



# Wauwatosa, WI

## Community Affairs Committee

### Meeting Agenda - Final

7725 W. North Avenue  
Wauwatosa, WI 53213

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Tuesday, March 14, 2023

7:30 PM

Council Chambers and Zoom:  
<https://servetosa.zoom.us/j/82923188685>,  
Meeting ID: 829 2318 8685

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#### Regular Meeting

#### HYBRID MEETING INFORMATION

Members of the public may observe and participate in the meeting in-person or via Zoom at the link above. To access the Zoom meeting via phone, call 1-312-626-6799 and enter the Meeting ID.

#### CALL TO ORDER

#### ROLL CALL

#### ORDINANCES FOR ADOPTION CONSIDERATION

1. Ordinance creating Section 9.12.020 of the Wauwatosa Municipal Code, [23-569](#)  
adopting state regulations prohibiting the feeding of wild animals

*Recommendation: Introduced on March 7, 2023, for adoption consideration*

#### COMMUNITY AFFAIRS COMMITTEE ITEMS

1. Request by Matt Riesterer, Luther Group, LLC., for a Minor Planned Unit [23-221](#)  
Development Amendment (PUD) at 7501 W. North Avenue (AbleLight)

#### ADJOURNMENT

##### NOTICE TO PERSONS WITH A DISABILITY

Persons with a disability who need assistance to participate in this meeting should call the City Clerk's office at (414) 479-8917 or send an email to [tclerk@wauwatosa.net](mailto:tclerk@wauwatosa.net), with as much advance notice as possible.



# Wauwatosa, WI

7725 W. North Avenue  
Wauwatosa, WI 53213

## Staff Report

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**File #:** 23-569

**Agenda Date:** 3/14/2023

**Agenda #:** 1.

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**Ordinance creating Section 9.12.020 of the Wauwatosa Municipal Code, adopting state regulations prohibiting the feeding of wild animals**

The Common Council of the City of Wauwatosa do hereby ordain as follows:

Part I. Section 9.12.020 of the Wauwatosa Municipal Code of Ordinances is hereby created to read in its entirety as follows:

**Section 9.12.020 - Feeding of Wild Animals**

- A. Adopted by Reference. That portion of the Administrative Code of the State of Wisconsin, NR 19.60 - Feeding of Wild Animals, is adopted and all amendments thereto are adopted and incorporated in this code by reference except as herein modified.
- B. Enforcement. The Police Department, Health Department, Building and Safety Division and all other City employees or agents designated by the City Administrator are authorized and directed to administer and enforce the provisions of the Administrative Code adopted by this section.

Part II. This ordinance shall take effect on and after its dates of passage and publication.

By: Community Affairs Committee

*Recommendation: Introduced on March 7, 2023, for adoption consideration*

## Memo from the City Attorney regarding creation of an ordinance prohibiting the feeding of wild animals

### A. Issue

Shall the City of Wauwatosa create a local ordinance, by adopting an administrative rule of the Wisconsin Department of Natural Resources, to prohibit the feeding of wild animals within the City Limits?

### B. Background/Options

The “Tosa Turkeys” have become a common and familiar site throughout the City of Wauwatosa in recent years. As stated in the attached Urban Wildlife Factsheet from the Wisconsin Department of Natural Resources, this is primarily the result of re-introduction of the species in Wisconsin over the past 50 years. “However, the success of these efforts has led to an increase in human-turkey conflicts. Backyards and parks provide excellent habitat for turkeys, and urban areas have fewer natural predators than rural areas.” Coyotes have also become quite a common sight in the City, in addition to other “wild” animals.

While most of us appreciate the presence and visibility of such natural elements in the urban setting, at times wild animals can become a nuisance or even create dangers to health and safety. The general advice given by experts on handling urban wildlife nuisances is commonly distilled into three easy-to-remember steps: Educate, Regulate, Eliminate. First, *educate* citizens on how to avoid conflicts and live alongside wild animals in the community. Next, *regulate* human behavior to avoid or minimize creation of conflicts and create a policy to make plans clear to residents. The final step is to actively remove or *eliminate* conflicts.

Through our website and other social media outlets the City’s communications team has done an excellent job of attempting to educate residents as to how to live alongside the urban wildlife population. The Common Council created a [Coyote Nuisance Management and Response Plan](https://www.wauwatosa.net/home/showpublisheddocument/690/636552833867370000) <<https://www.wauwatosa.net/home/showpublisheddocument/690/636552833867370000>> a number of years ago, but this plan was specific to coyotes and does not directly regulate the activities of individuals in the community. The *eliminate* step has been used very sparingly in regards to coyotes, but also with turkeys, and is a last ditch effort when other efforts have been unsuccessful or the nuisance is too acute and immediate to be ignored.

