

SECTION 1: AMENDMENT “24.16.020 Zoning Ordinance Text Amendments” of the Wauwatosa Municipal Code is hereby *amended* as follows:

AMENDMENT

24.16.020 Zoning Ordinance Text Amendments

- A. Authority to Initiate. Amendments to the text of this zoning ordinance may be initiated by the common council or the plan commission, or following the filing of an application with the zoning administrator.
- B. Public Hearing and Notice of Hearing. Upon receiving a completed application for a Zoning Ordinance Text Amendment, planning staff may schedule a public hearing before the common council and prepare appropriate notice and publications. Class 2 notice of the common council's required public hearing on a zoning ordinance text amendment must be published in accordance with chapter 985 of the Wisconsin Statutes.
- C. Plan Commission Recommendation. ~~P~~Following the required public hearing before the common council, proposed zoning ordinance text amendments must be referred to the plan commission. Following their review of the proposed text amendment, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed text amendment be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.
- D. Common Council ~~Hearing~~ Consideration and Decision.
 - 1. Upon receipt of recommendations from the plan commission, the common council ~~must hold a public hearing on the proposed text amendment.~~ ~~Following the close of the public hearing, the common council~~ may act to approve, approve with modifications or deny the proposed text amendment. If the plan commission's recommendation has not been forwarded to the common council within 60 days of referral of the proposed text amendment to the plan commission, the common council may ~~hold the required hearing and~~ take action without receipt of the recommendation.
 - 2. Final action on a zoning ordinance text amendment by the common council requires a simple majority vote of those members present and voting.
- E. Review Criteria and Standards. Zoning ordinance text amendments are legislative decisions of the common council based on their consideration of the public, health, safety and general welfare.

SECTION 2: AMENDMENT “24.16.030 Zoning Map Amendments (Rezoning)” of the Wauwatosa Municipal Code is hereby *amended* as follows:

AMENDMENT

24.16.030 Zoning Map Amendments (Rezoning)

- A. Authority to Initiate. Amendments to the official zoning map may be initiated by the common council, the plan commission or by petition of an eligible applicant or an eligible applicant's authorized agent (See Section 24.16.010C.1).
- B. Application Filing. Zoning map amendment applications must be filed with the zoning administrator.
- C. Public Hearing and Notice of Hearing.
 1. Upon receipt of a completed application for a Zoning Map Amendment, planning staff may schedule a public hearing before the common council and prepare appropriate notices and publications. ~~Notice of the plan commission's meeting must be mailed to all owners and occupants (when data available) of property within 300 feet of the subject property at least 7 days before the hearing.~~
 2. Class 2 notice of the common council's required public hearing on a zoning map amendment must be published in accordance with chapter 985 of the Wisconsin Statutes.
 3. Notice must be mailed to all of the following at least 7 days before the common council's required public hearing:
 - a. the subject property owner;
 - b. all owners and occupants (when data available) of property within 300 feet of the subject property; and
 - c. the clerk of any municipality with corporate limits that abut the subject property.
 4. The applicant must post signage in a format provided by the city in a prominent location on the development site for the duration of the approval process.
- D. Plan Commission Recommendation. ~~P~~Following the required public hearing before the common council, proposed zoning map amendments must be referred to the plan commission. Following review of the proposed zoning map amendment, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed zoning map amendment be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.
- E. Common Council Hearing and Decision.
 1. Upon receipt of recommendations from the plan commission, the common council ~~must hold a public hearing on the proposed zoning map amendment. Following the close of the public hearing, the common council~~ may act to approve, approve with modifications (e.g., reducing the land area involved in the rezoning or recommending another less intensive zoning classification) or deny the proposed zoning map amendment. If plan commission recommendation has not been forwarded to the common council within 60 days of referral of the proposed zoning map amendment to the plan

commission, the common council may ~~hold the required hearing and~~ take action without receipt of the recommendation.

