

Rules and Procedures of the Dane County Zoning and Land Regulation Committee of the Dane County Board.

These Rules and Procedures were adopted ~~February 14, 2006~~ January 10, 2017 and shall replace any rules previously adopted and shall be the rules of the committee. ~~These rules were amended on August 8, 2006, July 8, 2009, September 9, 2009, and most recently on April, 12, 2011.~~

I. General

- a. The Zoning and Land Regulation Committee of the Dane County Board (hereinafter referred to as Committee) shall have a Chairperson, Vice Chairperson, and Secretary. These positions shall be selected by the members of the committee. The Chairperson shall run the meeting of the committee in adherence to items on the agenda with action on items and procedural matters generally managed as prescribed by Robert's Rules of Order except where these rules indicate otherwise. The Chair may deviate from Robert's Rules at any time with the concurrence of the committee.
- b. In the absence of the Chair or if the Chair chooses to relinquish, the Vice Chair shall take on the responsibilities of the Chair, likewise the Secretary may take over for the Chair or Vice Chair.
- c. The committee shall set aside these Rules and Procedures as they determine appropriate by 2/3 majority vote of those present for specific purposes.
- d. Staff from the Department of Planning and Development (hereinafter referred to as the Department and as staff) shall take minutes, prepare agendas and otherwise staff the operation of the Committee. If staff for any reason is not available at any meeting the Secretary or a designee of the Chair shall take minutes of the meeting.
- e. Meetings shall be scheduled by the Committee for a time and place as deemed appropriate and special meetings may be called by the Chair. The Committee may schedule a meeting for the purpose of conducting a site visit as deemed appropriate. The purpose of these site visits is exclusively to view the site. The Committee will not accept testimony at a site inspection, and the Committee will not take any action at a site inspection.
- f. Agendas shall be prepared by staff of the Department with the following general order and guidelines.

1. Call the meeting to order.
 2. Approval of minutes.
 3. Public comment on any item not listed elsewhere on the agenda.
 4. Petitions scheduled for Public Hearing.
 5. Petitions which have been postponed from previous meetings and have recently had additional action or new information submitted by applicants, Towns, or staff.
 6. Land Division issues needing action by the committee as determined by staff.
 7. Resolutions referred to the committee.
 8. Ordinance Amendments referred to the committee.
 9. Any other items shall be listed next or listed under other business.
- g. The chair may add or delete any items to the agenda by advising staff in time to provide a legal notice. The Chair may also canvas the meeting room to inquire as to how many people are present for particular items and move those items up or down the agenda with the concurrence of the committee.
- h. The committee may designate certain meetings where certain of the above stated items do not appear.
- i. General Meeting schedule:
- The committee shall normally meet on the 2nd and 4th Tuesdays of each month. The meeting on the 4th Tuesday shall be reserved for public hearings; other items shall not be added to the agenda unless required by legal deadlines or at the discretion of the chair. Public Hearings shall be scheduled for ~~6:30pm 7:30 P.M.~~, the meeting on the 2nd Tuesday shall be scheduled at ~~6:30pm 7:30 P.M.~~. The chair will cancel and schedule special meetings as necessary. **Note: Meeting time changed to 6:30pm (5/10/16)**
- j. Zoning and Conditional Use Permit applicants shall be required to provide one copy of each document submitted for review by the committee members and staff. The documents shall be submitted to the Zoning Administrator for distribution.

II. Application Procedures

a. Rezone & Conditional Use Permit Applications

Applicants for zoning map amendments shall provide, at a minimum, the following materials and information to staff at the time of application. The Zoning Administrator may require additional information be submitted as needed.

1. Legal description of lands to be included in the zoning map amendment or conditional use permit request. Separate descriptions shall be required for each lot proposed. Each description shall include the size of the described area in square feet and acres. Legal descriptions shall be prepared by a Registered Land Surveyor, except in the case of existing platted lands, and shall be submitted to the department in an electronic format (e.g, .doc, .pdf). The requirement that a surveyor prepare the legal description may be waived if the Zoning Administrator determines that an aliquot parts description based on the public land survey system is sufficient.
2. Scaled drawing of the proposed rezone area, showing point of beginning, dimensions, etc., as in the legal description. The scale of the drawing should be 1" = 400 feet. The scale drawing should also include the following:
 - a. The size of the area to be rezoned in acres or square feet.
 - b. Existing and proposed Zoning Districts for the proposed rezone area.
 - c. Existing Zoning Districts of all neighboring properties.
 - d. Soil Capability Unit classifications as shown in the Soil Survey of Dane County, Wisconsin.
3. Detailed written description of the proposed use(s) of the property to be rezoned, or the conditional use requested.
4. Brief description of surrounding land uses.

