

ALDERPERSON AGENDA ITEM MEMO

To: Community Affairs Committee

From: Robin Brannin, District 3 Alderperson

Date: April 21, 2025

Subject: Zoning Changes Regarding Cigarette, Cigar, Tobacco, Vape, and E-Cigarette (CCTVE) retailers

A. Background/Rationale

I am recommending changes to Wauwatosa's zoning ordinances to address increasing concerns around the presence and impact of Cigarette, Cigar, Tobacco, Vape, and E-Cigarette (CCTVE) retailers in our community. Research consistently shows that these establishments, when located near residential and youth-oriented areas, contribute to public health risks, youth initiation, and neighborhood decline.

Youth Exposure & Initiation:

Multiple health organizations, including the [CDC](#), have linked the proximity of tobacco and e-cigarette retailers to increased smoking and vaping among youth. A JAMA Pediatrics study found that adolescents living in areas with a higher density of vape shops were more likely to use e-cigarettes. Easy access to flavored products and visibility of these shops near schools, parks, and community gathering spaces increase the risk of experimentation and long-term nicotine use. Further, a study in Tobacco Control confirmed that youth are more likely to initiate vaping when they see it normalized by peers or adults in public, especially near places they frequent.

Health Risks of Smoking and Vaping:

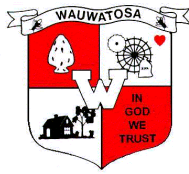
While often marketed as safer alternatives, e-cigarettes carry health risks including respiratory and cardiovascular problems. The CDC warns that nicotine exposure in youth interferes with brain development and can lead to addiction. Studies show that when tobacco retailers are located near homes, impulse purchases and habitual use increase—undermining efforts to reduce nicotine dependence and creating avoidable public health burdens.

Zoning Precedents from Other Municipalities:

Other cities have recognized these risks and taken action. In 2023, the [City of Milwaukee adopted restrictions](#) preventing new smoke or vape shops within 1,000 feet of schools and within 500 feet of similar retailers. The [City of Madison has adopted similar rules](#), banning tobacco retailers within 1,000 feet of schools, parks, libraries, health facilities, and youth centers. These policies serve as a model for how local zoning can support public health while maintaining balanced commercial development.

Signage and Advertising Exposure:

The [American Academy of Pediatrics highlights](#) that in-store advertising at a child's eye level increases youth exposure to harmful products. Requiring CCTVE retailers to submit sign plans for review and limiting youth-facing marketing can help reduce normalization of smoking and vaping behaviors among minors.



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These proposed ordinance changes aim to proactively protect Wauwatosa's neighborhoods and families by restricting where CCTVE retailers can operate, reducing their visibility to youth, and aligning local policy with best practices in public health and zoning.

B. Key Issues for Consideration

The proposed ordinance changes include the following elements:

- **Revised Definitions:** Expands the definition of Cigarette, Cigar, and Tobacco shops to include vape, e-cigarette, and THC/cannabis smoking products.
- **Reduced Retail Threshold:** Lowers the threshold for ancillary tobacco/vape product sales from 25% to 10% of total retail floor space.
- **Zoning Restrictions:**
 - Prohibits CCTVE retailers in C1 and C2 commercial zones.
 - Permits CCTVE retailers only in M1 and M2 industrial zones, with approval of a Conditional Use Permit (CUP).
- **Distance Requirements:**
 - Prohibits CCTVE retailers from locating within 1,000 feet of a daycare, school (public or private, K–12), or public park.
 - Prohibits CCTVE retailers from operating within 1 mile of another such establishment.
- **Signage Oversight:** Requires CUP applicants to submit a signage plan for review as part of the application process.

A preliminary map is attached showing 1,000-foot buffers around schools, parks, and daycares to illustrate where these businesses would be restricted.

C. Fiscal Impact

There is no immediate or direct fiscal impact from the proposed ordinance changes. Potential long-term fiscal benefits may include the preservation of property values and the reduction of public safety and health-related costs associated with youth substance use.

