (30) days after receiving a written request for reasonable accommodation, the Zoning Administrator shall issue a written decision on the request; provided that, in the event that the Zoning Administrator requests further information pursuant to the above paragraph, the running of this period shall be tolled (stopped) until the applicant responds to the request.
- (e) **Factors for Considering Requests for Reasonable Accommodation.** The Zoning Administrator shall consider the following criteria when deciding whether a requested accommodation is reasonable:
- (1) The housing subject of the request for reasonable accommodation will be used by an individual that is protected under the Act.

- (2) The requested accommodation is necessary to make the specific housing available to an individual protected under the Act.
- (3) The requested accommodation will not be detrimental to public welfare and safety (e.g. interfere with or obstruct the visibility triangle)
- (f) **Written Decision on the Request for Reasonable Accommodation.** The Zoning Administrator's written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Zoning Administrator's findings on the criteria set forth in subsection (e) above. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as set forth in Section 12-6-4. The Zoning Administrator's Notice of Decision shall be sent to the applicant by certified mail. If the Zoning Administrator fails to render a written decision on the request for reasonable accommodation within the time period allotted, the request shall be deemed granted.

SEC. 12-6-5 VARIANCE

- (a) **Purpose.** The Board of Appeals may vary the regulations of this Ordinance in harmony with its general purpose and intent, but only in specific instances where the Board makes a finding of fact based on the standards prescribed in Section 12-6-4(e). Variances may be granted:
 - (1) To permit any yard of less dimension than those required by this Ordinance.
 - (2) To permit any building to exceed the floor space provided by the Ordinance, but such variation may not exceed ten (10%) percent.
 - (3) To permit the use of lot prohibited solely because of insufficient area of the lot.
 - (4) To permit construction of a building, structure or sign which will exceed the height limit for the district in which it is to be built.
 - (5) To permit off-street parking which does not conform in quantity or other particulars with the requirements of this Ordinance.

- (b) **Application for Variance.** The application for a variance shall be filed with the Zoning Administrator. The application shall contain the following information:
 - (1) Name and address of the applicant.
 - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - (3) Address and description of the property.
 - (4) An accurate drawing of the site and surrounding area for a distance of at least three hundred (300) feet from each boundary.
 - (5) Names and address of adjacent property owners.
- (c) **Application Fee.** The City Council may establish, from time to time, the fee for an application for variance. No application for variance shall be complete until the established fee, if any, is paid.
- (d) **Hearing of Application.** The Board of Appeals shall conduct at least one public hearing on the proposed variance. Notice of the hearing shall be published not more than thirty (30) days and not less than fifteen (15) days before the public hearing in a newspaper of general circulation in the City.
- (e) **Disposition By Board of Appeals.** The Board shall make an affirmative or negative decision within thirty (30) days after the public hearing. The concurring vote of four (4) members of the Board is necessary to authorize any variance in the Ordinance. A copy of the variance shall be supplied to the Zoning Administrator within ten (10) days of passage, and it shall be accompanied by a written finding of fact and reasons for granting the variance, in accordance with Section 12-6-4(e) of this Ordinance.
- (f) **Standards.** For the Board of Appeals to make an affirmative decision it must find that:
 - (1) Denial of the variance would result in hardship to the property owner due to physical characteristics of the site;
 - (2) The conditions upon which a petition for a variance is based are unique to the property for which the variance is being sought;
 - (3) The petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property;
 - (4) The granting of the variance will not be detrimental to the public welfare or injurious to the other

- property or improvements in the neighborhood in which the property is located; and
- (5) The proposed variance will not jeopardize the spirit and general and specific purposes of this Ordinance.

