

**22.11 Review and Decision-Making Procedures.**

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**22.11(1) General Provisions.**

- A. **Purpose.** The purpose of this Section is to establish the review and decision-making processes required to develop land within the City of Waukesha as well as the roles of review and decision-making bodies in those processes.
  
- B. **Applicability.**
  - 1. **Generally.** The provisions of this Section shall be applicable to all development within the City’s jurisdiction, including amendments to previously-approved development.
  
  - 2. **No Use and/or Construction to Commence Without Permit.** No land shall be used or occupied, and no buildings or structures shall be erected, moved, extended, or enlarged, nor shall any timbering, clearing and grubbing, or filling of any lot for the construction of any building, infrastructure, or site improvement be initiated until the appropriate permit or approval has been issued.
  
  - 3. **Relation to Other Code Chapters.** Review and approval procedures established in other Chapters of the Waukesha Municipal Code may apply in addition to the

review and approval procedures of this Chapter. Compliance with this Chapter does not eliminate or replace any additional reviews, permits, or approvals required by other City ordinances or State or Federal regulations.

4. **Pre-Existing Violations.** Any violation of the Code of the City which was initiated prior to the effective date of this Chapter shall continue to be a violation under this Chapter and shall be subject to the penalties set forth at the time of the violation unless the use, development, construction, or other activity is clearly consistent with the express terms of this Chapter.

## 22.11(2) **Review and Decision-Making Bodies.**

### A. **Community Development Director.**

1. **Administration.** The Community Development Director or their designee shall administer this Chapter.
2. **Duties and Powers.** The Community Development Director or their designee shall perform the following duties and exercise the following powers:
  - a. To facilitate and conduct pre-application meetings in accordance with Subsection 22.11(3)(B)(2).
  - b. To review all applications for completeness; to accept applications for which the Community Development Director is the designated administrative review or decision-making authority and to forward complete legislative applications to the appropriate review and decision-making bodies in accordance with Subsection 22.11(3)(B).
  - c. To make determinations and decisions on Administrative Procedures for which the Community Development Director is assigned authority, as identified in Table 22.11(3)(A), Review and Decision-Making Procedures Overview.
  - d. To maintain permanent and current records required by this Chapter, including but not limited to zoning approvals, inspection documents, variances, amendments, conditional uses, and similar use determinations.
  - e. Verify that all necessary state and federal permits required for floodland uses have been obtained prior to issuing approvals.
  - f. Inspect all structures, lands, and waters as often as necessary to ensure compliance with this Chapter.

- g. Investigate complaints regarding violations of this Section, issue notices of violation to the responsible party, and report unresolved violations to the City Attorney.
- h. Assist the City Attorney in the prosecution of ordinance violations.
- i. Enter premises and structures during reasonable hours to perform necessary inspections; if entry is refused, obtain a special inspection warrant as authorized by Wis. Stat. §66.0119.
- j. Prohibit the use or erection of any structure, land, or water until inspected and approved for compliance with this Section.
- k. To maintain permanent and current records required by this Chapter, including but not limited to zoning approvals, inspection documents, variances, amendments, conditional uses, and similar use determinations.
- l. To maintain a record of all Administrative Procedure decisions, including notation of any special conditions.

**B. Board of Zoning Appeals.**

1. **Establishment.** A Board of Zoning Appeals for the City of Waukesha is established by Municipal Code §3.05 under the authority of Wis. Stat. §62.23(7)(e). The Board of Zoning Appeals shall hear and decide appeals, applications, and requests for variances in accordance with this Section.
2. **Administration.** The composition, appointment, and terms of members of the Board of Zoning Appeals shall be as provided in Municipal Code §3.05.
3. **Powers and Duties.** The Board of Zoning Appeals shall have the following powers and duties:
  - a. **Appeals of Administrative Decisions.** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Community Development Director or their designee or any other administrative official in the enforcement of this Section.
  - b. **Variances.** To hear and decide applications for variances from the provisions of this Section in accordance with the variance review standards set forth in Section 22.11(8).
  - c. **Nonconforming Uses.** To hear and decide matters related to the treatment, continuation, or interpretation of nonconforming uses as provided in Section 22.10(6).

- d. **Map Interpretations.** To interpret the Zoning Map and resolve boundary disputes, including discrepancies between mapped boundaries and actual field conditions within floodland or conservancy districts, in coordination with the Wisconsin Department of Natural Resources as required.
- e. **Rules and Procedures.** To adopt rules and bylaws for the conduct of regular and special meetings, for the transaction of business, and for the exercise of its powers in accordance with this Section and applicable state law.
- f. **Appeals to Circuit Court.** Any person aggrieved by a decision of the Board may appeal to the Waukesha County Circuit Court as provided in Wis. Stat. §62.23(7)(e)10.

**C. Plan Commission.**

- 1. **Authority and Functions.** The Plan Commission shall exercise all authority and functions as provided in Wis. Stat. §62.23, and Municipal Code §3.04.
- 2. **Specific Duties and Powers.** The Plan Commission shall perform the following duties and exercise the following powers:
  - a. To conduct studies and prepare recommendations for amendments to the comprehensive plan,
  - b. To conduct studies and prepare recommendations and/or hear applications for updates to the Zoning Code text and to make recommendations on such matters to the Common Council,
  - c. To hear applications for amendments to the zoning map and to make recommendations on such matters to the Common Council,
  - d. To hear applications for new development, major redevelopment, and changes of use as indicated in Table 22.11(3)(A), and to decide on or make recommendations on such matters to the Common Council,
  - e. To hear and decide on temporary use permit requests, when referred,
  - f. To hear and decide on conditional use permit requests,
  - g. To hear and make recommendations to the Common Council on major and minor subdivision requests,
  - h. To hear and make recommendations to the Common Council on matters pertaining to official mapping, in accordance with Wisconsin Statutes,

- i. To hear and make recommendations to the Common Council on applications for planned unit developments, as identified in Table 22.11(3)(A), and
- j. To hear and to act on such other matters as may be referred to the Commission by the Common Council or the City staff.

**D. Common Council.**

1. **Authority and Functions.** The Common Council shall exercise all authority and functions as provided in Wis. Stat. §62.11.
2. **Specific Duties and Powers.** The Common Council shall perform the following duties and exercise the following powers:
  - a. To review and decide upon amendments to the comprehensive plan,
  - b. To review and decide upon amendments to the Zoning Code text,
  - c. To review and decide upon amendments to the zoning map,
  - d. To review and decide upon applications for new development, major redevelopment, and changes of use, if and when referred,
  - e. To review and decide upon major and minor subdivisions,
  - f. To review and decide matters pertaining to official mapping in accordance with Wisconsin Statutes,
  - g. To review and decide applications for planned developments as identified in Table 22.11(3)(A), and
  - h. To refer items to the Plan Commission for review and recommendation to the Common Council.