D. Requested Action

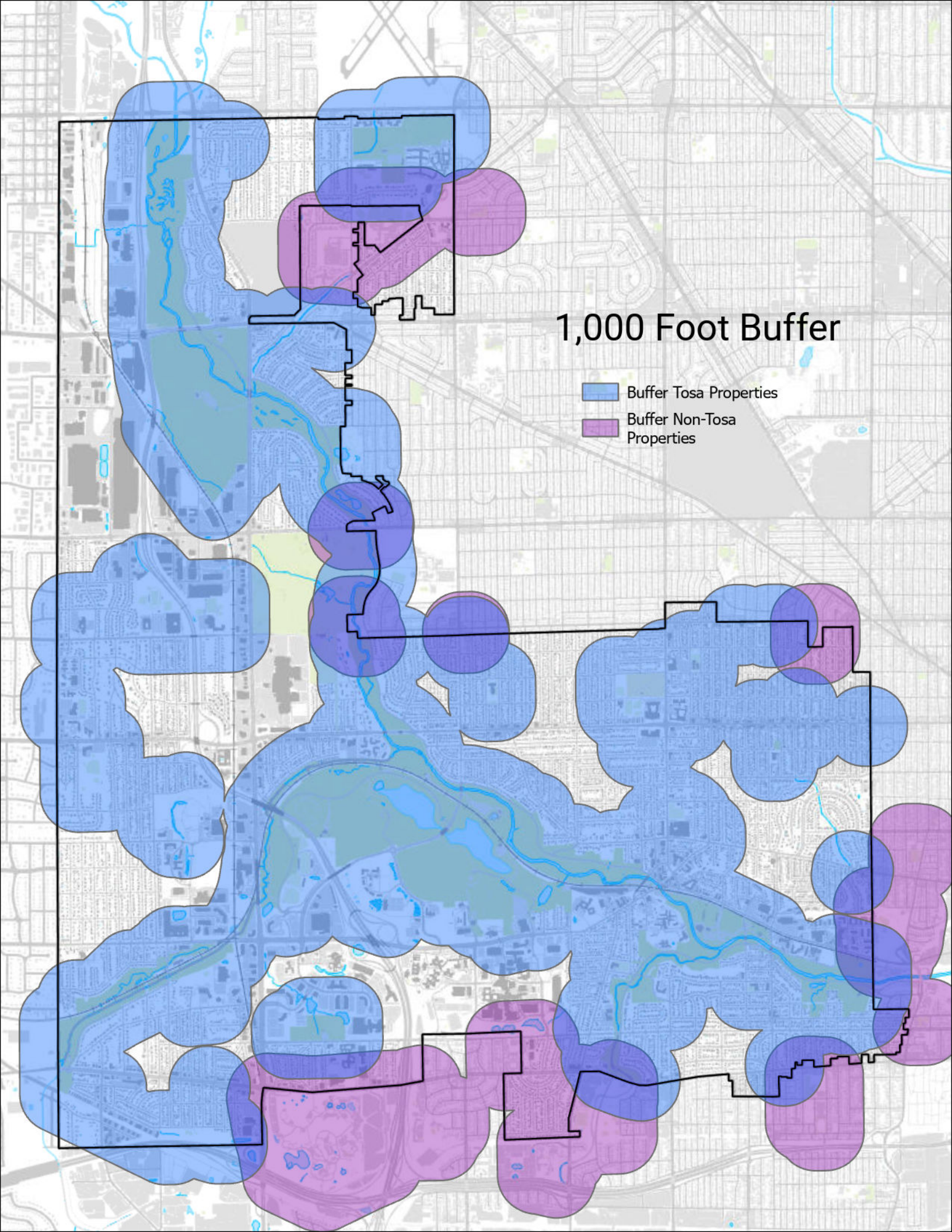
Recommend proposed language and initiate zoning code text amendment process.

E. Attachments

Revised Definition_24.08.040 (002) 3.17.25
Revised Land Use Table_24.07.030_03182025
Revisions_24.09_03182025
Thousand-Foot-Buffer-Prohibited

1,000 Foot Buffer

- Buffer Tosa Properties
- Buffer Non-Tosa Properties



24.07.030 Use Table

The following table identifies principal uses allowed in residential, commercial and industrial zoning districts. See Section 24.07.020 for information about how to interpret the use table.

