

CHAPTER 6

Administration

12-6-1	Purpose
12-6-2	Zoning Administrator
12-6-3	Board of Appeals
12-6-4	Variance
12-6-5	Conditional Use
12-6-6	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 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 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. 12-6-5 **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 Planning Commission. The Zoning Administrator shall refer the application for a Conditional Use Permit to the Planning Commission. The Planning 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 Planning Commission shall act on the application for a Conditional Use Permit. The Planning 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 Planning 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 Planning 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 Planning Commission may recommend and 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. These conditions may include, but are not limited to, lot sizes in excess of district minimums, screening and fencing, lighting, hours of operation and increased parking requirements.
- (i) 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.

SEC. 12-6-6 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 a 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.