**22.11(3) General Procedures.**

- A. **Review and Decision-Making Procedures Overview.** Table 22.11(3)(A) provides an overview of how the various review and decision-making bodies are involved in the review procedures of this Chapter.

Table 22.11(3)(A) Review and Decision-Making Procedures Overview					
The following key shall be used in the interpretation of Table 22.11(3)(A): R = Recommending Body D = Decision-Making Body A =Appeal Body * = Public Hearing Required					
Procedure	Reference	Applicable Body			
		Community Development Director or designee <sup>1</sup>	Elected/Appointed Officials		
			Plan Commission <sup>2</sup>	Common Council	Board of Zoning Appeals <sup>2</sup>
Site Plan and Architectural Review (SPAR) Administrative SPAR Plan Commission SPAR	22.11(4)	D	D/A		
Non-Site Plan and Architectural Review (SPAR) Review	22.11(5)	D	A		
Conditional Use Permit	22.11(7)		D*		
Variance	22.11(8)				D*
Minor Subdivision	22.11(9)		R	D*	
Major Subdivision – Preliminary Plat	22.11(10)		R	D*	
Major Subdivision – Final Plat	22.11(10)		R	D	
Planned Unit Development	22.11(11)		R	D*	
Amendments – Comprehensive Plan	22.11(12)		R	D*	
Amendments – Zoning Code Text	22.11(13)		R	D*	
Amendments – Zoning Map	22.11(14)		R	D*	
<b>Notes</b>					
[1] SPAR decisions shall be made by the Community Development Director or his or her designee unless referred to the Plan Commission per Section 22.11(4).					
[2] Decisions shall be made by the Plan Commission or Board of Zoning Appeals depending on the type of administrative decision, as specified in Section 22.11(2).					

**B. Application Requirements.**

**1. Authority to File.**

- a. Applications for administrative procedures may be made by the landowner; a lessee; a person holding an option or contract to purchase or lease land; or an authorized agent of the landowner.
- b. An easement holder may apply for administrative procedures for development that is authorized by the terms of the easement.
- c. The Community Development Director or their designee may require an applicant to present evidence of authority to submit the application,

including, when applicable, written authorization from the current landowner.

- 2. Pre-Application Meeting.** Pre-application meeting is an informal process. Applicants are encouraged to provide as much detail as possible, to ensure that staff can maximize guidance.

  - a. A pre-application meeting may be required for Site Plan and Architectural Review (SPAR) application and is encouraged for other applications.
  - b. If a pre-application meeting is required or requested, the applicant shall provide the materials as requested by the Community Development Director or their designee.
  - c. The pre-application meeting is intended to facilitate the review process. Discussion and review are not binding.
  
- 3. Optional Consultation.** Optional Consultation is an informal meeting with the Plan Commission prior to application submittal. Applicants are encouraged to provide sufficient detail to allow the Plan Commission to provide preliminary feedback.

  - a. The applicant shall present the proposed amendment in sufficient detail to broadly acquaint the Plan Commission with the request.
  - b. The Plan Commission may provide preliminary views or concerns while positions remain flexible and adjustments are possible.
  - c. Any comments provided shall be advisory only and no final or binding action shall be taken.
  - d. Nothing stated during the consultation shall obligate the Plan Commission or prejudice any future decision.
  
- 4. Submittal Provisions.**

  - a. **Application Information.** Applications for all procedures established by this Chapter shall include the submittal materials required by applicable state statutes, this Chapter, and the Development Handbook, as amended from time to time.
  - b. **Fees.** The Community Development Director is authorized to establish fees for processing and administering applications. Review fees, as published on the adopted fee schedule, shall be paid at the time of application submittal.
  - c. **Deposits.** The Community Development Director is authorized to establish deposits to cover the cost of review. Such deposits shall be published on the

adopted fee schedule. Any unspent deposit amount shall be returned to applicant once expenses have been verified and paid.

**d. Completeness Review.**

- i. **Sufficiency to be Determined by Community Development Director.** The Community Development Director or their designee shall determine whether an application is complete before initiating review. An application is complete when all required materials have been submitted as per Application for Development Review. Applicable legislative timelines begin upon the determination of completeness.
- ii. **Incomplete Application.** If the application is determined to be incomplete, the Community Development Director or their designee shall provide the applicant with written notice identifying the missing or deficient items.
- iii. **Complete Application.** If the application is determined to be complete, the Community Development Director or their designee shall accept the application for review. Acceptance may be provided either through a separate completeness notice or through issuance of the associated administrative decision.

**C. Void Approval.** Any approval issued in violation of the provisions of this Chapter, whether intentionally, negligently, or innocently, shall be void.

**D. Resubmittal of Denied Applications.** If an application is denied, the applicant shall wait one year before resubmitting, unless substantial changes are made to the proposal.

**E. Public Notice Requirements.**

1. **Public Notice Content.** Public notices, regardless of type, shall, at a minimum, include the information required by the State of Wisconsin.
2. **Public Notice Types.**
  - a. Notice by Publication, and
  - b. Notice by Mail.
3. **Public Notice Requirements by Procedure.** Public notice shall be required by procedure type in accordance with Table 22.11(3)(E)(3).

Table 22.11(3)(E)(3) Public Notice Requirements by Procedure			
Procedure	Reference	Type of Notice	
		Publication	Mail [1]
Conditional Use Permit	22.11(8)	Class 2	300
Variance	22.11(9)	Class 1	100
Planned Developments	22.11(11)	Class 2	300
Amendments – Comprehensive Plan	22.11(12)	Class 1 [2]	300
Amendments – Zoning Code Text	22.11(13)	Class 2	
Amendments – Zoning Map	22.11(14)	Class 2	300 [3]
Notes			
[1] The distance listed represents the radius, in feet, measured from the boundaries of the subject property within which mailed notice is required.			
[2] Notice of a public hearing for a Comprehensive Plan amendment shall be published at least 30 days prior to the hearing, in accordance with Wis Stat. §66.1001(4)(e).			
[3] Amendments mailed in cases involving specific lots, plats, and planned developments.			

**F. Appeals.**

1. **Appeals of Administrative Decisions.** Appeals of any administrative decision shall be made in accordance with the Appeals of Administrative Decisions process (Section 22.11(7)).
2. **Appeals of Plan Commission Decisions.** Appeals of decisions of the Plan Commission shall be filed with the Waukesha County Circuit Court.
3. **Appeals of Board of Zoning Appeals Decisions.** Appeals of decisions of the Board of Zoning Appeals shall be filed with the Waukesha County Circuit Court in accordance with Wis. Stat. §62.23(7)(e)10.
4. **Appeals of Common Council Decisions.** Appeals to any decision of the Common Council shall be Consistent with procedures in Wis. Stat. §62.23(7)(e)10.