| USE CATEGORY | DISTRICTS | | | | | | | | | | | | | | | | | | | | | |
|---|-----------|------|------|-----|-----|-----|-------|-------|-------|-------|----|--------|--------|--------|--------|--------|----------|--------|---------|---------|---------|-----------------|
| Use Subcategory (See Chapter 24.08 or Cntrl + click on term for definition) | R1-15 | R1-9 | R1-6 | R-2 | R-4 | R-8 | CO[5] | C1[5] | C2[5] | M1[5] | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | SP-RP[1] | SP-PKG | MID-RES | MID-TRN | MID-MIX | USE REGULATIONS |
| - Specific Use Type (See Ch. 24.08 or Cntrl + click on term for definition) | | | | | | | | | | | | | | | | | | | | | | |
| RESIDENTIAL | | | | | | | | | | | | | | | | | | | | | | |
| Household Living | | | | | | | | | | | | | | | | | | | | | | |
| - Detached House | P | P | P | P | P | P | - | C | - | - | - | - | - | - | - | - | | - | P | C | - | |
| - Semi-detached House | - | - | - | P | P | P | - | C | - | - | - | - | - | - | - | - | | - | P | C | - | 24.09.020 |
| - Two-unit House | - | - | - | P | P | P | - | C | - | - | - | - | - | - | - | - | | - | P | C | - | |
| - Attached House | - | - | - | - | P | P | - | C | - | - | - | - | - | - | - | - | | - | P | C | - | 24.09.020 |

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| - Multi-unit Building | - | - | - | - | P | P | - | P | P | - | - | - | - | - | - | - | | - | P | P | - | 24.09.070 |
| - Mixed-use Building, Vertical | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | - | | - | - | P | P | |
| Group Living (except as indicated below) | - | - | - | - | C | C | - | P | C | - | - | - | - | - | C | C | | - | C | P | C | |
| - Adult Family Home | P/C | P/C | P/C | P/C | P/C | P/C | - | C | - | - | - | - | - | - | C | C | | - | P/C | C | - | 24.09.010 |
| - Community Living Arrangement | P/C | P/C | P/C | P/C | P/C | P/C | - | C | - | - | - | - | - | - | C | C | | - | P/C | C | - | 24.09.040 |
| - Foster Home/Treatment Foster Home | P | P | P | P | P | P | - | C | - | - | - | - | - | - | C | C | | - | P | C | - | 24.09.060 |
| PUBLIC/CIVIL | R1-15 | R1-9 | R1-6 | R-2 | R-4 | R-8 | CO[5] | C1[5] | C2[5] | M1[5] | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | SP-RP[1] | SP-PKG | MID-RES | MID-TRN | MID-MIX | USE REGULATIONS |
| College/University | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | P | | - | - | - | - | |
| Day Care | | | | | | | | | | | | | | | | | | | | | | |
| - Home-Based—Up to 8 children or adults | P | P | P | P | P | P | P | P | P | - | - | - | C | - | C | C | | - | P | P | P | |
| - More than 8 children or adults | - | - | - | - | - | C | C | C | C | - | - | - | C | - | C | C | | - | - | C | C | |

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| Detention and Correctional Facilities | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | | - | - | - | - | |
| Fraternal, Labor, Membership Organization | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | C | - | | - | - | P | P | |
| Hospital | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | P | | - | - | - | - | |
| Library/Cultural Exhibit | | C | C | C | C | C | P | P | P | - | - | C | C | - | C | C | | - | C | P | P | | |
| Park/Recreation/Open Space (except as indicated below) | - | - | - | - | - | - | - | - | - | - | - | C | C | C | C | C | | - | - | - | - | | |
| - Community or Recreation Center | - | C | C | C | C | C | - | C | P | - | - | C | C | C | C | C | | - | C | C | P | | |
| - General Recreation Park/Playground | - | C | C | C | C | C | - | - | - | - | - | C | P | C | C | C | | - | C | - | - | | |
| - Golf Course (min. 5,000 yards) | - | C | C | C | C | C | - | - | - | - | - | C | C | C | C | C | | - | C | - | - | | |
| - Swimming Pool | - | C | C | C | C | C | - | - | - | - | - | C | C | C | C | C | | - | C | - | - | | |
| - Tennis Court | C | C | C | C | C | C | - | - | - | - | - | C | C | C | C | C | | - | C | - | - | | |
| Religious Assembly | C | C | C | C | C | C | - | C | C | - | - | - | - | - | - | C | C | | - | C | C | C | |