Since educating citizens can only provide a certain amount of success in eliminating human/wildlife conflicts, staff and the Mayor feel it is necessary to take the next step in regulating behavior so as to minimize such conflicts. That step is to create an ordinance prohibiting the feeding of wild animals. This prohibition is already “the law” under regulations of the Wisconsin Department of Natural Resources, but adopting a local ordinance in this regard would provide much easier and more effective enforcement at the local level.

The proposed ordinance, attached, would adopt Section NR 19.60 of the Wisconsin Administrative Code. The full text of that Administrative Rule is attached to the ordinance for reference. Wisconsin Statutes Sec. 29.038(2) specifically prohibits local governments from regulating management of wild animals *except* that we can adopt DNR regulations into the local code, as is being proposed here.

The DNR has consistently interpreted this Administrative Rule to prohibit the feeding of wild turkeys in Wisconsin. The code provision itself, in applicable part, states that “[n]o person may place, deposit or allow the placement of any material to feed or attract wild animals for non-hunting purposes...” *except* “[m]aterial placed solely for the purpose of attracting and feeding wild birds and small mammals when

*placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling”. NR 19.60(1)(a) and NR 19.60(3)(a)1.*

### **C. Strategic Plan (Area of Focus)**

Priorities: Public Safety and Quality of Life

Vision: “...maintaining a high quality of life for residents, visitors, and businesses.”

Values: Innovation, Resilience, Service Excellence

### **D. Fiscal Impact**

Consistent application of the ordinance should reduce the need for responses by City staff to human/animal conflict situations, and also the need for more active measure such as elimination of conflicts, thus saving City resources.

### **E. Recommendation**

Staff recommend that the Common Council adopt the proposed ordinance to incorporate the provisions of Section NR 19.60 of the Wisconsin Administrative Code into the Wauwatosa Municipal Code.

## WISCONSIN ADMINISTRATIVE CODE

### NR 19.60 Feeding of wild animals.

#### (1) GENERAL PROHIBITIONS.

- (a) No person may place, deposit or allow the placement of any material to feed or attract wild animals for non-hunting purposes including recreational and supplemental feeding, except as provided in sub. (2) or (3), or as specifically authorized in a permit or license issued under s. [29.614 \(1\)](#) or [169.25 \(1\) \(a\)](#), Stats., or s. [NR 12.06 \(11\)](#) or [12.10 \(1\)](#).

**Note:** Section [29.614](#), Stats., states: Scientific collector permit. (1) Application for a scientific collector permit shall be submitted to the department. The department may issue a scientific collector permit if the department determines that the applicant is a natural person and is engaged in a bona fide program leading to increased, useful scientific knowledge.

**Note:** Section [169.25](#), Stats., states: Scientific research license. (1) Issuance. (a) The department shall issue a scientific research license to any person who is engaged in a study or in research that the department determines will lead to increased, useful scientific knowledge and who files a proper application and who pays the applicable fee.

- (b) Any person placing feed to attract wild animals in violation of this section or s. [NR 10.07 \(2\)](#) or [\(2m\)](#) shall remove all feed or other material illegally placed or deposited when notified by the department to do so.
- (c) Landowners, lessees or occupants of any property where feed or other material in violation of this section or s. [NR 10.07 \(2\)](#) or [\(2m\)](#) is present shall remove all feed or other material illegally placed or deposited upon notification by the department of the illegal activity if not otherwise removed in accordance with par. [\(b\)](#).
- (d) Except as authorized under sub. [\(3\) \(a\) 1.](#), no person may place feed in a feeder designed to deposit or replenish the feed automatically, mechanically or by gravity.

#### (2) FEEDING DEER AUTHORIZED.

- (a) *Affected area.* This subsection applies statewide, except for those counties where deer baiting and feeding is prohibited under par. [\(b\)](#).

- (b) *Excluded area.* Deer baiting and feeding is prohibited in entire counties where any of the following criteria apply:

1. A CWD-affected area has been established in the county or a portion of the county, or
2. A CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county, or
3. The county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997.