**22.11(4) Site Plan and Architectural Review (SPAR).**

- A. **Purpose.** Site Plan and Architectural Review (SPAR) is required to ensure that all new commercial and multi-unit residential developments in the City complies with the provisions of this ordinance, and with other applicable City ordinances, and is aligned with the goals, recommendations, and policies of the Waukesha Comprehensive Plan.
- B. **Applicability.** Site and Architectural Plans, including all proposed signs as identified in Subsection 22.09(2), shall be approved before commencement of construction or issuance of Building Permits for:

1. Any New Development, Major Redevelopment, Intermediate Redevelopment, or Minor Redevelopment in any zoning district (except One- or Two-Unit Dwellings and their accessory structures in RN-1 through RN-4 districts).
2. Accessory Dwelling Units in any district.
3. Landscape and parking lot changes as noted in Section 22.07.
4. Any new Permanent Signs requiring a Sign Permit.
5. Plan Commission review of Final SPAR is required for the following:
  - a. **Design Standards Exceptions.** Should the Community Development Director or designee determine through the Preliminary SPAR procedures in Subsection (C) below that Site and Architectural Plans require one or more exceptions to Sections 22.04, 22.05, 22.06, 22.07, or 22.09 of this Chapter, the applicant shall submit a Final SPAR application for review by the Plan Commission.
  - b. **Adjacent Property Impacts.** When a proposed new development, major redevelopment, or intermediate redevelopment is located on a property that is adjacent to a property in the RN-1, RN-2, RN-3, or RN-4 districts with less permissive standards, and the proposed development includes a use that is not permitted in the adjacent RN-1, RN-2, RN-3, or RN-4 district, the plans shall require Final SPAR application to the Plan Commission.

**C. Procedures.**

1. **Pre-Application Meeting.** If a pre-application meeting is required or requested, it shall follow the process detailed in Subsection 22.11(3)(B)(2) (Pre-Application Meetings).
2. **Optional Consultation.** If an Optional Consultation is requested, it shall follow the process outlined in Subsection 22.11(3)(B)(3) (Optional Consultation).
3. **Preliminary and Final SPAR Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).
4. **Sign Permit, Minor, Preliminary, and Final SPAR Review and Decision.** Once an application is accepted, the Community Development Director or their designee shall review the application for compliance with all applicable standards enumerated in this Chapter, and with any other applicable City ordinances. For Preliminary SPAR, the Community Development Director or Designee will schedule a meeting with the applicant to discuss the review.

Following the meeting and/or upon completion of the review, the Community Development Director or designee shall either:

- a. Determine that SPAR is not needed and issue a final approval of the SPAR, or
  - b. Determine that the final SPAR can be submitted for Administrative review if no exemptions are required but additional information is required, and issue a letter to the applicant detailing the required information needed prior to submission of Application for final SPAR, or
  - c. Determine that the Plan Commission must review one or more requested Design Standards Exemptions as described in Subsection 22.11(4)(B)(5)(a) above and issue a letter to the applicant detailing the determination and requirement that the final SPAR application will be reviewed by the Plan Commission, or
  - d. Determine that the Plan Commission must review the application based on Adjacent Property Impacts as described in Subsection 22.11(4)(B)(5)(b) above, and issue a letter to the applicant detailing the determination and requirement that the Final SPAR application will be reviewed by the Plan Commission, or
  - e. Issue a denial of the Preliminary SPAR, detailing the application's failure to comply with the review criteria and next steps, to the applicant.
- 5. Final SPAR Review and Decision by Plan Commission.** The Plan Commission shall conduct a public meeting on the application; review and discuss the application, Community Development Director or their designee's report, and public comment received; and either:
- a. Approve the Site and Architectural Plans as submitted,
  - b. Approve the Site and Architectural Plans, subject to conditions or revisions, or
  - c. Deny the Site and Architectural Plans application and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.
- 6. Administrative Final SPAR.** Once an Administrative Final SPAR application is accepted, the Community Development Director or designee shall review the application for compliance with all applicable standards enumerated in this Chapter, and with all other applicable City ordinances, and either:

- a. Issue approval of the Final SPAR if the required additional information has been received, or
- b. Determine that required additional information has not been provided and issue a letter to the applicant detailing the required information needed, or
- c. Issue a denial of the Final SPAR, detailing the application's failure to comply with the review criteria.

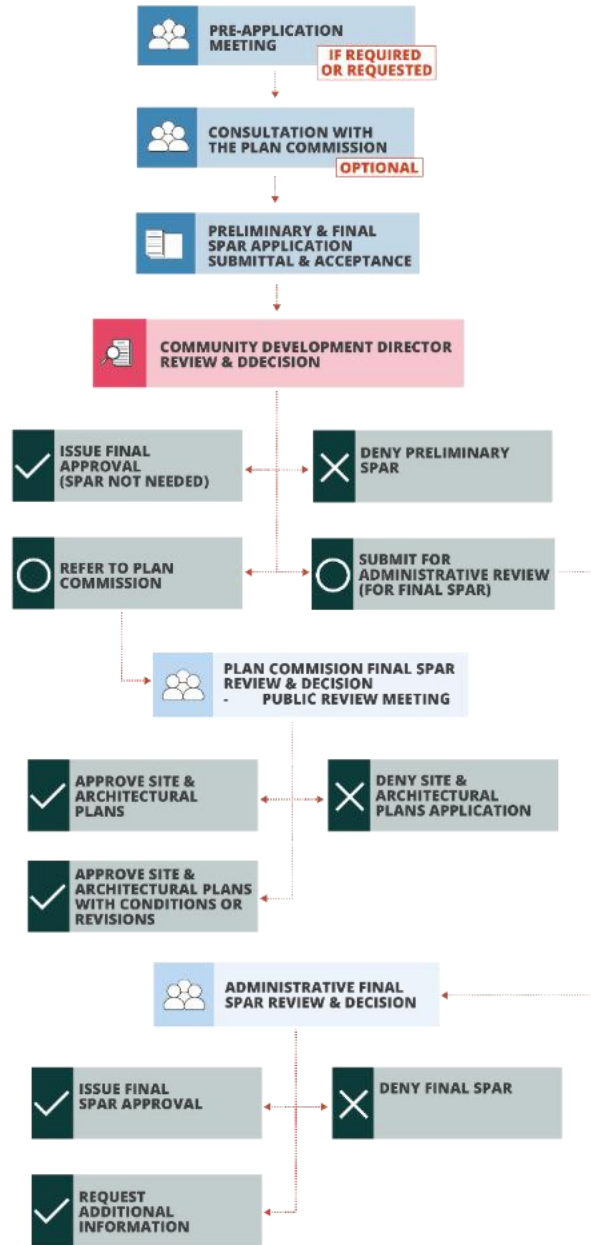


Figure 1 Site Plan and Architectural Review (SPAR)

**D. Plan Commission Review Criteria.**

1. All applicable standards of the Waukesha Municipal Code are met.
2. The development proposal aligns with the goals, recommendations, and policies of the Waukesha Comprehensive Plan.
3. In the case of authorized exceptions, the exception is consistent with the purposes of the zoning ordinance.