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| Safety Services | C | C | C | C | C | C | C | C | C | C | C | - | - | P | C | C | | - | C | C | C | |
| School | - | C | C | C | C | C | - | C | - | - | - | C | C | - | C | C | | - | C | C | - | |
| - Charter School | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - | - | - | - | - | - | |
| Utilities & Services | | | | | | | | | | | | | | | | | | | | | | |
| - Minor | P | P | P | P | P | P | P | P | P | P | P | C | C | P | C | C | | - | P | P | P | |
| - Major | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | | - | C | C | C | |
| COMMERCIAL | R1-15 | R1-9 | R1-6 | R-2 | R-4 | R-8 | CO[5] | C1[5] | C2[5] | M1[5] | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | SP-RP[1] | SP-PKG | MID-RES | MID-TRN | MID-MIX | USE REGULATIONS |
| Animal Services | | | | | | | | | | | | | | | | | | | | | | |
| - Sales & Grooming | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | - | | - | - | P | P | |
| - Shelter or Boarding Kennel | - | - | - | - | - | - | - | - | - | C | C | - | - | - | - | - | | - | - | - | - | |
| - Veterinary | - | - | - | - | - | - | P | P | P | P | P | - | - | - | - | - | | - | - | P | P | |

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| Artist Work or Sales Space | - | - | - | - | - | - | P | P | P | P | P | - | - | - | - | - | | - | - | P | P | |
| Building Maintenance Service | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | | - | - | - | P | |
| Business Equipment Sales & Service | - | - | - | - | - | - | - | P | P | P | P | - | - | - | - | - | | - | - | P | P | |
| Business Support Service | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | | - | - | - | P | |
| - Trade/Vocational/Technical School | - | - | - | - | - | - | C | - | P | C | - | - | - | - | - | - | | - | - | - | P | |
| Communication Service Establishments | - | - | - | - | - | - | C | C | P | P | P | - | - | - | - | - | | - | - | C | P | |
| Construction Sales & Service | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | | - | - | - | P | |
| Eating & Drinking Establishments [3] | | | | | | | | | | | | | | | | | | | | | | |
| - Restaurant | - | - | - | - | - | - | C | C | C | - | - | - | C | - | - | C | | - | - | C | C | |
| - Bar or Tavern | - | - | - | - | - | - | C | C | C | - | - | - | - | - | - | - | | - | - | C | C | |
| Entertainment & Spectator Sports (except as indicated below) | - | - | - | - | - | - | - | C | C | - | - | - | - | C | - | - | | - | - | C | C | |

[illegible]

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| - Cemetery/Columbarium/Mausoleum | - | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | | - | - | - | - | |
| - Cremating | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | | - | - | - | - | |
| - Undertaking/Funeral Services | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | - | | - | - | P | P | |
| Lodging | | | | | | | | | | | | | | | | | | | | | | |
| - Bed & Breakfast | - | - | C | C | C | C | - | C | - | - | - | - | - | - | - | - | | - | C | C | - | 24.09.030 |
| - Hotel/Motel | - | - | - | - | - | - | - | C | C | - | - | - | - | - | - | - | | - | - | C | C | |
| - Campground | - | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | | - | - | - | - | |
| Office, Professional | - | - | - | - | - | - | P | P | P | C | C | - | - | P | - | P | | - | - | P | P | |
| Office or Clinic, Medical | - | - | - | - | - | - | P | P | P | - | C | - | - | - | C | P | | - | - | P | P | |
| Parking, Non-Accessory | - | - | - | - | - | - | - | C | P | P | P | - | - | P | - | C | | C | - | C | P | 24.06.080B |
| Personal Improvement Service | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | | - | - | P | P | |