SEC. 12-6-6 CONDITIONAL USE

- (a) **Purpose.** The formulation and enactment of a comprehensive zoning ordinance is based on the division of the entire city 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 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" and fall into two categories:
 - (1) Uses which are either municipally operated or operated by publicly regulated utilities.
 - (2) Uses entirely private in character which, because of their particular locational need, the nature of the service they offer to the public, or their possible damaging influence on the neighborhood, may have to be established in a district, or districts, in which they cannot reasonably be allowed as an unrestricted permitted use under the zoning regulations.
- (b) **Application for Conditional Use Permit.** An application for a Conditional Use Permit shall be filed with the Zoning Administrator. The application shall contain the following information:
 - (1) Name and address of applicant.
 - (2) Statement that the applicant is the owner or authorized agent of the owner of the property.
 - (3) Address and description of the property.
 - (4) An accurate drawing of the site and surrounding area for a distance of at least three hundred (300) feet from each boundary.
 - (5) Names and addresses of adjacent property owners.
- (c) **Application Fee.** The City Council may establish, from time to time, the fee for an application for conditional use

permit. No application for conditional use permit shall be complete until the established fee, if any, is paid.

- (d) **Referral to City Plan Commission.** The Zoning Administrator shall refer the application for a Conditional Use Permit to the Planning Commission. The City Plan Commission shall hold at least one public hearing on the proposed conditional use. The public hearing shall be recorded and filed in the Zoning Office. Notice of the hearing shall be published not more than thirty (30) days and not less than fifteen (15) days before the public hearing in a newspaper of general circulation in the City. Owners of Adjacent properties shall also be notified in writing. Their failure to get the notice or attend the hearing shall not invalidate the proceedings.
- (e) **Action by the Planning Commission.** Within thirty (30) days of the public hearing, the City Plan Commission shall act on the application for a Conditional Use Permit. The City Plan Commission shall transmit in writing to the City Council its recommendation for the disposition of the application. The Commission shall make one of the following recommendations:
 - (1) Approval of the Conditional Use Permit as presented by the applicant, provided the standards of Section 12-6-5(f) are met.
 - (2) Approval with conditions, as per Section 12-6-5(g).
 - (3) Denial of the Conditional Use Permit.
- (f) **Disposition by the City Council.** Within thirty (30) days of the receipt of the City Plan Commission's recommendation, the City Council shall place the conditional use application on its agenda. The City Council shall act on the Conditional Use Permit application by:
 - (1) Approval of the issuance of a Conditional Use Permit as presented by the applicant, provided the standards of Section 12-6-5(g) are met.
 - (2) Approval of the issuance of a Conditional Use Permit with conditions as per Section 12-6-5(h) as deemed necessary by the Council.
 - (3) Denial of the Conditional Use Permit. Any proposed Conditional Use Permit which fails to receive the approval of the Planning Commission or has received a filed objection duly signed and acknowledged by the owners of twenty percent or more of the area of land immediately adjacent to the property extending one

hundred (100) feet therefrom, or by the owners of twenty percent or more of the land directly across the street and extending one hundred (100) feet in either direction, shall not be approved by the City Council except by a three-fourths (3/4) vote of the Council members voting. A copy of the Conditional Use Permit shall be supplied to the Zoning Administrator within ten (10) days of passage.

(g) **Standards.** Prior to the City Plan Commission recommending approval of, or the City Council approving the issuance of a Conditional Use Permit, each body shall determine that the proposed conditional use will meet the following standards:

- (1) It will in no way endanger public health, safety, morals, comfort, and general welfare.
- (2) It will not be injurious to the enjoyment of other property in the immediate vicinity.
- (3) The establishment of the conditional use will not impede the orderly development and improvement of the nearby property for the uses permitted in the district.
- (4) Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and traffic hazards on public streets.
- (6) It will conform to the applicable regulations of the district in which it is to be located.

(h) **Conditions.** The City Plan Commission may recommend and/or the City Council may attach certain conditions to the conditional use. The applicant must then agree to the conditions prior to the issuance of a Conditional Use Permit.