**E. Effect of Decision.**

1. **Approval Validity.** Upon approval of an Administrative SPAR or Plan Commission SPAR, the applicant may begin the proposed construction or, if required, apply for Building Permits. All construction must be consistent with the SPAR approval and associated conditions. Any work conducted in a manner which does not conform to the SPAR approval and conditions shall be subject to enforcement as established in Subsection 22.11(15) of this Code and other applicable City ordinances. SPAR approval shall be valid for two years.
2. **Approval Extension.** A SPAR approval shall be automatically extended beyond the two-year date of validity and shall remain in effect for the duration of a valid Building Permit for the associated work.

**22.11(5) Non-Site Plan and Architectural Review.**

- A. **Purpose.** A Non-SPAR review is required to ensure that temporary uses, one-and two-unit residential uses, and changes of use comply with the standards of this Chapter and are aligned with the goals, recommendations, and policies of the Waukesha Comprehensive Plan. Applicants shall also follow the applicable procedures for Building and Occupancy Permits as outlined in Chapter 16 of the Municipal Code.
- B. **Applicability.** A Non-SPAR review shall be required prior to the establishment of any temporary use, one-and two-unit residential use, or change of use, as allowed in Section 22.03.
- C. **Procedures.**
  1. **Pre-Application Meeting.** If a pre-application meeting is required or requested, it shall follow the process detailed in Subsection 22.11(3)(B)(2) (Pre-Application Meetings).
  2. **Optional Consultation.** If an Optional Consultation is requested, it shall follow the process outlined in Subsection 22.11(3)(B)(3) (Optional Consultation).
  3. **Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).

4. **Community Development Director Review and Decision.** Once the application is accepted, the Community Development Director or their designee shall review the application based on the review criteria, refer the application to appropriate City Departments as needed, and either:
  - a. Issue the Temporary Use Permit or Building Permit,
  - b. Issue the Temporary Use Permit, subject to conditions that bring the use into alignment with the goals, recommendations, and policies of the Waukesha Comprehensive Plan, or
  - c. Deny the Temporary Use Permit or Building Permit, detailing the application's failure to comply with the review criteria, to the applicant.
  
5. **Plan Commission Review (if referred).** When an application is referred to the Plan Commission, or when a request involves an extension of time beyond what is permitted by this Chapter, an exception from applicable standards, or any change not expressly authorized by this Section, the Plan Commission shall conduct a public review meeting on the application; review and discuss the application, the Community Development Director or their designee's report, and any public comments received; and either:
  - a. Issue the Temporary Use Permit,
  - b. Issue the Temporary Use Permit, subject to conditions that bring the use into alignment with the goals, recommendations, and policies of the Waukesha Comprehensive Plan, or
  - c. Deny the Temporary Use Permit and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.

**D. Review Criteria.**

1. All applicable standards of the Waukesha Municipal Code are met.
2. The use, its location, and the building or structure in which it is located aligns with the goals, recommendations, and policies of the Waukesha Comprehensive Plan.

**E. Effect of Decision.**

1. **Permit Validity.** Upon approval, the Temporary Use Permit shall be valid for the dates identified on the approved permit.
2. **Extended Approval.** A Temporary Use Permit may be renewed annually for the period established in the initial permit, subject to approval by the Community

Development Director or their designee, provided the use remains in compliance with all conditions of approval and has not been changed or expanded. Any modification or expansion of the temporary use shall require submission of a new Temporary Use Permit application.

3. **Permit Revocation.** A Temporary Use Permit approved by the Community Development Director or their designee may be revoked by the Community Development Director or their designee if the permit holder fails to comply with any applicable requirements, limitations, or conditions of approval. The Plan Commission may revoke any Temporary Use Permit, including those approved by the Community Development Director or their designee.

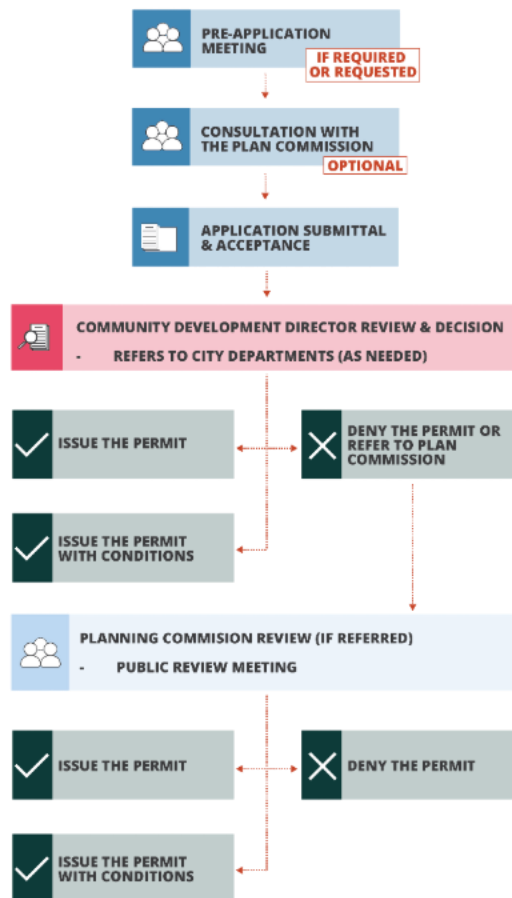


Figure 2 Non-Site Plan and Architectural Review (SPAR)

## 22.11(6) Appeals of Administrative Decisions.

### A. Procedures.

1. **Optional Preliminary Consultation.** The applicant may request a preliminary application consultation with the Plan Commission prior to filing an appeal.

2. **Application Submittal and Receipt.** An appeal of an Administrative Decision may be filed by the original applicant within 30 days from the date of the adverse order, requirement, decision, or determination. Application submittal shall be deemed complete and received if submitted in compliance with the standards and process established in Subsection 22.11(3)(B)(4).
  3. **Community Development Director Review.** Once a timely appeal is received, the Community Development Director or his or her designee shall:
    - a. Pause further administrative action related to the appealed decision unless doing so would create an immediate threat to public health or safety. In such cases, the Director may allow necessary actions to proceed until the Board of Zoning Appeals renders a decision.
    - b. Review it before the Board of Zoning Appeals in accordance with the notice and hearing procedures 22.11(3)(E) of this Section.
  4. **Hearing Procedure and Decision.** The Board of Zoning Appeals or Planning Commission, as detailed in Subsection 22.11(2), shall review the application and public comment received, and either:
    - a. Reverse the decision in whole, or
    - b. Affirm the decision in whole or in part, and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.
- B. Review Criteria.** An appealed administrative decision shall be reversed or reversed in part if a minimum of one of the following findings is made:
1. The decision constituted an erroneous application or interpretation of this Chapter,
  2. The decision constituted an abuse of the Community Development Director or their designee's discretion to interpret or apply this Chapter, or
  3. The decision was rendered based upon an erroneous material fact.
- C. Effect of Decision.** If the appealed decision is affirmed in whole or in part, the applicant may revise and resubmit an application for the applicable permit or approval, subject to the applicable expiration provisions of this Chapter.