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| - Auto Wash/Cleaning Service | - | - | - | - | - | - | - | - | C | P | P | - | - | C | - | - | | - | - | - | - | 7.46.120 |
| - Auto Fueling Station | - | - | - | - | - | - | - | - | C | P | P | - | - | C | - | - | | - | - | - | C | |
| - Heavy Vehicles and Equipment, Sales/Rentals | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | | - | - | - | - | |
| - Light Vehicles and Equipment, Sales/Rentals | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | | - | - | - | - | 6.72 |
| - Motor Vehicle Repair, Limited | - | - | - | - | - | - | - | - | P | P | P | - | - | C | - | - | | - | - | - | - | |
| - Motor Vehicle Repair, General | - | - | - | - | - | - | - | - | P | P | P | - | - | C | - | - | | - | - | - | - | |
| - Vehicle Storage & Towing | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | | - | - | - | - | |
| INDUSTRIAL | R1-15 | R1-9 | R1-6 | R-2 | R-4 | R-8 | CO[5] | C1[5] | C2[5] | M1[5] | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | SP-RP[1] | SP-PKG | MID-RES | MID-TRN | MID-MIX | USE REGULATIONS |
| Manufacturing & Industrial Services, Artisan | - | - | - | - | - | - | - | P | P | P | P | - | - | P | - | - | | - | - | P | P | |
| Manufacturing & Industrial Services, Limited | - | - | - | - | - | - | - | - | - | P | P | - | - | P | - | - | | - | - | - | - | |
| Manufacturing & Industrial Services, General | - | - | - | - | - | - | - | - | - | C | P | - | - | - | - | - | | - | - | - | - | |

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|--|-------|------|------|-----|-----|-----|-------|-------|-------|-------|----|--------|--------|--------|--------|--------|----------|--------|---------|---------|---------|-----------------|--|
| Manufacturing & Industrial Services, Intensive | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | | - | - | - | - | |
| -Recycling Service | | | | | | | | | | | | | | | | | | | | | | | |
| - Limited | - | - | - | - | - | - | - | - | - | P | P | P | - | - | P | - | - | | - | - | - | P | |
| - General | - | - | - | - | - | - | - | - | - | - | - | P | - | - | C | - | - | | - | - | - | - | |
| Residential Storage Warehouses | - | - | - | - | - | - | - | - | - | - | P | P | - | - | - | - | - | | - | - | - | - | |
| -Warehousing, Wholesaling & Freight Movement | | | | | | | | | | | | | | | | | | | | | | | |
| - Limited | - | - | - | - | - | - | - | - | - | - | P | P | - | - | P | - | - | | - | - | - | - | |
| - General | - | - | - | - | - | - | - | - | - | - | C | P | - | - | C | - | - | | - | - | - | - | |
| Waste-Related Use | - | - | - | - | - | - | - | - | - | - | - | C | - | - | C | - | - | | - | - | - | - | |
| AGRICULTURAL | R1-15 | R1-9 | R1-6 | R-2 | R-4 | R-8 | CO[5] | C1[5] | C2[5] | M1[5] | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | SP-RP[1] | SP-PKG | MID-RES | MID-TRN | MID-MIX | USE REGULATIONS | |
| Apiary | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | | - | - | - | - | | |

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| Community Garden | P | P | P | P | P | P | P | P | P | P | P | C | C | P | C | C | | - | P | P | P | |
| Farmer's Market | C | C | C | C | C | C | C | P | P | P | P | - | C | P | C | C | | - | C | P | P | |
| Nurseries & Greenhouses | - | - | C | - | - | - | - | - | P | P | - | C | C | C | C | C | | - | - | - | P | |
| MISCELLANEOUS | R1-15 | R1-9 | R1-6 | R-2 | R-4 | R-8 | CO[5] | C1[5] | C2[5] | M1[5] | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | SP-RP[1] | SP-PKG | MID-RES | MID-TRN | MID-MIX | USE REGULATIONS |
| Wireless Communication Facilities | | | | | | | | | | | | | | | | | | | | | | |
| - Co-located | [2] | [2] | [2] | [2] | [2] | [2] | [2] | P | P | P | P | - | - | P | - | - | | - | [2] | P | - | 24.09.110 |
| - Freestanding | [2] | [2] | [2] | [2] | [2] | [2] | [2] | [2] | [2] | C | C | - | - | C | - | - | | - | [2] | [2] | [2] | 24.09.110 |
| Drive-through Facilities or Drive-in Facilities | - | - | - | - | - | - | C | C[4] | C[4] | C | C | - | - | - | - | - | | - | - | - | - | 24.11.100 |
| Helipad | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | | - | - | - | - | |

[1] See Section 24.06.070 for a list of permitted and conditional uses in the SP-RP district.

[2] See Section 24.09.110 for additional regulations.