Applicants applying for a multiple-family, commercial, or manufacturing rezone or conditional use permit shall include complete site and operational plans in accordance with s. 10.255(2)(e) of the code of ordinances. The site plan shall be drawn to an easily legible scale, shall be clearly labeled, and shall include the following, as applicable:

Site plan requirements

1. Scale and north arrow;
2. Location of subject property, parcel number(s), and any relevant certified survey map (CSM) or plat information related to the identification of the property;
3. Subject property lines and lot dimensions;
4. All building, outdoor use areas, right-of-ways and easements, both existing and proposed, including provisions for utilities, water, storm water and sewer, either public or private. Existing and proposed uses should be labeled and clearly distinguishable. All dimensions and setbacks should be shown, including building heights;
5. Location and width of all interior roads or driveways and existing and proposed driveway entrances and exits onto public and private roadways, traffic pattern flows shall be clearly indicated;
6. Parking lot layout in compliance with all provisions of the Dane County Code of Ordinances;
7. Zoning district boundaries of the subject property and adjacent properties;
8. Location and distance from subject property and residences on adjacent properties;
9. Natural features such as cropped areas, woodlands, lakes, ponds, streams (including intermittent streams), significant drainage courses, contour lines, flood zones and wetlands;
10. Any other information which the Zoning Administrator deems necessary to reasonably determine the location, nature and condition of any actual or proposed feature of the site. The committee shall have the option of reviewing lengthy documents/reports however documents of this nature shall be summarized by Department staff.

b. Certified Survey Map and Subdivision Plat Applications

1. Certified Survey Maps:

- a. Applicants for Certified Survey Map approval shall direct a Registered Land Surveyor to prepare the map in accordance with all applicable requirements of Chapter 236 Wis. Stats, A-E7 of the Wis. Administrative Code, and Chapter 75 of the Dane County Code of Ordinances.
- b. Staff shall advise applicants of the information and materials required for a Certified Survey Map application.
- c. Per section 75.17(b) of the county land division / subdivision ordinance, the committee has delegated authority to approve Certified Survey Maps to the Department of Planning and Development Land Division Review Officer / Assistant Zoning Administrator, as of 04-12-2011. The Zoning Committee reserves for itself authority over the following situations:
 - i. Variance / waiver requests.
Any CSM application where a request is made for a waiver from any applicable provision of the county land division / subdivision ordinance shall be reviewed and acted on by the Committee. Staff will provide a brief written review of any proposed waiver. If a proposed CSM is associated with a rezoning or conditional use permit petition, action on the waiver will be considered and acted on by the committee *prior* to action on the associated petition.
 - ii. Re-division of existing lots.
Any CSM application *not associated* with a rezoning or conditional use permit petition that proposes to divide an existing parcel to create a new parcel, shall be reviewed and acted upon by the Zoning Committee. The purpose of this provision is to ensure compliance with town / county density standards.
 - iii. Action during staff absence
In the event that staff is on vacation or otherwise unavailable to review and act on a final CSM for an extended period of time, applicants shall have the option of requesting that the Committee take action on the final CSM. Such request shall be made in writing to the Chairperson of the Committee.

iv. Requests by staff

Staff may request that the committee take action on any CSM application.

- d. At the discretion of the Land Division Review Officer and County Surveyor, certain plat and data submission requirements or the preliminary CSM requirement in s. 75.17(2) may be waived.

2. Subdivision Plats

- a. *Pre-application consultation:* As required under s. 75.15(1), Dane County Code of Ordinances, prior to submitting an application for a subdivision plat, applicants shall first consult with staff for advice and assistance on the subdivision process. During the pre-application consultation, staff shall advise applicants of the information and materials required for a Subdivision Plat application.
- b. Applicants for Subdivision Plat approval shall direct a Registered Land Surveyor to prepare the plat in accordance with all applicable requirements of Chapter 236 Wis. Stats, A-E7 of the Wis. Administrative Code, and Chapter 75 of the Dane County Code of Ordinances.
- c. Where sensitive environmental features are observed within the area proposed to be covered by a subdivision plat, staff shall require – prior to committee consideration of a preliminary plat – the submittal of appropriate documentation to establish the actual boundaries / extent of such features. This may include, but not be limited to, formal wetland delineations, prepared in accordance with all applicable state / federal guidelines, establishment of flood elevations for areas within a 100 year floodplain as depicted on adopted FEMA FIRM maps, delineation of Ordinary High Water Mark, navigable streams, etc. Applicants may request a site visit by the zoning administrator to determine presence of wetlands / stream navigability, etc.
- d. The Committee shall accept preliminary plat applications that satisfy the submission requirements in s. 75.15(3), and schedule such applications for consideration at a future meeting. Preliminary plats in unincorporated areas shall be presented to the committee along with draft staff recommendations with at least 2 meetings before the final deadline. The staff will provide comments and final recommendations at the meeting before the final deadline.