**22.11(7) Conditional Use Permit.**

- A. Purpose.** The Conditional Use Permit procedure is established to ensure uses identified as conditional uses in Table 22.03(3) are in keeping with the stated purpose and intent of the zoning district in which they are proposed to be established.

**B. Applicability.** A Conditional Use Permit shall be required prior to the establishment of any uses identified as conditional uses in Table 22.03(3).

**C. Procedures.**

**1. Pre-Application Meeting.** If a pre-application meeting is required or requested, it shall follow the process detailed in Subsection 22.11(3)(B)(2).



Figure 3 Conditional Use Permit

**2. Optional Consultation.** If an Optional Consultation is requested, it shall follow the process outlined in Subsection 22.11(3)(B)(3) (Optional Consultation).

**3. Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).

**4. Community Development Director Review.** Once the application is accepted, the Community Development Director or their designee shall:

- a. Refer the application to appropriate City Departments for review and comment,
- b. Prepare a report and recommendation on the application, based on the comments received from the referred to City Departments, and
- c. Schedule the Plan Commission Public Hearing.

**5. Plan Commission Hearing and Decision.** The Plan Commission shall conduct a public hearing on the application; review and discuss the application, Community Development Director or their designee's report, and public comment received; and either:

**a.** Issue the Conditional Use Permit subject to conditions that are:

- i. Related to the stated purpose and intent of the district in which the use is proposed to be located,
- ii. Reasonable, and to the extent practicable, measurable,
- iii. Based on facts and information, other than personal preferences or speculation,
- iv. Related to the permit's duration, transfer, or renewal.
- v. In compliance with all applicable standards of the Waukesha Municipal Code,
- vi. Related to the purpose of this Ordinance and supported by substantial evidence, and
- vii. Demonstrated by the applicant, through substantial evidence, that the application and all requirements and conditions established by the City are or will be satisfied, or

**b.** Deny the Conditional Use Permit and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.

**D. Effect of Decision.**

- 1. Permit Validity.** Upon approval, a Conditional Use Permit shall run with the land unless otherwise made a condition of approval. Any subsequent request to amend, modify, or revoke the Conditional Use Permit shall be referred to the Plan Commission for review and action.
- 2. Amendments.** Any amendment which involves a modification to the requirements of the previous Conditional Use Permit shall be treated as a new application.

**22.11(8) Variances.**

**A. Purpose.** The variance procedure is intended to provide a means by which relief may be granted from unforeseen, particular applications of this Chapter that create practical difficulties or particular hardships.

- B. Applicability.** A variance may be requested only from dimensional or numerical standards of this Chapter. Variances shall not be granted to permit a use not otherwise allowed in the applicable zoning district, nor to change a zoning district classification or district boundary.
- C. Procedures.**
- 1. Pre-Application Meeting.** If a pre-application meeting is required or requested, it shall follow the process detailed in Subsection 22.11(3)(B)(2).
  - 2. Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).
  - 3. Community Development Director Review.** Once the application is accepted, the Community Development Director or their designee shall:
    - a.** Refer the application to appropriate City Departments for review and comment, and if located in the floodplain, notify the Wisconsin Department of Natural Resources (DNR).
    - b.** Prepare a report and recommendation on the application, based on the comments received from the referred to City Departments and DNR, and
    - c.** Schedule the Board of Zoning Appeals Hearing for dimensional variance applications.
  - 4. Board of Appeals Hearing Procedure and Decision.** The Board of Zoning Appeals shall conduct a public hearing on the application; review and discuss the application, Community Development Director or their designee's report, and public comment received; and either:
    - a.** Approve the variance,
    - b.** Approve the variance with conditions, or
    - c.** Deny the variance and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.
- D. Findings of Fact.** Before any variance is approved, the Board of Zoning Appeals shall make a favorable finding of fact, based upon evidence presented by the applicant, that each of the following criteria has been satisfied:
- 1.** The proposed variance is consistent with the general purpose and intent of this Chapter and will not be contrary to the public interest.

2. There are exceptional or extraordinary conditions applying to the property or the intended use that do not generally apply to other properties or uses in the same zoning district.
3. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and vicinity.
4. The variance is not being requested solely on the basis of economic gain or loss, and self-imposed hardships are not grounds for granting a variance.
5. The granting of the variance will not alter the essential character of the area, be detrimental to adjacent properties, or impair the purpose of this Section.
6. The variance will observe the spirit of this Section and secure public safety and welfare.
7. For properties located within floodplain areas, Variance requests shall comply with the floodplain variance criteria set forth in Municipal Code §24.13.

**E. Effect of Decision.**

1. Upon approval, a variance shall be permanent and shall run with the land, unless expressly limited by a condition of approval. A variance shall not expire due to the passage of time, change in ownership, or the issuance or expiration of a building permit.

2. If a variance is approved for a subdivision, it shall be valid for a period that is concurrent with the period that the preliminary plat is valid and shall run with the land only after the recordation of a duly approved final subdivision plat.