- (1) These conditions may include, but are not limited to, restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor; establishing a special yard or other open space or lot area or dimension; limiting the height, size or location of a building or other structure; designating the size, number, location or nature of vehicle access points; increasing the amount of street dedication,

roadway width, or improvements within the street right-of-way; designating the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading area; limiting or otherwise designating the number, size, location, height or lighting of signs; limiting the location and intensity of outdoor lighting or requiring its shielding; requiring diking, screening, landscaping or another facility to protect adjacent or nearby property; designating standards for installation or maintenance of the facility; designating the size, height, location or materials for a fence; protecting existing trees, vegetation, water resources, wildlife habitat or other significant natural resources; specifying other conditions to permit development of the city in conformity with the intent and purpose of the comprehensive plan.

- (2) A limited term, but not less than one year, may be attached as a condition of the Conditional Use Permit when deemed necessary to promote the health, safety, morals, comfort, prosperity, and general welfare of the City.
- (i) **Effect of Denial.** No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions is found to be valid by the commission.
- (j) **Renewal of Limited Term Conditional Use Permit.** No later than 90 days prior to the expiration of a Limited Term Conditional Use Permit, the Zoning Administrator shall review such permit for compliance with the standards of section 12-6-5(g) and the conditions attached to the permit under section 12-6-5(h). The Zoning Administrator shall refer the renewal of the Conditional Use Permit to the Planning Commission and report his findings regarding compliance.
 - (1) If the Zoning Administrator finds substantial compliance with the terms and conditions of the permit, and no other complaints have been registered, the City Plan Commission may recommend the renewal of the Conditional Use Permit without a public hearing. Otherwise the City Plan Commission shall hold a public hearing after notice as provided in §17.49 Wis. Stats.

Any person may appear at such hearing and testify in person or represented by an agent or attorney. Following the hearing, the City Plan Commission may recommend (i) approval of the renewal of a Conditional Use Permit without modification; (ii) approval of the renewal of a Conditional Use Permit with modifications of conditions; or (iii) revocation of the permit if the use is substantially detrimental to adjacent residents or property and no reasonable modification of conditions can be made in order to insure compliance with section 12-6-5(g).

- (2) Within thirty (30) days of the receipt of the City Plan Commission's recommendation, the City Council shall either place the renewal of the conditional use permit on its agenda or hold a hearing under section 12-6-5(o). If placed on its agenda, the City Council shall act on the Conditional Use Permit renewal by:
 - (i) Approval of the renewal of a Conditional Use Permit without modification; or
 - (ii) Approval of the renewal of a Conditional Use Permit with a modification of the conditions as deemed necessary by the Council.

(k) **Denial of the Conditional Use Permit.** Any proposed Conditional Use Permit which fails to receive the approval of the City Plan Commission or has received a filed objection duly signed and acknowledged by the owners of twenty percent or more of the area of land immediately adjacent to the property extending one hundred (100) feet therefrom, or by the owners of twenty percent or more of the land directly across the street and extending one hundred (100) feet in either direction, shall not be approved by the City Council except by a three-fourths (3/4) vote of the Council members voting. A copy of the Conditional Use Permit shall be supplied to the Zoning Administrator within ten (10) days of passage.

(l) **Lapse of Conditional Use Permit.** A Conditional Use Permit shall lapse and become void one year after passage by the City Council unless the conditional use is fully established or a building permit has been issued and 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 year by application to and approval of the City Council.

- (m) **Abandonment.** Unless otherwise specified in the conditions of approval, a conditional use issued under this section shall remain in effect as long as the authorized use continues. Any use which is discontinued for 12 consecutive months shall be deemed to be abandoned. Prior to the re-establishment of an abandoned use, a new conditional use shall be obtained under the terms of this chapter.
- (n) **Modification.** Whenever permitted in these ordinances, the conditions in a Conditional Use Permit may be modified to the extent that the conditions remain consistent with the standards of section 12-6-5(g) but provided that the modifications do not result in unreasonable and exceptional undue hardship to the permittee.
- (o) **Revocation.** If the terms of a conditional use have been violated, or the use is substantially detrimental to adjacent residents or property, the Council shall hold a hearing on the revocation of the conditional use. Such hearing shall be preceded by due notice to the permittee and shall be held in accordance with Section 62.23 of the Wisconsin Statutes. If the Council finds the terms of the conditional use have been violated or the use is detrimental to the adjacent residents or property, it may renew with or without modifications, revoke, modify or leave such conditional use unchanged.

