

Ordinance O-22-36

ORDINANCE CREATING CHAPTER 2.46 OF THE WAUWATOSA MUNICIPAL CODE TO ALLOW FOR APPROVAL OF CERTAIN REASONABLE ACCOMMODATIONS BY STAFF MEMBERS

The common council do ordain as follows:

Part I. Chapter 2.46 of the Wauwatosa Municipal Code of Ordinances is hereby created to read in its entirety as follows:

Chapter 2.46 - REASONABLE ACCOMMODATIONS

Section 2.46.010 - Applicability

The Department Head responsible for administration of any ordinance provisions, including the Zoning Code, within this code may approve issuance of a permit or license which waives specific code compliance when such waiver is necessary to provide a "reasonable accommodation" for purposes of compliance with the Americans with Disabilities Act, Fair Housing Act, or other applicable law.

Section 2.46.020 - Review and approval

In the event such accommodation is requested, each request shall be considered on a case-by-case basis, upon the particular circumstances present, and must meet all of the following conditions:

A. The Office of the City Attorney shall confirm that such accommodation is required by law, and may require documentation or information from the applicant to support such analysis, to the extent that the requirement for documentation is not prohibited by law; and

B. The requested accommodation (i.e., the requested waiver of ordinance restrictions), or

another less-extensive accommodation, is:

1. Necessary to afford persons with disabilities equal housing opportunity or equal access to public accommodations, as required by law, and
2. The minimum accommodations that will provide the persons with disabilities adequate relief.

C. Provision or allowance of the accommodation will not violate any state, federal or other provision which cannot be waived or which would create a danger to life, health or safety on the subject property or any neighboring property; and

D. Accommodations shall be limited in scope, such that all other relevant and applicable codes and regulations not specifically made a part of the accommodation will continue to apply; and

E. The accommodation will not unreasonably undermine the basic purposes the ordinance seeks to achieve.

F. Approval for the accommodation will lapse at such time as the demonstrated need for the accommodation ceases to exist.

Section 2.46.030 - Appeals

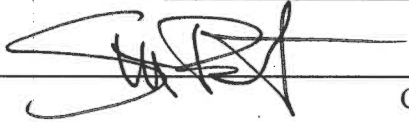
A. An applicant for a reasonable accommodation who is aggrieved by the decision of the appropriate official may appeal such decision to the Board of Zoning Appeals, sitting as the Board of Appeals pursuant to Chapter 2.34, above, within fifteen days of receiving written or electronic notification of said decision.

B. The Board of Appeals, in considering such appeal, may rely upon documents and records provided by the parties, and may request testimony from the parties, in conducting said hearing. The Board's decision shall give deference to the expertise of the official or department having made the original determination.

C. Following the hearing, the Board of Appeals may affirm, reverse or modify the decision of the official whose determination is the subject of the appeal.

Part II. This ordinance shall take effect on January 1, 2023.

Passed and Dated October 18, 2022



City Clerk

Introduced: October 4, 2022

Referred to originating committee

Approved October 18, 2022



Acting Mayor

Adopted: October 18, 2022