[3] See Section 24.05.020 C.2. In a regional mall, no Conditional Use is required for establishments with no separate entrance or seating.

[4] See Section 24.05.030 B.7. Drive-through or drive-in facilities are prohibited in /NOR overlay. See Section 24.05.020 D for additional /MAY Overlay drive-through or drive-in regulations.

[5] See Subsection 24.03.040 I and 24.04.040 F. - Outdoor storage activities require a Conditional Use.

[6] See Subsection 24.08.040 O.2. "Office or Clinic, Medical" definition.

(Ord. O-13-17, § VI, 11-19-2013; Ord. O-14-08, § I, 3-19-14; Ord. O-14-20, pts. V, VI, 8-5-2014)

24.08.040 USE CLASSIFICATION – Commercial Use Category

T. Retail Sales. Businesses involved in the sale, lease or rent of new or used products, merchandise to consumers. Typical uses include drug stores, grocery stores, department stores and apparel stores.

1. Cigarette, Cigar, ~~or~~ Tobacco, Vape, or E-cigarette Store. Businesses primarily involved in the sale of cigarettes, cigars, tobacco products, vaping products, or smoking material or equipment. This includes products or materials intended to vape or smoke tetrahydrocannabinols or synthetic cannabinoids. This does not include businesses that sell cigarettes, cigars or tobacco products as an ancillary part of an allowed retail use.
2. Cigarette, ~~&~~ Tobacco ~~Product~~, Vape, or E-cigarette Sales (ancillary). Cigarette & tobacco product sales are considered ancillary if such products occupy no more than ~~25%~~10% of the available retail floor space of the premises and if such sales account for no more than ~~25%~~10% of the gross sales receipts of the business.

CHAPTER 24.09 SUPPLEMENTARY USE REGULATIONS

24.09.010 Adult Family Home

24.09.020 Attached And Semi-Attached Houses

24.09.030 Bed And Breakfast

24.09.040 Community Living Arrangements

24.09.050 Convenient Cash Businesses

24.09.060 Foster Home Or Treatment Foster Home

24.09.070 Multi-Unit Building

24.09.080 Community Garden

24.09.090 Large-Format Retail Developments

24.09.100 Sexually Oriented Businesses

24.09.110 Wireless Communication Facilities

24.09.120 Cigarette, Cigar, Tobacco, Vape, or E-cigarette Stores

24.09.120 - Cigarette, Cigar, Tobacco, Vape, or E-cigarette Stores

- A. Purpose: The purpose of this section is to regulate the location and operation of Cigarette, Cigar Tobacco, Vape, or E-cigarette Store within the City of Wauwatosa to minimize potential public health risks, particularly to minors, and to maintain the safety and welfare of the community. This ordinance is designed to ensure that Cigarette, Cigar Tobacco, Vape, or E-cigarette stores are not located in close proximity to sensitive uses such as daycares, schools, and parks, which are frequented by children and young individuals.
- B. Conditional Use Permit: Cigarette, Cigar, Tobacco, Vape, or E-cigarette stores require approval of a Conditional Use Permit where permitted in accordance Table 24.07.030.
- C. Prohibited Location: No Cigarette, Cigar, Tobacco, Vape, or E-cigarette Store shall be located within 1,000 feet of any of the following:
 - a. Daycare centers
 - b. Public or private schools, grades K-12
 - c. Public parks
- D. Concentration: No Cigarette, Cigar Tobacco, Vape, or E-cigarette Store shall be located within 1 mile of another Cigarette, Cigar Tobacco, Vape, or E-cigarette Store.
- E. Measurement: Distance for Sections 24.09.120.C and 24.09.120.D shall be measured in a straight line from the property boundary of the Cigarette, Cigar Tobacco, Vape, or E-cigarette Store to the property boundary of the daycare, school, or park.
- F. Signage Plan: As part of the Conditional Use Permit application process, a sign plan must be submitted for review and approval. The plan shall include:
 - a. The proposed design, size, and location of all signage on the premises.
 - b. Content of the proposed signage, which must comply with City sign regulations and must not include any content that promotes vaping to minors.
 - c. Signage must clearly display age restrictions and any health warnings required by law.
 - d. No signage is allowed within 3 feet of ground level.
 - e. Any other information as required from the Zoning Administrator.