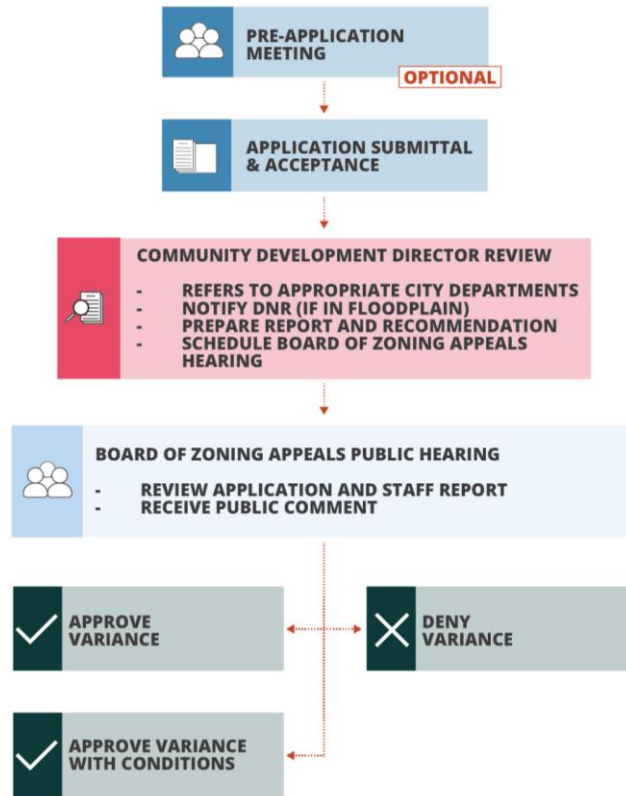


Figure 4 Variance

**22.11(9) Minor Subdivisions.**

PLACEHOLDER

**22.11(10) Major Subdivisions.**

PLACEHOLDER

**22.11(11) Planned Unit Developments.**

**A. Purpose.** The Planned Unit Development (PUD) process is established to provide flexibility in the strict application of the standards of this Chapter to accommodate innovative design and development practices that would not otherwise be achievable, in exchange for higher quality development and additional community benefits than would otherwise be required.

**B. Applicability.** Any development site may apply to be considered as a PUD.

**C. Procedures.**

- 1. Pre-Application Meeting.** If a pre-application meeting is required or requested, it shall follow the process detailed in Subsection 22.11(3)(B)(2) (Pre-Application Meeting).
- 2. Optional Consultation.** If an Optional Consultation is requested, it shall follow the process outlined in Subsection 22.11(3)(B)(3) (Optional Consultation).
- 3. Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).
- 4. Community Development Director Review.** Once the application is accepted, the Community Development Director or their designee shall:
  - a. Refer the application to appropriate City Departments for review and comment,
  - b. Prepare a report and recommendation on the application, based on the comments received from the referred to City Departments, and
  - c. Schedule the Plan Commission meeting.
- 5. Plan Commission Meeting and Recommendation.** The Plan Commission shall conduct a public meeting on the application; review and discuss the application, the Community Development Director or their designee's report, and any public comment received; and recommend to the Common Council that it either:
  - a. Approve the PUD as presented,
  - b. Approve the PUD with revisions or conditions, or
  - c. Deny the PUD.
- 6. Common Council Hearing and Decision.** The Common Council shall conduct the required public hearing on the application; review the application, the Community Development Director or their designee's report, the recommendation of the Plan Commission, and public comment received; and shall either:
  - a. Pass an Ordinance approving the PUD as presented, and direct the Community Development Director or their designee to update the Zoning Map to designate the development site as located in the PUD Overlay (PUD-O) District,
  - b. Refer the PUD back to the Plan Commission for additional review and recommendation, or

- c. Deny the PUD and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.

**D. Review Criteria.**

1. All PUD-Overlay (PUD-O) District objectives of Subsection 22.02(9)(C) are met.
2. At least one of the Optional PUD-Overlay (PUD-O) objectives of Subsection 22.02(9)(D) are met.

**E. Effect of Decision.**

1. **Effect of Approval.** Following PUD approval, the approved deviations from the standards of this Chapter shall control in the event of an express conflict between the provisions of the PUD and this Chapter. Any Code standard both in effect at the time of PUD adoption or established/amended in the future, which does not receive deviation approval, shall be complied with.
2. **Agreement.** Prior to the commencement of construction, a Planned Unit Development Agreement shall be prepared, executed, and recorded.

3. **Amendments.** All amendments to an approved PUD shall be treated as a new application for PUD approval.



Figure 5 Planned Unit Development

22.11(12) **Amendments – Comprehensive Plan.**

- A. **Purpose.** The Comprehensive Plan Amendment process is established to provide a means for making changes to the Plan that have general applicability or significance. It is not intended to relieve individual hardships or confer special privileges or rights. Rather, it serves as a tool to update the goals, policies, and recommendations of the Plan in response to changing, newly discovered, or newly relevant conditions, circumstances, or information, in accordance with Wis. Stat. §66.1001.

**B. Applicability.** A Comprehensive Plan Amendment may be initiated by the Common Council, the Plan Commission, the Community Development Director, or designee or by any owner of property affected by the provisions of the Plan goal, policy, or recommendation sought to be amended.

**C. Procedures.**

- 1. Pre-Application Meeting.** If a pre-application meeting is required or requested, it shall follow the process detailed in Subsection 22.11(3)(B)(2) (Pre-Application Meeting).
- 2. Optional Consultation.** If an Optional Consultation is requested, it shall follow the process outlined in Subsection 22.11(3)(B)(3) (Optional Consultation).
- 3. Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).
- 4. Community Development Director Review.** Once the application is accepted, the Community Development Director or their designee shall:
  - a. Refer the application to appropriate City Departments for review and comment,
  - b. Prepare a report and recommendation on the application, based on the comments received from the referred to City Departments, and
  - c. Schedule the Plan Commission meeting for review and recommendation.
- 5. Plan Commission Meeting and Recommendation.** The Plan Commission shall conduct a public meeting on the application; review and discuss the application, Community Development Director or their designee's report, and public comment received; and recommending to the Common Council either:
  - a. Approval,
  - b. Approval with revisions, or
  - c. Denial.
- 6. Common Council Hearing and Decision.** The Common Council shall conduct a public hearing on the application; review the application, the Community Development Director or their designee's report, the recommendation of the Plan Commission and public comment received and either:
  - a. Adopt an ordinance approving the Comprehensive Plan Amendment as presented,



Map amendment may be approved except in accordance with the amended policies, goals, objectives, principles and standards of the Plan.

