

Zoning Code Assessment and Direction Report

City of Mauston Zoning Code Mauston, Wisconsin

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Prepared On:

January 3, 2022

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Contents

Introduction 3

Priority Discussion Points..... 4

Major themes for improvement 4

Article I: General Provisions..... 9

Article II: Standard Zoning Districts..... 12

Article III: Overlay Zoning Districts 16

Article IV: Land Use Development Standards 18

Article V: Performance Standards 28

Article VI: Reserved 33

Article VII: Sign Regulations..... 34

Article VIII: Procedures and Administration 36

Introduction

With this Zoning Code Update Project, the City of Mauston is undertaking a review of its Zoning Code to make the Zoning Code easier to administer and support high-quality development in the community. The City's completed an update to the Zoning Ordinance in early 2017. At that time, duplicate language was removed, zoning districts were reduced, land uses were edited. However, the City wishes to see additional edits to the Code considering Wisconsin Act 67, became effective Nov. 28, 2017. While the City has routinely adopted amendments to address specific issues, the City needs an evaluation of the entire Zoning Code to determine where there are inconsistencies within the code, ensure the City's regulations are consistent with current State Statutes, address standards that are outdated with contemporary development market practices, and make the code easier to use for property owners, business owners, developers, and community members. The code should function as an easy-to-use tool that supports the community's development needs rather than a hurdle to development. The process will implement recommendations from the 2016 Comprehensive Plan.

The purpose of the Ordinance Assessment and Direction Report is to provide detailed documentation of the strengths and weaknesses of the City's current code in terms of usability, organization, effective standards, and inconsistencies within the codes and with relevant plans. The development code evaluation process is intended to determine where there are conflicting development standards, unclear processes, and regulations that do not reflect modern trends and needs of property uses and development.

The annotated outline identifies the recommended reorganization of the City's codes. The current structure of the code is difficult to administer given its structure. Some of the chapters use Divisions and some do not, thus the proposed structure will use divisions in chapters to group related sections and the section numbering will include a reference to both the chapter and division to ease navigating the code.

This report is intended to provide a foundation for the code update process, allowing the City to review and provide feedback regarding the code evaluation and the overall new code structure before drafting of recommended changes to the development codes begins. This report is organized into the following sections:

1. Major Themes for Improvement
2. Annotated Outline
3. Appendix: Downtown Map showing various boundaries

It is important to remember that this evaluation does not necessarily identify every issue or individual problem with the existing Zoning codes. Instead, the report tries to focus on broader issues that will provide direction for the project prior to drafting the new Zoning Code.

Priority Discussion Points

Priority discussion points to review and discuss to move forward. If any of the suggestions are or are not taken, that impacts the direction for the rest of the zoning code update.

1. Discuss merging Zoning Districts
2. Discuss Structure of Zoning Districts' Purposes, Uses and Standards
3. Reorganize Uses
4. Update and Clarify Development Procedures
5. Reorganize sections because there are sections in Article VIII that should be Article I. These are all noted in the Annotation portion of this document.
6. Utilize "Divisions" in the Articles to ease navigating the code.
7. Allow Zero-lot line in one or two of the Zoning Districts.
8. Consider removing the minimum zoning district area.
9. Land Use Development Standards need to be pared down. Many of the regulations listed can be combined into other Performance Standards or other regulations. Thus, a deep dive needs to be completed on what regulations the City wants to keep for each land use. This of course would be part of the greater land use discussion.
10. Accessory Uses are reorganized and have a proposed outline that will reduce the exhaustive tables under the zoning districts
11. Determine if Sign Code should be its own chapter. This chapter also contains conditional uses. It is suggested that if the Sign Code becomes its own chapter, then a waiver can be granted instead of a conditional use.
12. Discuss inclusion of short-term rentals within the city.

Major themes for improvement

Evaluate Planned Unit Development Section

The Planned Unit Development Section is overly complicated for an applicant to understand their responsibilities to move through the Development Process. The term Planned Unit Development (PUD) is used to describe a type of development and the regulatory process that permits a developer to meet overall community density and land use goals without being bound by existing zoning requirements.

PUD is a special type of floating overlay district which generally does not appear on the municipal zoning map until a designation is requested. This is applied at the time a project is approved and may include provisions to encourage clustering of buildings, designation of

common open space, and incorporation of a variety of building types and mixed land uses. A PUD is planned and built as a unit thus fixing the type and location of uses and buildings over the entire project. Potential benefits of a PUD include more efficient site design, preservation of amenities such as open space, lower costs for street construction and utility extension for the developer and lower maintenance costs for the municipality.

The PUD ordinance should clearly spell out the review process, opportunities for public involvement, and procedural guidelines.

Currently, the PUD is not in the best section of the zoning code. It is suggested to move to Article II (Zoning Districts), Article III (overlay Zoning Districts), Article VI (Reserved), or Article VII (Signs), if Sign Code is moved to its own chapter.

Evaluate Conditional Uses and How to handle as a Result of WI Act 67

In December of 2017, Wisconsin Act 67 changed how cities can process conditional use permits (CUPs). Conditional use permits have traditionally been used to allow uses that may have impacts on surrounding properties if no mitigating measures were taken. During the review and approval process a City would typically add conditions to the permit approval in an effort to minimize impacts. Conditions might address site parameters such as setbacks, building height, site access points, traffic movement, screening, landscaping, or signage. These conditions were not necessarily identified in the code.