- (c) *Inclusion of additional counties.*

1. The department may add additional counties under par. [\(b\)](#) if they meet the criteria established in par. [\(b\) 1., 2. or 3.](#)
  2. The prohibitions and exemptions in this subsection shall become effective upon issuance of an order by the secretary of the department and publication in the official state newspaper. In addition, a notice of the order shall be provided to newspapers, legislators and hunting license outlets in the area affected.
- (d) *Deer feeding.* A person may place or deposit material to feed or attract wild deer for recreational and supplemental feeding purposes outside of the counties where deer feeding is prohibited under par. [\(b\)](#), but may not place or allow the placement of any feed material:
1. In excess of 2 gallons of feeding material within 50 yards of any owner occupied residence or business.
  2. More than 50 yards from an owner occupied residence or business.
  3. Within 100 yards from a roadway, as defined in s. [340.01 \(54\)](#), Stats., having a posted speed limit of 45 miles per hour or more.

**Note:** Section [340.01 \(54\)](#), Stats., “Roadway” means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway, the term “roadway” refers to each roadway separately but not to all such roadways collectively.

4. That contains any animal part or animal byproduct.
5. Without the approval of the owner of the owner-occupied residence or business.
6. At a feeding site that the person knows or should have known is also being used by bear or elk. If the owner of the residence or business is notified by the department or otherwise becomes aware that bear or elk have been using a deer feeding site, the owner may not place or allow others to place any feed material that is accessible to deer, bear or elk within 50 yards of the owner-occupied residence or business for a period not less than 30 days.

**(3) EXCEPTIONS.**

(a) This section does not prohibit any of the following activities:

1. Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy unless authorized by the department. If the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.
2. Feeding of wild animals, other than deer, elk or bear, by hand if:
  - a. Feed placed not more than 30 feet away from the person feeding, and
  - b. The person feeding makes all reasonable attempts to clean up the unconsumed feed before moving a distance greater than 30 feet from the deposited feed.
3. Feed deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.
4. Standing crops planted and left standing as wildlife food plots that may be used by wild animals.
5. Feed material placed for deer or bear hunting or bear dog training as authorized under s. [NR 10.07 \(2m\)](#).
6. Feed material placed for trapping as specified in s. [NR 10.13](#).
7. The use of scents, provided the material is not accessible for consumption by deer or elk or scent placed in compliance with s. [NR 10.07 \(2\) \(b\) 4](#).
8. Feed or bait material placed or used for fish, reptiles, amphibians or arthropods, provided the material is not accessible to bear, deer or elk.
9. Feeding of deer as authorized under sub. [\(2\)](#).

**Note:** These feeding rules do not apply to captive wild animals held and licensed under ch. [169](#), Stats.

**History:** [CR 04-078](#): cr. [Register April 2005 No. 592](#), eff. 5-1-05; [CR 07-015](#): cr. (2) (d) 6. [Register September 2007 No. 621](#), eff. 10-1-07; [CR 08-013](#): am. (2) (b) 1., [Register August 2008 No. 632](#), eff. 9-1-08; [CR 14-071](#): am. (2) (b) 1. [Register July 2015 No. 715](#), eff. 8-1-15.



# Wauwatosa, WI

7725 W. North Avenue  
Wauwatosa, WI 53213

## Staff Report

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**File #:** 23-221

**Agenda Date:** 3/14/2023

**Agenda #:** 1.

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Request by Matt Riesterer, Luther Group, LLC., for a Minor Planned Unit Development Amendment (PUD) at 7501 W. North Avenue (AbleLight)

**Submitted by:**

Tamara Szudy

**Department:**

Planning Division

**A. Background/Options**

At the February 14, 2023 meeting, the Committee reviewed and held the request for a Planned Unit Development (PUD) amendment to convert the proposed life skills center to a traditional retail use and to extend the final PUD approval for a year. While the development team continues to explore partners to operate the life skills center, the applicant is returning to the Committee to only request a one-year extension of the PUD approval, with the understanding they will need to reapply for a PUD amendment if the life skills center doesn't materialize. The revised request is attached.

**B. Recommendation**

Staff recommends approval.



LUTHER GROUP

March 7, 2023

Ms. Tammy Szudy  
Planning & Zoning Manager  
Wauwatosa Development Department  
7725 W. North Avenue  
Wauwatosa, WI 53213

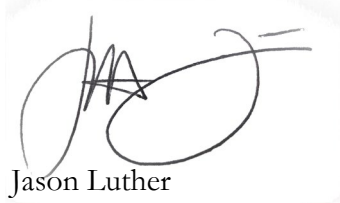
Dear Tammy:

The Cornerstone Village development team requests to amend our Planned Unit Development Minor Amendment submitted in January of 2023.

Specifically, at this time we are asking only for a 12-month extension to the PUD approval while we investigate additional potential viable options for the first floor space related to the original Life Skills Center concept.

Please let us know if you have any questions or concerns.

Thank you and best regards,



Jason Luther  
President