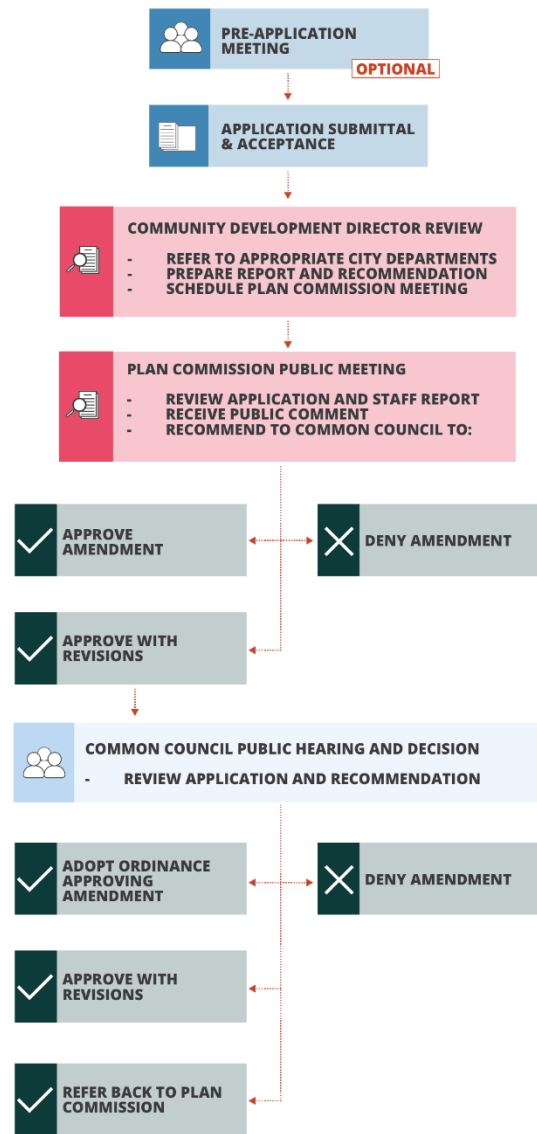


Figure 6 Amendments – Comprehensive Plan

**22.11(13) Amendments – Zoning Code Text.**

- A. Purpose.** The Zoning Code Text Amendment process is established to provide a means for making changes to the standards of this Chapter to align with the Waukesha Comprehensive Plan.
- B. Applicability.** A Zoning Code Text Amendment may be initiated by the Common Council, the Plan Commission, the City Attorney, the Community Development

Director or their designee, or by any owner of property affected by the provisions of the standard sought to be amended.

**C. Procedures.**

- 1. Pre-Application Meeting.** If a pre-application meeting is required or requested it shall follow the process detailed in Subsection 22.11(3)(B)(2) (Pre-Application Meetings).
- 2. Optional Consultation.** If an Optional Consultation is requested, it shall follow the process outlined in Subsection 22.11(3)(B)(3) (Optional Consultation).
- 3. Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).
- 4. Community Development Director Review.** Once the application is accepted, the Community Development Director or their designee shall:
  - a. Refer the application to appropriate City Departments for review and comment,
  - b. Prepare a report and recommendation on the application, based on the comments received from the referred to City Departments, and
  - c. Schedule the Plan Commission meeting for review and recommendation.
- 5. Plan Commission Meeting and Recommendation.** The Plan Commission shall conduct a public meeting on the application; review and discuss the application, Community Development Director or their designee's report, and public comment received; and recommend the Common Council either:
  - a. Approve the Zoning Code Text Amendment as presented,
  - b. Approve the Zoning Code Text Amendment with revisions, or
  - c. Deny the Amendment.
- 6. Common Council Hearing and Decision.** The Common Council shall conduct a public hearing on the application; review the application, the Community Development Director or their designee's report, the recommendation of the Plan Commission and public comment received and either:
  - a. Approve the Zoning Code Text Amendment as presented,
  - b. Approve the Zoning Code Text Amendment with revisions,

- c. Refer the Zoning Code Text Amendment back to the Plan Commission for additional review and recommendation, or
- d. Deny the Amendment and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.

**7. Review Criteria.**

- a. The proposed amendment aligns with the Waukesha Comprehensive Plan and any other officially adopted applicable plan or policy document.
- b. The proposed amendment will result in compatible relationships between existing and future development patterns.
- c. The proposed amendment will not cause substantial impairment of the health, safety, or general welfare in the applicable area or City as a whole.

**D. Effect of Decision.** After the adoption of an amendment to the Zoning Code text, or a part thereof, no approval shall be issued except in accordance with the amended text.

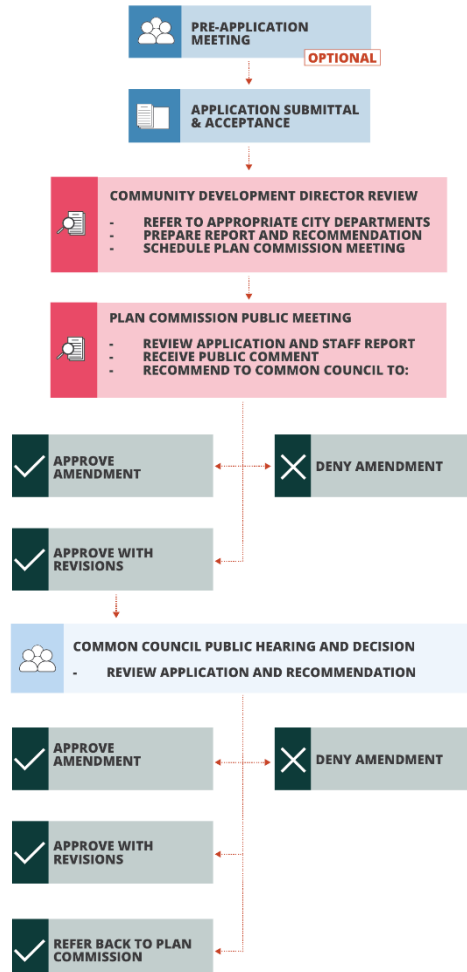


Figure 7 Amendments – Zoning Code Text

**22.11(14) Amendments – Zoning Map.**

- A. Purpose.** The Zoning Map Amendment process established is established to provide a means for making changes to the standards of this Chapter to align with the Waukesha Comprehensive Plan.
- B. Applicability.** A Zoning Map Amendment may be initiated by the Common Council, the Plan Commission, the Community Development Director or their designee, or by any owner of property affected by the zoning map designation sought to be amended.
- C. Procedures.**

  - 1. Pre-Application Meeting.** If a pre-application meeting is required or requested, it shall follow the process detailed in Subsection 22.11(3)(B)(2) (Pre-Application Meetings).
  - 2. Optional Consultation.** If an Optional Consultation is requested, it shall follow the process outlined in Subsection 22.11(3)(B)(3) (Optional Consultation).
  - 3. Application Submittal and Acceptance.** Application submittal and acceptance shall follow the standards and process established in Subsection 22.11(3)(B)(4).
  - 4. Community Development Director Review.** Once the application is accepted, the Community Development Director or their designee shall:

    - a. Refer the application to appropriate City Departments for review and comment,
    - b. Prepare a report and recommendation on the application, based on the comments received from the referred to City Departments, and
    - c. Schedule the Plan Commission meeting for review and recommendation.
  - 5. Plan Commission Meeting and Recommendation.** The Plan Commission shall conduct a public meeting on the application; review and discuss the application, Community Development Director or their designee’s report, and public comment received; and recommend the Common Council either:

    - a. Approve the Zoning Map Amendment as presented,
    - b. Approve the Zoning Map Amendment with revisions, or
    - c. Deny the Amendment.
  - 6. Common Council Meeting and Decision.** The Common Council shall conduct a public hearing on the application; review the application, the Community

Development Director or their designee's report, the recommendation of the Plan Commission and public comment received and either:

- a. Approve the Zoning Map Amendment as presented,
- b. Refer the Zoning Map Amendment back to the Plan Commission for additional review and recommendation, or
- c. Deny the Amendment and direct the Community Development Director or their designee to issue a letter detailing the decision to the applicant.

