

**Village of Weston, Wisconsin**  
**AGENDA ITEM COVERSHEET**  
**Requested for Official Consideration and Review**

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REQUEST FROM: **JENNIFER HIGGINS; DIRECTOR OF PLANNING AND DEVELOPMENT**

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ITEM DESCRIPTION: **ORDINANCE NO. 16-007 AN ORDINANCE AMENDING SECTION 94.16.02(4) OF THE ZONING ORDINANCE ENTITLED *ZONING ADMINISTRATOR REVIEW AND RECOMMENDATION*, SECTION 94.16.02(5) OF THE ZONING ORDINANCE ENTITLED *NOTICE OF PUBLIC HEARING*, SECTION 94.16.03 (4) OF THE ZONING ORDINANCE ENTITLED *ZONING ADMINISTRATOR REVIEW AND RECOMMENDATION*, SECTION 94.16.03(5) OF THE ZONING ORDINANCE ENTITLED *NOTICE OF PUBLIC HEARING* AND AMENDING SECTION 94.16.03(7) ENTITLED *REVIEW CRITERIA FOR AMENDMENTS TO THE OFFICIAL ZONING MAP*.**

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DATE/MTG: **BOARD OF TRUSTEES; MONDAY, APRIL 18, 2016**

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POLICY QUESTION: Should the Board of Trustee approve the amendment to the zoning ordinance as proposed by the Plan Commission?

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RECOMMENDATION TO: I make a motion to approve Ordinance No. 16-007.

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LEGISLATIVE ACTION:

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|---|---|---------------------------------------|
| <input checked="" type="checkbox"/> Acknowledge/Approve | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Administrative Order           | <input type="checkbox"/> Policy               | <input type="checkbox"/> Reports      |
| <input type="checkbox"/> Expenditure                    | <input type="checkbox"/> Procedure            | <input type="checkbox"/> Resolution   |
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FISCAL IMPACT ANALYSIS:

- |  |     |
|--|-----|
| <input type="checkbox"/> Budget Line Item:     | N/A |
| <input type="checkbox"/> Budget Line Item:     | N/A |
| <input type="checkbox"/> Budgeted Expenditure: | N/A |
| <input type="checkbox"/> Budgeted Revenue:     | N/A |
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STATUTORY / RULEMAKING / POLICY REFERENCES:

- |   |            |
|---|------------|
| <input type="checkbox"/> WI Statue:                 | _____      |
| <input type="checkbox"/> WI Administrative Code:    | _____      |
| <input type="checkbox"/> Case Law / Legal:          | _____      |
| <input checked="" type="checkbox"/> Municipal Code: | Chapter 94 |
| <input type="checkbox"/> Municipal Rules:           | _____      |
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PRIOR REVIEW: All the proposed changes were suggested by Attorney VanderWaal, Town of Weston Attorney (previous Village Attorney) for the recent Town Zoning Ordinance Update  
  
PC and ETZ review at March 14, 2016 and April 11, 2016 Meetings

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BACKGROUND:

Staff is requesting the following amendments to the zoning ordinance per the recommendation of Municipal Attorney VanderWaal. These same changes were recently incorporated into the Town of Weston's new zoning code. Mr. VanderWaal has been a municipal attorney for many years and used to assist the Village prior to Attorney Yde taking

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VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 16-007

**AN ORDINANCE AMENDING SECTION 94.16.02(4) OF THE ZONING ORDINANCE ENTITLED *ZONING ADMINISTRATOR REVIEW AND RECOMMENDATION*, SECTION 94.16.02(5) OF THE ZONING ORDINANCE ENTITLED *NOTICE OF PUBLIC HEARING*, SECTION 94.16.03 (4) OF THE ZONING ORDINANCE ENTITLED *ZONING ADMINISTRATOR REVIEW AND RECOMMENDATION*, SECTION 94.16.03(5) OF THE ZONING ORDINANCE ENTITLED *NOTICE OF PUBLIC HEARING* AND AMENDING SECTION 94.16.03(7) ENTITLED *REVIEW CRITERIA FOR AMENDMENTS TO THE OFFICIAL ZONING MAP*.**

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stats. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, Village Staff has requested an amendment to correct sections of the zoning code to be consistent with changes made to the ordinance when the Town of Weston adopted the zoning ordinance in December 2015 and Marathon County in January 2016; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance on April 11, 2016, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Section 94.16.02 (4) of the Village of Weston Zoning Ordinance entitled *Zoning Administrator Review and Recommendation*, Section 94.16.02 (5) of the Village of Weston Zoning Ordinance entitled *Notice of Public Hearing*, Section 94.16.03 (4) of the Village of Weston Zoning