Act 67 now requires a city to grant a conditional use permit if an applicant meets, or agrees to meet, all the requirements and conditions specified in the ordinance or imposed. **These conditions must be based on substantial evidence**, defined in the Act as **facts and information** rather than simply personal preference or speculation about impacts. A review of the code finds that the City has many conditional uses and many of the conditional uses do not have specific conditions or has many conditions, or conflicting conditions. It is anticipated that after reflection some conditional uses could be changed to permitted uses or uses permitted with standards. In addition, for those uses that should be retained as conditional, it is important that the requirements and conditions outlined in the code meet Act 67 requirements. A comprehensive review of conditional uses is recommended as part of the rewrite process.

Further guidance in Act 67 directs those conditions imposed by the zoning authority "must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal."

The code needs to clarify between Variance and Conditional Uses. The code has two Variance types. Area Variances and Use Variances. However, a Use Variance is typically referred to as a Conditional Use Permit. It is suggested to remove the Use Variance and use the Conditional Use Permit process. The following provides a brief overview of a variance and a conditional use. Once a variance is granted, it is permanently attached to the property. A new owner of the property may make use of a variance that was granted to the previous owner if all of the conditions that are attached to the variance are met. See *Goldberg v. City of Milwaukee Board of Zoning Appeal*, 115 Wis.2d 517, 340 N.W.2d 558 (Ct. App. 1983).

Similarly, a conditional use or special exception permit generally transfers to the purchaser of a property subject to such a permit. However, some communities impose periodic reviews on conditional use or special exception permits and/or issue such permits for specific time periods (e.g., one year).

Reorganize Permitted and Conditional Uses

Once the land use and land use development standards are reviewed and discussed. Then, additional back and forth can be completed with identifying the land uses that will be Allowed, permitted with standards, conditional use, and not allowed. The annotations provide further guidance on several sections of the Code.

Evaluate City's Zoning Map

A preliminary comparison was conducted of the City's current Zoning Map. In 2016, the Zoning Map and Future Land Use Maps were made consistent. Thus, there does not seem to be any issues with Zoning Map/Future Land Use consistencies. However, it might be beneficial to reduce the zoning districts even further. Below is the current acreage and percent of each Zoning District. It is suggested to combine General Business and Neighborhood Business, SR3- and SR4, and, MR-10 and MR-8, and incorporate zero-lot line twin homes into either the SR, TR, and/or the MR zoning districts. The table below shows the Zoning Districts, their acreage, and percent of total land. The "blank" parcels are ETZ parcels.

	Acres	Percent
AG	1,297.50	38.39%
CB	41.70	1.23%
GB	10.00	0.30%
NB	10.00	0.30%
PB	295.10	8.73%
GI	558.70	16.53%
HI	7.60	0.22%
SR3	267.50	7.92%
SR4	316.80	9.37%
TR6	45.80	1.36%
MR10	27.10	0.80%
MR8	51.10	1.51%
(blank)	450.60	13.33%
Grand Total	3,379.50	

Additionally, a thorough review the downtown zoning districts and overlay districts was completed. Please see the Appendix A: Downtown Map Districts for review and discussion.

Improve Zoning as a Tool for Expanding Housing Development Options

The city's existing residential zoning districts are predominantly structured around traditional, single-family houses, duplexes/twin homes, and multi-family housing development. The community is interested in increasing the diversity of housing options available for existing and

new residents. Updates to the residential zoning districts could better reflect modern housing development trends and enable the addition of a greater diversity of housing types for residents. For example, so-called “missing middle housing” types could potentially be identified and allowed in more areas of the city than larger scale, higher density housing types. Missing middle housing types include side-by-side duplexes, stacked duplexes, bungalows, accessory dwelling units, four-plexes, townhouses/rowhouses, live-work units, and small apartment buildings. The scale of these medium density housing types can be designed to be compatible with single-family housing neighborhoods. Options to consider are expanding the housing types allowed in the SR-3 and SR-4 zoning districts and/or creating a new R-3 zoning district. Allowing zero-lot twin-home.

Some potential challenges to be aware of include the existence of small lots in the R-1 and R-2 districts that may not be large enough to accommodate middle density housing types, potential neighborhood residents' concerns about medium and high-density housing types next to single-family homes, and the need for adding standards that will ensure compatibility between different housing types and densities.

Additionally, the city will need to consider Accessory Dwelling Units (ADU's) as an option to address housing. ADU's are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. Accessory dwelling units offer a variety of benefits to communities. They help increase a community's housing supply, and since they cost less than a new single-family home on a separate lot, they are an affordable housing option for many low- and moderate-income residents. Elderly and/or disabled persons who may want to live close to family members or caregivers, empty nesters, and young adults just entering the workforce find ADUs convenient and affordable. In addition to increasing the supply of affordable housing, ADUs benefit homeowners by providing extra income that can assist in mitigating increases in the cost of living.

Zoning Code Annotation

The following pages contains Zoning Code Annotations. Each section of the Articles of the Chapter have been reviewed and contain notes. The Annotation provides the next steps or other comments to consider during Phase 2 of the zoning code update. Some sections contain more detailed notes, while others provide guidance during the Phase 2 process. The Annotation is broken down by Article. At the beginning, before the Section Annotation, an overview of the major issue with the Article is provided or a proposed reorganization is provided. There is a process to keep note of each current section if moved to another article or section during Phase 2.

The following Color-Coded Actions

The following colors refer to the bullets of the Annotated Sections. While Section Headings also have different colors to show items to stay and items to move to another Article, do not refer to the Section Heading colors because those are for:

1. Staff action/decision to move forward
2. Staff original comments - aqua
3. Attorney review necessary before/after code is re-written