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COMMUNITY DEVELOPMENT DEPARTMENT

## **NOTICE TO THE PUBLIC**

August 23, 2022

To Whom It May Concern:

The Beloit Plan Commission and City Council are considering an Ordinance to repeal and recreate Section 2-500, to Amend Sections 5-804(b), 2-109, 2-103(b), and the Tabular Summary of Development Review Procedures of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit and to amend Section 1.77(6)(a)3 of the Code of General Ordinances of the City of Beloit pertaining to Conditional Use Permits.

The following public meetings will be held regarding the proposed Ordinance:

**City Plan Commission:** Wednesday, September 7, 2022, at 7:00 PM, or as soon thereafter as the matter can be heard in The Forum, Beloit City Hall, 100 State Street.

**City Council:** Monday, October 3, 2022, at 7:00 PM, or as soon thereafter as the matter can be heard in The Forum, Beloit City Hall, 100 State Street.

**We are interested in your opinion.\***

**\*You may mail your comments to the attention of Hilary Rottmann at 100 State Street or via email to [rottmanh@beloitwi.gov](mailto:rottmanh@beloitwi.gov). You may also call (608) 364-6708 to provide your comments over the phone.**

**ORDINANCE NO. 3761**

**AN ORDINANCE TO REPEAL AND RECREATE SECTION 2-500, TO AMEND SECTIONS 5-804(b), 2-109, 2-103(b), AND THE TABULAR SUMMARY OF DEVELOPMENT REVIEW PROCEDURES OF THE ZONING ORDINANCE, CHAPTER 19 OF THE CODE OF GENERAL ORDINANCES OF THE CITY OF БЕЛОIT AND TO AMEND SECTION 1.77(6)(a)3 OF THE CODE OF GENERAL ORDINANCES OF THE CITY OF БЕЛОIT PERTAINING TO CONDITIONAL USE PERMITS**

The City Council of the City of Beloit, Rock County, Wisconsin do ordain as follows:

**Section 1.** Section 2-500 of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit, is hereby repealed and recreated to read as follows:

**"2-500 CONDITIONAL USE PERMITS.**

**2-501 PURPOSE.** The development and execution of this section is based upon the division of the City into districts within which the use of land and buildings and the height and location of buildings and structures in relation to the land are substantially compatible. However, there are certain uses that, because of their unique or varying characteristics, cannot be allowed as a permitted use in a particular district without consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use of the particular location.

**2-502 APPLICATION FOR CONDITIONAL USE PERMIT.** An application for a conditional use permit shall be filed with the Zoning Officer on a form prescribed by the City, accompanied with the required fee. The application shall include a statement in writing by the applicant and evidence showing that the proposed conditional use conforms to the standards set forth in section 2-506 and the following plans and information:

- a. Scale, north arrow, date, names of owner(s), applicant, and person preparing the plan, along with phone numbers and addresses of each.
- b. All existing lot lines as recorded in the Rock County Real Property Description Department.
- c. Existing and proposed streets and street improvements including, but not limited to, sidewalks, driveways, street landscaping, and adjacent lot driveways.

- d. A parking plan which clearly shows the proposed layout and design of the off-street parking area including, but not limited to, number of spaces, traffic control structures, aisles, required stacking spaces for drive-through uses, and fencing. This plan must include the dimensions of the parking spaces, internal driveways, and vehicle ingress and egress.
- e. Building, fence, and wall elevations with height dimensions, if applicable.
- f. Distances between exterior walls of structures and property lines, with a clear delineation of outdoor storage, refuse and service areas.
- g. If the conditional use permit application relates to outdoor seating, the applicant shall include the location and number of proposed tables and chairs.
- h. Any additional information required by City Council, Plan Commission, Community Development Department, Public Works-Engineering Division, or Fire Department.

**2-503 ZONING OFFICER'S REVIEW AND REPORT.** The Zoning Officer shall review each proposed Conditional Use Permit application and provide a report on the application to the Plan Commission.

**2-504 HEARING ON APPLICATION.** Upon receipt of the application, Zoning Officer's recommendation, and any other required material, the Plan Commission shall hold a public hearing on the application for a conditional use at such time and place as shall be established by the Plan Commission.

**2-505 NOTICE OF HEARING.** Notice of the time, place and purpose of the public hearing shall be given as a Class 2 notice under the Wisconsin Statutes in the official City paper. Notice of time, place and purpose of the public hearing shall also be sent to the applicant and to the nearby property owners as required by section 2-105 of this Article.

**2-506 STANDARDS.** No conditional use permit shall be approved unless the deciding body finds:

- a. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

- b. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
- c. That the conditional use will not substantially diminish or impair property values within the neighborhood of the subject property;
- d. That the conditional use will not impede the normal and orderly development and improvement of the surrounding property;
- e. That the exterior architectural design or site layout of the proposed conditional use is not dissimilar or otherwise incompatible with existing or proposed development in the immediate neighborhood that it will cause a depreciation in property values;
- f. That adequate utilities, access roads, drainage or other necessary facilities will be available to serve the proposed use at the time of its occupancy or use;
- g. That adequate measures will be taken to minimize traffic congestion; and
- h. That the conditional use will comply with all applicable regulations of this chapter.