2. Final action on a zoning map amendment by the common council requires a simple majority vote of those members present and voting, except when a valid protest petition is filed with the city clerk before the date of the meeting that the common council takes final action on the amendment, approval of the zoning map amendment requires at least a 60% majority vote of those common council members present and voting.
- F. Protest Petitions. A valid protest petition must be signed and acknowledged by the owners of:
1. more than 50% of the land area included in the proposed zoning map amendment;
 2. more than 50% of the land area immediately adjacent and extending 100 feet from the subject property; or
 3. more than 50% of the land directly opposite from the subject property and extending 100 feet from the street frontage of the opposite land.
- G. Review Criteria and Standards. Zoning map amendments are legislative decisions of the common council based on their consideration of the public health, safety and general welfare.
- H. Successive Applications. Upon disapproval of a zoning map amendment by the common council, no zoning map amendment petition requesting the same or more intensive zoning on the same or similar property may be filed for or accepted for processing by the city for 6 months from the date of final action by the common council.

(Ord. O-13-17, § XIV, 11-19-2013; Ord. O-14-20, pt. IX, 8-5-2014)

SECTION 3: AMENDMENT “24.16.040 Conditional Use Permits” of the Wauwatosa Municipal Code is hereby *amended* as follows:

AMENDMENT

24.16.040 Conditional Use Permits

- A. Purpose. The conditional use permit approval procedures of this section are intended to provide a transparent, public review process for land uses that, due to their widely varying design and operational characteristics, require case-by-case review in order to determine whether they will be compatible with surrounding uses and development patterns.
- B. Authority to Initiate. Conditional use permit applications may be filed by eligible applicants or an eligible applicant's authorized agent (See Section 24.16.010C.1).
- C. Application Filing. Condition[al] use permit applications must be filed with the zoning administrator. Upon receipt of the application and a completeness determination, the

zoning administrator shall schedule the public hearing ~~date~~ before the common council and coordinate the required notices.

- D. Notice of Hearing. The common council must hold a hearing on all conditional use permits.
1. Notice of the ~~plan-commission~~ common council's required hearing must be mailed to all owners and occupants (when data available) of property within 200 feet of the subject property at least 7 days before the hearing.
 2. Class 2 notice of the ~~plan-commission's~~ common council's required public hearing on a ~~zoning map amendment~~ conditional use permit must be published in accordance with chapter 62.23 (dm) of the Wisconsin Statutes.
 3. The applicant must post signage in a format provided by the city in a prominent location on the development site for the duration of the approval process.
- E. Plan Commission Recommendation. ~~The plan commission must hold a public hearing on all conditional use permits.~~ Following the close of the public hearing before the common council, proposed conditional use permits must be referred to the plan commission. ~~¶~~ The plan commission must act by simple majority vote of those members present and voting to recommend that the conditional use permit be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.
- F. Common Council Decision.
1. Following receipt of recommendations from the plan commission, the common council may act to approve, approve with conditions or deny the conditional use permit. If the plan commission's recommendation has not been forwarded to the common council within 60 days of referral of the proposed condition[al] use to the plan commission, the common council may take action without receipt of the recommendation.
 2. Final action on a conditional use permit by the common council requires a simple majority vote of those members present and voting.
- G. General Review Criteria and Standards. The common council may authorize the zoning administrator to issue a conditional use permit if the common council finds that the following conditions exist and so indicates in the minutes of its proceedings:
1. that the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;
 2. that the uses, values and enjoyment of surrounding properties for purposes already permitted in the district will not be substantially impaired or diminished by the establishment, maintenance or operation of the conditional use;
 3. that establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district;
 4. that adequate utilities, access roads, drainage and other necessary improvements have been or are being provided;
 5. that adequate measures have been or will be taken to provide ingress and egress that will minimize on- and off-site traffic congestion; and

6. that the conditional use complies with all applicable regulations of the subject zoning district.
- H. Successive Applications. Upon disapproval of a conditional use permit by the common council, no similar conditional use permit application for the same or similar property may be filed or accepted for processing by the city for 12 months from the date of final action by the common council.
 - I. Lapse of Approval. A Conditional Use will lapse and have no further effect one year after it is approved by the Common Council, unless:
 1. a building permit has been issued (if required);
 2. the use or structure has been lawfully established; or
 3. unless a different lapse of approval period or point of expiration has been expressly established by the Common Council.
 - J. Amendments. No modification or alteration of any conditional use permit approved pursuant to this section will be permitted unless approved by the Common Council.
 1. Any application for an alteration, extension or other modification will be filed and processed as an original application under this section.
 2. Alterations and modifications shall be subject to the same standards and criteria as original applications and shall be in conformance with all the provisions of this section.
 3. Minor Deviations. Minor deviations to conditional uses including maintenance, repair, or renovation of existing buildings, structures or improvements and alterations, extensions, or other modifications of such uses that do not increase, intensify, expand, substantially change the character of the conditional use, or adversely affect adjacent property or property owners may be authorized by the zoning administrator and do not require approval by the common council.