Ordinance entitled *Zoning Administrator Review and Recommendation*, Section 94.16.03 (5) of the Village of Weston Zoning Ordinance entitled *Notice of Public Hearing* and Section 94.16.03(7) of the Village of Weston Zoning Ordinance entitled *Review Criteria for Amendments to the Official Zoning Map* is hereby amended to provide as follows:

**Section 94.16.02: Amendments to Zoning Regulations (Text Amendments)**

**(4) Zoning Administrator Review and Recommendation.**

- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. Only a complete application in the determination of the Zoning Administrator shall entitle a public hearing under subsection (6). The Zoning Administrator or designee shall inform the applicant if the application is incomplete in his or her determination.
- (b) Once the Zoning Administrator determines the application is ~~If~~ complete, the Zoning Administrator or designee shall authorize a public hearing and prepare a written evaluation of the application based on the criteria for amending the zoning regulations in subsection (7). The Zoning Administrator or designee shall forward a copy of the evaluation to the Plan Commission, Village Board, and applicant.

**(5) Notice of Public Hearing.** Following acceptance of a complete application as determined by the Zoning Administrator, the Village Clerk in coordination with the Zoning Administrator shall schedule a public hearing before the Plan Commission, to be held within 45 days after acceptance of a complete application. Notice of the time, place, and purpose of such hearing shall be given by publication as a Class 2 Notice in conformance with the requirements of Wis. Stat. § 62.23 (7)(d). The Village Clerk in coordination with the Zoning Administrator shall also send said notice to the applicant and the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter at least ten days prior to the date of such public hearing. Failure to mail said notice or failure to meet the time requirements herein, provided it is unintentional, shall not invalidate proceedings under this Section.

**Section 94.16.03: Amendments to the Official Zoning Map (Rezoning)**

**(4) Zoning Administrator Review and Recommendation.**

- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. Only a complete application in the determination of the Zoning Administrator shall entitle a public hearing under subsection (6). The Zoning Administrator shall inform the applicant if the application is incomplete in his or her determination.
- (b) ~~If~~ Once the Zoning Administrator determines the application is complete, the Zoning Administrator or designee shall authorize a public hearing and prepare a written evaluation of the application based on the criteria for amending the Official Zoning Map in subsection (7). The Zoning Administrator or designee shall forward a copy of the evaluation to the Plan Commission, Village Board, and applicant.

**(5) Notice of Public Hearing.** Following acceptance of a complete application as determined by the Zoning Administrator, the Village Clerk in cooperation with the Zoning Administrator shall schedule a public hearing before the Plan Commission (or Extraterritorial Zoning Committee if within the ETZ Area) to be held within 45 days after acceptance of a complete application. Notice of the time, place, and purpose of such hearing shall be given by publication as a Class 2 Notice in conformance with the requirements of Wis. Stat. § 62.23 (7)(d). The Village Clerk in cooperation with the Zoning Administrator shall also send said notice to the applicant, owners of record of all lands within 300 feet of the boundaries of the subject property, and the clerk of any municipality

whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter at least ten days prior to the date of such public hearing. Failure to mail said notice or failure to meet the time requirements herein, provided it is unintentional, shall not invalidate proceedings under this Section.

**(7) Review Criteria for Amendments to the Official Zoning Map.**

The Plan Commission (or Extraterritorial Zoning Committee for land in the ETZ Area) and Village Board shall utilize the following criteria when reviewing each application to amend the Official Zoning Map:

- (a) Is the proposed rezoning consistent with the Comprehensive Plan, as is required by Wisconsin Statutes?
- (b) Does the rezoning further the purpose and intent of this Chapter?
- (c) Does rezoning address any of the following that are not properly addressed on the current Official Zoning Map?
  1. A mistake was made in mapping on the Official Zoning Map. That is, an area is or has developed in a manner and purpose different from that for which it is mapped. If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the Village may intend to stop an undesirable land use pattern from being perpetuated.
  2. Factors have changed, such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes, making the subject property more appropriate for a different zoning district.
  3. Growth patterns or rates have changed, thereby creating the need for a rezoning.
- (d) Does the proposed zoning district maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?
- (e) For applications to rezone land to a multi-family, commercial or industrial zoning district, is, or will there be, adequate public infrastructure available to accommodate the range of uses allowed in that zoning district?