**2-507 PLAN COMMISSION REVIEW.** The Plan Commission shall comply with §62.23(7)(de), Wis. Stats., when making its decision.

- a. **Options.** A request for a conditional use permit may be approved, approved with conditions or limitations, or denied.
- b. **Imposition of Conditions or Limitations.** In approving a grant of a conditional use permit, the Plan Commission may impose such conditions or limitations on the permit as it considers necessary to protect the public health, safety and welfare. Any such conditions or limitations may include a time limit for the conditional use permit to exist or for the operation or activity permitted by the permit to be carried on. The conditions or limitations shall supported by substantial evidence as that term is defined by §62.23(7)(de), Wis. Stats.
- c. **Duration, Transfer or Renewal.** The Plan Commission may provide for an expiration date of a conditional use permit in order to enable a review of the use or the property under the permit, and may, if satisfied

after such review that the use of the property pursuant to the conditional use permit is satisfactory, renew the permit or may add additional conditions or limitations on the permit as a condition of renewal. If the Plan Commission determines that the permittee has committed serious or repeated violations of the conditions or limitations on the permit or that renewal of the permit adversely affects the public health, safety and welfare it may refuse to renew the permit.

- d. **Written Findings Required.** The Plan Commission shall make written findings that stipulate such conditions and limitations upon the establishment, location, construction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in section 2-505 above.
- e. **Guarantees.** In all cases in which conditional uses are granted, the Plan Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
- f. **Failure to Act.** Failure of the Plan Commission to act within 90 days of the date the application was filed shall constitute denial of the request.

**2-508 MINOR ALTERATIONS OF CONDITIONAL USE.** The Zoning Officer may approve minor alterations or additions which are compatible with the concept approved by the Plan Commission and the standards in subsection 2-506 of this section. If there is a dispute about whether an alteration or addition is minor, the Plan Commission shall approve any alterations or additions.

**2-509 AMENDMENTS.** Any non-minor modification, alteration, expansion or addition made subsequent to the initial issuance of a Conditional Use Permit shall require an amendment to the Conditional Use Permit. The procedure and standard governing issuance of a Conditional Use Permit shall be followed when considering any amendment to an existing Conditional Use Permit.

**2-510 EXPIRATION OF CONDITIONAL USE STATUS.** A conditional use permit shall terminate upon the expiration of the term of such conditional use permit unless otherwise extended pursuant to section 2-511 below.

**2-511 LAPSE OF CONDITIONAL USE; EXTENSION.** In any case where a conditional use has not been established within one (1) year after the date of issuance of the permit, then without further action by the Plan Commission and without further notice to the applicant, the conditional use permit shall lapse and become null and void. Prior to the date the conditional use permit lapses, the permit holder

may apply to the Plan Commission for an extension of this time requirement. The Plan Commission may, in its discretion, grant, deny, condition or modify an extension request, but such extension shall not exceed one (1) year.

**2-512 DISCONTINUANCE OF CONDITIONAL USE.** In any case where an established conditional use is discontinued for a period of one (1) year, then without further action by the Plan Commission and without further notice to the permit holder, the conditional use permit shall lapse and become null and void.

**2-513 EXISTING CONDITIONAL USE PERMITS.** All conditional use permits existing at the effective date of this Ordinance [Insert Date] which would be classified as a conditional use in the district concerned if they were to be established after the effective date of this Ordinance, and are legally operated under the terms and conditions of their conditional use permits, are hereby declared to be conforming conditional uses to the extent of their existing operation. Any proposed change in the existing operation shall be subject to the conditional use procedures as if such use were being established anew.

**2-514 REVOCATION OF CONDITIONAL USE.**

- a. **Revocation.** If a permit holder fails to comply with the conditions of the permit or should the use, or characteristics of the use, be changed without prior approval of the City, the conditional use permit may be revoked.
- b. **Zoning Officer Determination.** Upon the determination by the Zoning Officer that the conditions and stipulations of an approved conditional use have not been complied with, the Zoning Officer shall send written notice to the permittee of the actions necessary to comply with the conditional use permit. The notice shall specify that failure to comply with the required conditions or stipulations within thirty (30) days will invalidate the conditional use permit and may also lead to enforcement action under this chapter. Appeals of the revocation of the conditional use permit may be made to the Plan Commission.
- c. **Appeal to Plan Commission.** The procedure for appealing a determination to revoke of a conditional use permit shall generally follow the same application procedure required when considering a new conditional use permit. The permittee shall be provided notice of any reason or reasons that will be considered by the Plan Commission as a basis for upholding the decision to revoke the conditional use permit. A Public Hearing shall be conducted by the Plan Commission, and the permittee shall have an opportunity to appear before the Plan

Commission and present evidence and testimony opposing any the decision to revoke the conditional use permit.