**D. Review Criteria.**

- 1. The proposed amendment aligns with the Waukesha Comprehensive Plan and any other officially adopted applicable plan or policy document.
- 2. The subject site is suitable for the uses and development allowed within the requested district.
- 3. The proposed amendment will result in compatible development patterns in terms of use and scale with adjacent existing and planned future development.
- 4. The proposed amendment will not generate traffic, environmental, or aesthetic concerns that would generate undue impact on adjacent properties.
- 5. The proposed amendment will not cause substantial impairment of the health, safety, or general welfare in the applicable area or City as a whole.

**E. Effect of Decision.** After the adoption of an amendment to the Zoning Map, or a part thereof, no approval shall be issued except in accordance with the amended map.

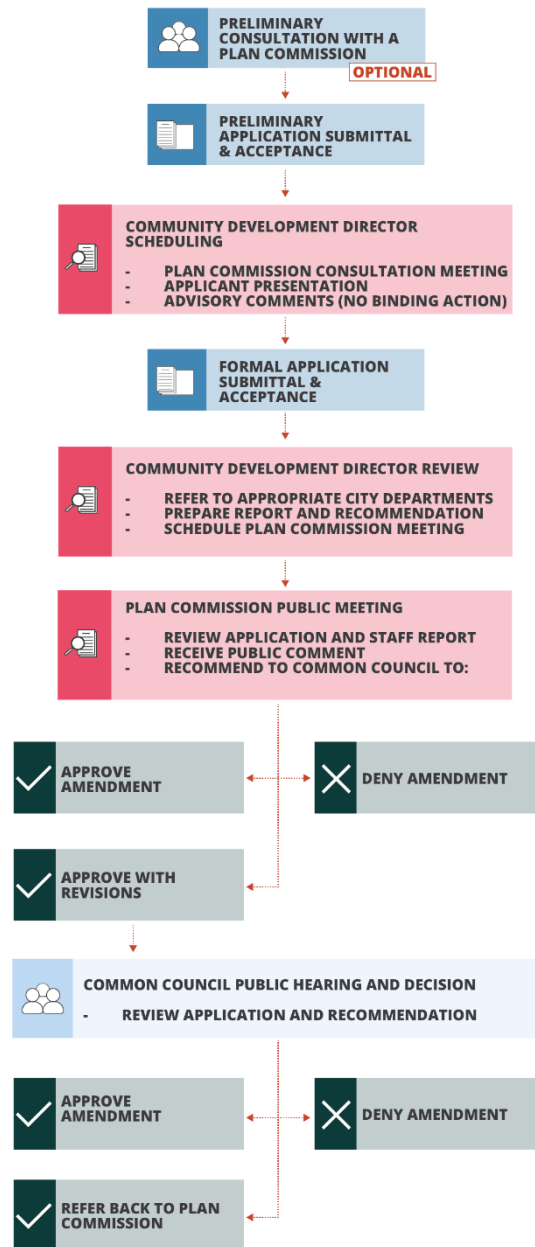


Figure 8 Amendments – Zoning Map

**22.11(15) Enforcement.**

**A. Notice of Violation.**

1. Whenever a violation of this Chapter exists, the Community Development Department shall issue a notice of violation.

2. Such notice shall be directed to each owner or party in interest in whose name the property appears on the local tax assessment records.
3. All notices shall be in writing and shall be served by regular mail, addressed to the owner or other party in interest at the address shown in the local tax records.

**B. Inspection and Investigation.** The Community Development Director or their designee is authorized to conduct any lawful inspection and investigation necessary to ensure compliance with this Section.

**C. Violation Correction.** All procedures and remedies in this Section are cumulative and not exclusive, and do not prevent the City from pursuing any other remedy available at law or in equity.

**1. Issuance of Stop Work Order.** The Community Development Director or their designee may issue a stop work order whenever any development subject to this Section, including a building or structure that is being constructed, demolished, renovated, altered, or repaired, is in violation of any applicable provision of this Chapter. The stop work order shall be in writing, directed to the property owner, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work. Where practicable, the stop work order shall also be posted on the site.

**2. Revocation of Permit or Approval.** The Community Development Director or their designee may revoke any permit or approval granted under this Chapter by written notice to the permit or approval holder, when:

- a. False statements or misrepresentations were made in securing the permit or approval,
- b. Work is being or has been done in substantial departure from the approved application or plan,
- c. There has been a failure to comply with the requirements of this Chapter, or
- d. A permit or approval was issued contrary to the requirements of this Chapter.

**3. Denial or Withholding of Related Permits.** The Community Development Director or their designee may deny or withhold a Certificate of Occupancy in accordance with the Building Code or deny or withhold any permit, approval, or other authorization under this Chapter to use or develop any land, structure, or improvements—until an alleged violation related to such land, use, or development is corrected and any associated civil penalty is paid.

**4. Removal of Illegal Signs.**

- a. The City may remove any sign placed within the right-of-way of a City, County, or state-maintained street in violation of the standards in this Chapter.
  - b. The Community Development Director or his or her designee may summarily remove or cause to be removed, without prior notice or hearing, any sign that is determined to pose an immediate and substantial threat to public health, safety, or property. All costs incurred by the City in connection with such removal shall be assessed to the owner, agent, or other person having a beneficial interest in the building or premises on which the sign is located.
  
- 5. **Land Disturbance Restoration.** The Community Development Director or their designee may require any person who undertakes a land-disturbing activity and who fails to retain sediment generated by the activity as required by Chapter 32 of the Municipal Code, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation.
  
- 6. **Injunction.** The Community Development Director, the City Attorney, or their respective designees may apply to the appropriate court for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful use of the land in question.
  
- 7. **Citation.** The Community Development Director or their Designee may issue citations to any person or business violating any provisions of this Section or any land use provisions in this Chapter, in accordance with Municipal Code §25.08.
  
- D. **Non-Conforming Permits Prohibited.** All departments, officials, and employees of the City who have the duty or authority to issue permits or licenses shall issue no permit or license for any use, structure, or purpose if the same would not conform to the provisions of this Chapter.
  
- E. **Non-Conforming Buildings and Structures Prohibited.** Any building erected, constructed, or reconstructed in violation of the provisions hereof shall be deemed an unlawful structure, and the Community Development Director or their designee or City Attorney or other official designated by the Council may bring action to enjoin such erection, construction, or reconstruction, or cause such structure to be vacated or removed. It is unlawful to erect, construct, or reconstruct any building or structure in violation of the provisions hereof.
  
- F. **Penalty.** Any person who violates any provision of this Zoning Code for which no other penalty is expressly provided shall, upon conviction, be subject to a forfeiture as established by Municipal Code §25.05.