(Ord. O-14-20, pt. X, 8-5-2014)

SECTION 4: **AMENDMENT** “24.16.050 Planned Unit Developments” of the Wauwatosa Municipal Code is hereby *amended* as follows:

AMENDMENT

24.16.050 Planned Unit Developments

- A. Planned Unit Development (/PUD) overlay zoning districts are established through the approval of a zoning map amendment in accordance with the zoning map amendment procedures of Section 24.16.030. New PUD zoning map amendments shall be processed concurrently with a preliminary development plan application. Final development plan approval is required after approval of the PUD zoning map amendment and/or preliminary development plan. This section describes the required review and approval procedures for PUD preliminary and final development plans.

Modifications to plans in existing /PUD overlay zoning districts follow established PUD plan amendment procedures.

B. Development Plan Approval Required. Approval of PUD preliminary and final development plans must occur before any building permit is issued and before any development takes place in a /PUD overlay district. Permits may be issued for a development phase if a preliminary development plan has been approved for the entire PUD and a final development plan has been approved for the subject phase.

C. Preliminary Development Plans. At the option of the applicant, the preliminary development plan may serve also as the preliminary subdivision plat if such intention is declared before the ~~plan commission's~~public hearing and if the plans include all information required for preliminary plats and preliminary development plans.

1. Preapplication Meetings. Before submitting a PUD application, the applicant must schedule a meeting with the zoning administrator to discuss the proposed plan and the required process. The zoning administrator is responsible for coordinating the involvement of other relevant city departments in the preapplication meeting. The applicant must also hold a neighborhood meeting, with invitations mailed to all property owners within 200 feet of the subject property, alderpersons of the district, and the zoning administrator.

2. Application Contents. An application for a preliminary development plan must contain all items of information specified in the pre-application meeting including proof of holding a neighborhood meeting prior to application submission.

3. Application Filing. Complete applications for preliminary development plan approval must be filed with the zoning administrator at the same time that the /PUD zoning map amendment application is filed. Preliminary development plan applications may be filed only by the common council, the plan commission or by petition of an eligible applicant or an eligible applicant's authorized agent (See Section 24.16.010C.1). Upon receipt of the completed application, planning staff shall schedule a public hearing before the common council and prepare appropriate notice and publications.

4. Notice of Hearing. The common council must hold a public hearing on the proposed preliminary development plan and/or /PUD zoning map amendment.

a. Notice of the ~~plan commission's~~common council's public hearing meeting must be mailed to all owners and occupants (when data available) of property within 300 feet of the subject property at least 7 days before the hearing.

b. Class 2 notice of the common council's required public hearing on a zoning map amendment must be published in accordance with chapter 985 of the Wisconsin Statutes.

c. Notice must be mailed to all of the following at least 7 days before the common council's required public hearing:

(1) the subject property owner;

(2) all owners and occupants (when data available) of property within 300 feet of the subject property; and

(3) the clerk of any municipality with corporate limits that abut

the subject property.