- d. **Plan Commission decision.** The Plan Commission may, after reviewing the evidence, revoke the conditional use permit provided that there is a preponderance of evidence to support the revocation of the permit. Any decision of the Plan Commission to revoke the conditional use permit shall be reduced to writing and provided to the permittee. The decision of the Plan Commission to revoke a conditional use permit may be appealed to the City Council.
- e. **Effect of Revocation; Waiting Period.** If a conditional use permit has been revoked under this section, no person may reapply for a conditional use permit for the same premises within one (1) year of the date of the revocation.

**2-515 APPEAL TO CITY COUNCIL.**

- a. An applicant or permittee who is aggrieved by a decision of the Plan Commission or the Zoning Offer may appeal to the City Council.
- b. The appeal shall be in writing and shall specify the grounds for the appeal with specific reference to the findings of the Plan Commission.
- c. The appeal shall be filed with the City Clerk's Office within 20 days of the date of the written decision of the Plan Commission.
- d. The City Council shall hold a public hearing and provide notice to the applicant or permittee and the Zoning Officer, as well as the public notice required in section 2-505.
- e. In reviewing the appeal, the City Council has the authority to conduct a de novo review of the application. The City Council shall generally follow the review process outlined in section 2-507, including the requirement to act consistent with section §62.23(7)(de), Wis. Stats.

**2-516 APPEALS.** The decision of the City Council may be appealed to the circuit court as provided in section 62.23(7)(de)5., Wis. Stats.

**2-517 SUBSEQUENT APPLICATIONS.** No application for a conditional use that is denied wholly or in part by the Plan Commission (or, on appeal, by the City Council) shall be resubmitted for a period of one (1) year from the date of the final decision, unless:

- a. The decision expressly states that it is placed on file without prejudice, and
- b. The applicant provides substantial new evidence or proof of a change of conditions that would support approval or conditional approval of the application.”

**Section 2.** Section 5-804(b) of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

“b. The purpose of the Wellhead Technical Review Committee is to provide objective and scientific technical review of requests for conditional use permits and to make recommendations to the Plan Commission and ~~ultimately to the~~ City Council, if applicable, to grant or deny conditional use permits based upon the facts discovered in those reviews, to make recommendations on any and all conditions placed on a conditional use permit, and to give advice on matters concerning groundwater.”

**Section 3.** Section 1.77(6)(a)3 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

“3. Pursuant to §62.23(7)(e)(1), Wis. Stats., the City Council authorizes the Plan Commission and, upon appeal, reserves unto itself the power to approve applications for special exceptions (conditional use permits) ~~after submitting those applications to the Plan Commission for review and recommendation.~~”

**Section 4.** Section 2-109 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

“2-109 CONDITIONS OF APPROVAL. In approving development applications, decision-making bodies shall be authorized to impose such conditions upon the premises benefited by the approval as may be necessary to reduce or minimize any potential adverse impact upon other property in the area as long as the condition relates to a situation created or aggravated by the proposed use, ~~and~~ is roughly proportional to its impact, and is not otherwise prohibited by law.”

**Section 5.** Section 2-103(b) of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

“(b) Fees are not required with applications initiated by the City Council, Community Development Authority, or Plan Commission.”

**Section 6.** The Summary of Development Review Procedures immediately following section 2-104 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:



**Summary of Development Review Procedures (Commentary)**

Procedure	Review and Decision-Making Authority				Public Notice (See §2-105)
	Staff	BOA	PC	City Council	
Zoning Ordinance Text Amendments	R	—	<R>	<DM>	N (Class 2)
Zoning Map Amendments (Rezoning)	R	—	<R>	<DM>	N (Class 2)
PUD Master Land Use Plan	R	—	<R>	<DM>	N (Class 2)
Final PUD Plan	DM	<A>	—	—	N (Class 1) +M
Conditional Use Permits	R	—	<RDM>	<DMA>	N (Class 2)
Site Plan Review	DM	<A>	—	—	N (Class 1) +M
Certificates of Zoning Compliance	DM	<A>	—	—	N (Class 1) +M
Certificates of Occupancy	DM	<A>	—	—	N (Class 1) +M
Appeals of Administrative Decisions	DM	<A>	—	—	N (Class 1) +M
Variances	R	<DM>	—	—	N (Class 1) +M

Notes :

R	=	Review Body (Responsible for Review and Recommendation)
DM	=	Decision-Making Body (Responsible for Final Decision to Approve or Deny)
A	=	Authority to hear and decide appeals of Administrative Decisions
BOA	=	Board of Appeals
PC	=	Plan Commission
< >	=	Public Hearing Required
N	=	Newspaper Notice Required
M	=	Mailing of Notice Required
PUD	=	Planned Unit Development

**Section 7.** If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

**Section 8.** This ordinance shall be in force and take effect upon passage and publication.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY COUNCIL FOR THE CITY OF БЕЛОIT**

\_\_\_\_\_  
Regina Dunkin, President

**ATTEST:**

\_\_\_\_\_  
Marcy Granger, City Clerk-Treasurer

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

01-611100-5231- \_\_\_\_\_