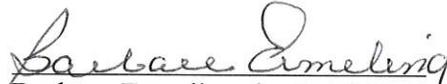
SECTION 2: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

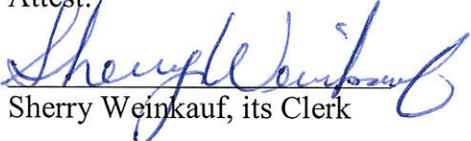
SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 18<sup>th</sup> day of April, 2016

WESTON VILLAGE BOARD

By:   
Barbara Ermeling, its President

Attest:

  
Sherry Weinkauff, its Clerk

APPROVED: 4/19/16

PUBLISHED: 4/20/16

## Notice of Newly Enacted Ordinances

Please take notice that the Village Board of Weston, Wisconsin enacted on April 18, 2016, the following Ordinances:

- Ordinance No. 16-003 An Ordinance Amending Section 94.3.02 of the Zoning Ordinance Entitled Treatment of Allowable Uses by Zoning District.
- Ordinance No. 16-004 An Ordinance Amending Section 94.4.02(4)7. of the Zoning Ordinance Entitled Residential Land Use Types – Manufactured Home Community – Performance Standards.
- Ordinance No. 16-005 An Ordinance Amending Section 94.6.03(4), Figure 6.03 of the Zoning Ordinance Entitled Conditional (C), Prohibited (R), And Permitted (P) Uses in WHP Overlay Districts.
- Ordinance No. 16-006 An Ordinance Amending Section 94.13.08 of the Zoning Ordinance Entitled One-Time Event Signs.
- Ordinance No. 16-007 An Ordinance Amending Section 94.16.02(4) of the Zoning Ordinance Entitled Zoning Administrator Review and Recommendation, Section 94.16.02(5) of the Zoning Ordinance Entitled Notice of Public Hearing, Section 94.16.03 (4) of the Zoning Ordinance Entitled Zoning Administrator Review and Recommendation, Section 94.16.03(5) of the Zoning Ordinance Entitled Notice of Public Hearing, and Section 94.16.03(7) of the Zoning Ordinance Entitled Review Criteria for Amendments to the Official Zoning Map.
- Ordinance No. 16-008 An Ordinance Amending Section 94.16.06(2), (3) and (4) of the Zoning Ordinance Relating to the Conditional Use Permit Approval Process.
- Ordinance No. 16-009 An Ordinance Amending Section 94.16.11(4) and (5) of the Zoning Ordinance Relating to Variance Procedures.
- Ordinance No. 16-010 An Ordinance Amending Section 94.16.13(4) of the Zoning Ordinance Relating to Concurring Vote and Decision of an Appeal of a Zoning Interpretation.
- Ordinance No. 16-011 An Ordinance Amending Section 94.16.15(2) of the Zoning Ordinance Relating to Zoning Administrator Duties.
- Ordinance No. 16-012 An Ordinance Amending Section 94.3.03(13) of the Zoning Ordinance Entitled Utility Connections to Principal Building for Human Habitation.
- Ordinance No. 16-013 An Ordinance Amending Section 94.16.19(1) of the Zoning Ordinance Entitled Violations, and Section 94.16.19(3) of the Zoning Ordinance Entitled Penalties.
- Ordinance No. 16-014 An Ordinance Amending Figure 5.01 (1) of the Village Zoning Ordinance Entitled Rural, Open Space and Residential District Lot Dimension and Intensity Standards.
- Ordinance No. 16-015 An Ordinance Amending Section 94.5.08(1)(b) and (d) of the Zoning Ordinance Relating to Calculating Maximum Permitted Density in the AR District.
- Ordinance No. 16-016 An Ordinance Amending Section 94.16.09(4) of the Zoning Ordinance Relating to Site Plan Procedures Application Contents.

- Ordinance No. 16-021 An Ordinance Creating Section 94.4.10(13) of the Zoning Ordinance Entitled Temporary Sales by Mobile Food Vendors and Adding This New Temporary Land Use to the Temporary Land Use Category Within the Charts Displayed in Figures 3.04 And 3.05 of the Village Zoning Ordinance and Amending Section 94.17.04 Definitions of the Zoning Code to Create Definitions Related to This New Use.

The full text of the above Ordinances may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.

Dated this 19<sup>th</sup> day of April, 2016  
Sherry Weinkauf, Village Clerk

Published: 4/20/16