- d. The applicant must post signage in a format provided by the city in a prominent location on the development site for the duration of the approval process.
5. Following the required public hearing before the common council, PUD preliminary development plans must be referred to the plan commission with the /PUD zoning map amendment, if such map amendment is required. Following review of the proposed zoning map amendment and/or preliminary development plan, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed zoning map amendment and/or preliminary development plan be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.
6. Common Council Hearing and Decision.
 - a. Upon receipt of recommendations from the plan commission, ~~the common council must hold a public hearing on the proposed preliminary development plan and/or /PUD zoning map amendment, as required. At the meeting subsequent to the close of the public hearing,~~ the common council may act to approve, approve with modifications (e.g., reducing the land area involved in the rezoning or recommending another less intensive zoning classification) or deny the proposed preliminary development plan and/or /PUD zoning map amendment, as required. If plan commission recommendation has not been forwarded to the common council within 60 days of referral of the proposed preliminary development plan and/or /PUD zoning map amendment to the plan commission, the common council may ~~hold the required hearing and~~ take action without receipt of the recommendation.
 - b. Final action on a /PUD zoning map amendment by the common council requires a simple majority vote of those members present and voting, except when a valid protest petition is filed with the city clerk before the date of the meeting that the common council takes final action on the amendment, approval of the zoning map amendment requires at least a 60% majority vote of those common council members present and voting.
7. Review Criteria. Zoning map amendments are legislative decisions of the common council based on their consideration of the public, health, safety and general welfare.
8. Lapse of Approval.
 - a. If the subject landowner fails to file an application for PUD final development plan approval within 12 months of the date of PUD preliminary development plan approval, the landowner may request a one-time extension for a period of up to one year. If the landowner does not request such an extension, or if the landowner does not file an application for a PUD final development plan within the 1-year

extension period, approval of the PUD preliminary development plan will lapse and be of no further effect.

- b. For projects to be developed in phases, phase limits must be shown on the preliminary development plan. The common council may impose conditions upon the phasing plan as deemed necessary to ensure orderly development, including requirements for financial guarantees ensuring construction of all required improvements.

D. Final Development Plans.

1. Application Filing. Final development plan applications must be filed with the zoning administrator before the lapse of a preliminary development plan.
2. Design Review Board's Recommendation. PUD final development plans must be referred to the design review board. The design review board must review the final development plan and vote to recommend that the final development plan be approved, approved with modifications, or denied. The design review board's recommendation must be transmitted to the common council.
3. Common Council Decision. Following receipt of recommendations from the design review board, the common council may act to approve, approve with conditions or deny the final development plan. If the design review board has received all the required items of information in the final development plan, but has not forwarded a recommendation to the common council within 60 days of referral of the final development plan to the design review board, the common council may take action without receipt of the recommendation. Final action on a PUD final development plan by the common council requires a simple majority vote of those members present and voting.
4. Review Criteria. In reviewing PUD final development plans, review and decision-making bodies must determine if the submitted final development complies with the approved preliminary development plan, any conditions imposed on that plan or any applicable regulations of this zoning ordinance.
5. Lapse of Approval.
 - a. In the event the landowner fails to commence development shown on the final development plan within 12 months after final approval has been granted, then such final approval will lapse and be of no further effect unless the time period is extended by the common council upon written application by the landowner.
 - b. Requests for extensions must be submitted to the zoning administrator before the final development plan approval expires and must be processed in accordance with the procedures for approval of a /PUD preliminary development plan, including applicable filing fees (for time extension), notices and hearings.
 - c. In the event of lapse of approval, approved PUD plans have no further effect and the regulations of the underlying zoning govern.
6. Notice of Hearing.
 - a. Notice of the required hearing must be mailed to all owners and occupants (when data available) of property within 300 feet of the subject property at least 7 days before the hearing.

- b. Class 2 notice of the common council's required public hearing on a zoning map amendment must be published in accordance with chapter 985 of the Wisconsin Statutes.
- c. Notice must be mailed to all of the following at least 7 days before the common council's required public hearing:
 - (1) the subject property owner;
 - (2) all owners and occupants (when data available) of property within 300 feet of the subject property; and
 - (3) the clerk of any municipality with corporate limits that abut the subject property.
- d. The applicant must post signage in a format provided by the city in a prominent location on the development site for the duration of the approval process.

E. Amendments.

1. Amendment Determination. The common council is authorized to determine whether a proposed PUD amendment constitutes a minor or major amendment.
2. Major Amendments. Major amendments may be approved only through the procedure required for approval of the PUD. A major amendment is one that constitutes a material change to the approved final development plan that is likely to create more significant adverse impacts on surrounding property owners or the community as a whole, such as:
 - a. increases in the number of dwelling units or the amount of nonresidential floor area;
 - b. reductions in the amount of land area set aside as open space, recreation area or natural resource conservation area; or
 - c. failure to provide public amenities or public benefit features approved as part of the PUD.
3. Minor Amendments. The common council is authorized to approve minor PUD amendments through the approval of an amended final development plan, in accordance with the procedures of Section 24.16.050D. See 24.05.010B for additional procedures for zoning overlays.