SEC. 12-6-7 AMENDMENTS

- (a) **Purpose.** The purpose of this section of the Ordinance is to provide a procedure for changing district boundaries, district regulations, and other textual and map provisions of this Ordinance. Amendments may be initiated by the Planning Commission, City Council or by property owners of record.
- (b) **Petition for Amendment.** A petition for an amendment shall be filed with the City Clerk. The petition shall contain the following information if the amendment will affect only a particular property or properties:
 - (1) Name and address of petitioner.
 - (2) Statement that the petitioner is the owner or authorized agent of the owner of the property for which the change in district boundary or use is proposed.
 - (3) Address and description of the property.

- (4) An accurate drawing of the site and surrounding area for a distance of at least three hundred (300) feet from each boundary.
- (5) Names and addresses of adjacent property owners.
- (c) **Petition Fee.** The City Council may establish, from time to time, the fee for a petition for amendment. No petition for amendment shall be complete until the established fee, if any, is paid.
- (d) **Referral to Planning Commission.** The City Clerk shall refer the application for amendment to the Planning Commission. Within thirty (30) days of the referral, the Planning Commission shall meet to act on the proposed amendment. The Planning Commission shall transmit in writing to the City Council its recommendation for the disposition of the application. The Commission may make one of the following recommendations:
 - (1) Approval of the amendment as presented by the applicant.
 - (2) Approval of the amendment with modifications.
 - (3) Denial of the amendment.If the Planning Commission does not transmit a recommendation and a report to the City Council within sixty (60) days of the referral, the City Council may hold hearings without first receiving the recommendations and report.
- (e) **Public Hearing.** At the option of the city council, a public hearing on a proposed amendment shall be held by the council or the Planning Commission. A Class 2 notice under Chapter 985 Wis. Stats. of the proposed changes and hearing(s) thereon shall be published not more than thirty (30) days and not less than fifteen (15) days before the public hearing in a newspaper of general circulation in the City. At least 10 days prior written notice of the public hearing shall be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by the proposed amendment, but failure to give such notice shall not invalidate the proceedings.
- (f) **Disposition by the City Council.** Within thirty (30) days of the receipt of the Planning Commission report and recommendation, or within sixty (60) days of referral to the Planning Commission, the City Council may place the petition for amendment on its agenda. The City Council shall act on the amendment by:

- (1) Approval of the amendment provided the standards of Section 12-6-6(h) are met.
 - (2) Approval of the amendment with modifications, provided the standards of section 12-6-6(h) are met.
 - (3) Denial of the amendment.
- (g) **Protest to Amendment.** In the event that a proposed amendment fails to receive the approval of the Planning Commission or the city receives a written protest duly signed and acknowledged by the owners of twenty (20%) percent or more of the area to be rezoned, by the owners of twenty (20%) percent or more of the land immediately adjacent to the property extending one hundred (100) feet therefrom, or by the owners of twenty (20%) percent or more of the land directly across the street and extending one hundred (100) feet in either direction, such amendment shall not become effective unless approved by a (3/4) of the Council members voting on the proposed change.
- (h) **Standards:** Prior to the Planning Commission recommending approval, or the City Council approving an amendment, each body shall determine that the proposed amendment will meet the following standards:
- (1) It will in no way endanger public health, safety, morals, comfort and general welfare.
 - (2) It will not be injurious to the enjoyment of other property in the immediate vicinity.
 - (3) It will not impede the orderly development and improvement of property in the City.