- e. Failure of an applicant to provide documentation or data as required by ordinance shall constitute grounds for denial of a preliminary plat.
- f. Final plats in unincorporated areas shall be reported to the committee before the committee Chair signs the plat once all conditions have been met to the satisfaction of the County Plat Review Officer. Where staff finds ambiguity regarding conformance with any conditions of approval, the Committee shall make the final determination as to whether the conditions of approval have been met. The Chair shall sign the plat at an open meeting of the Committee if all conditions have been met. *(added 08-08-2006; modified 04-12-2011)*

III. Conduct of Public Hearing

- a. Testimony at the Public Hearing will be recorded on tape and shall be available to the public in the Department. Recordings shall be held for 2 years.
- b. Minutes of the Public Hearing shall only show the names of those appearing and the position they have taken on the proposal.
- c. Attendance of petitioners or their agent at the public hearing is ~~recommended~~ required. It is not necessary for anyone to speak regarding the item at the Public Hearing in order for the committee to complete action.
- d. All members of the public who are present at the public hearing on a conditional use permit application or zoning petition may testify at the public hearing on the proposal.
- e. Any Town official wishing to speak at a meeting may be recognized at the meeting by the Committee Chair and provided an opportunity to enjoin in the discussion as the pertinent item is discussed.
- e. ~~e.~~
- f. ~~f.~~ When individuals wish to speak all persons wishing to speak in favor of the petition shall be heard first. All persons wishing to speak against the petition or ask questions shall be heard second. Review of Town action, staff comments and any other communication concerning the matter will be heard next. Where any comments concerning the matter have been made objecting to the petition or questions have been asked, one representative of the applicant may speak in rebuttal.
- g. ~~g.~~ All comments during the public hearing shall be directed to the Committee. No exchange between attendees is permitted. Committee members may ask questions of individuals participating in the public hearing as they speak.
- h. ~~h.~~ In accordance with Dane County Ordinance all speakers are required to fill out a Registration sheet indicating the items they are interested in, their name, their affiliation, or representations.
- i. ~~i.~~ Individual speakers are limited to no more than five minutes speaking time.

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h.j. All Public Hearings are considered closed upon completion of the meeting at which the hearing has been scheduled unless otherwise indicated by the Chair.

h.k. Once the Public Hearing is concluded no additional oral comments to the committee will be permitted except at future meetings where the item is listed and for the following reasons:

1. Members of the Committee request individuals involved in the item to respond to questions or concerns.

2. The Chair determines that enough new information has been added to the discussion since the public hearing that additional time is needed. The Chair shall determine an amount of time for comments from the public with an equal amount of time being allotted to people speaking in favor and in opposition to the petition.

l. An opponent to the conditional use permit application or zoning change petition may register as such with the Committee at the public hearing.

1. Where an organization is the lead opponent of an action, that organization may designate one or more points of contact for further actions on the application or petition.

2. Where multiple individuals speaking in opposition to the approval of the permit or petition, committee staff shall attempt to consolidate those individuals so that the committee has one or two primary points of contact as proceedings on the permit going forward.

m. At subsequent work meetings where a conditional use permit application or zoning petition is discussed further, a registered opponent of the proposal may supplement the record.

1. The Committee may allow limited oral testimony from the register opponent(s) at the work meeting where the proposal is discussed.

2. The register opponent(s) may supplement the record by submitting written testimony at the work meeting where the proposal is discussed at the committee's discretion. If a member of the committee chooses to do so, he or she shall make a motion to enter one or more documents received into the official record.

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IV. Official Record

a. The Committee acts in a quasi-judicial capacity on applications for conditional use permits or zoning change petitions and shall make its decision based solely on the record.

b. The "record" is composed of the following sources of information:

1. All written or documentary evidence submitted to the Committee at the public hearing and received by the Chair.
2. Testimony heard by the Committee during the public hearing.
3. The Chair shall have the discretion to exclude evidence that is redundant, immaterial or irrelevant to the application. The Committee may take official notice of the Dane County Code of Ordinances and Comprehensive Plan, town ordinances and plans, the zoning and location of the subject property and geological features or other facts that are common knowledge in the county or can be verified by reference to the public record.
4. Materials submitted for inclusion in the record shall be no larger than 11 inches x 17 inches.
5. Except as authorized, information in any form which is presented outside the public hearing is not part of the record. Materials may not be submitted by e-mail for inclusion in the record.
6. Once the public hearing is concluded no additional evidence or testimony will be received into the record, except as authorized by the Chair at a future meeting where the item is listed as an item of business and there is new information or good cause for the information not to be presented at the public hearing.
7. Materials received via e-mail prior to or between meetings are not automatically entered into the record. If a member of the Committee chooses to do so, he or she shall make a motion to enter one or more of the documents received into the official record.

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V. Action Items

- a. The Committee shall not take action on rezonings until the applicable Town has completed action on the item. This shall be the Committee policy even though the Town has exceeded its legal action period for rezonings. The Committee may consider action on such items without the Town action 60 days after the date of public hearing on an item, and after contacting the Town and advising the Town of its interest in completing action on the matter.
- b. In general all information which is relevant to any given item must be submitted to the staff of the Department by the Thursday prior to the committee meeting at ~~9:00 a.m.~~ 12:00 noon in order for that information to be considered. The Department will make packets available to the committee the Friday prior to the Tuesday meetings. Information submitted after ~~9:00 a.m.~~ 12:00 noon the prior Thursday may not be considered or may cause the item to be deferred to a later meeting. Publicly Noticed Public Hearings will be heard regardless of other information connected to the petition.
- c. Committee agendas shall be prepared by the Department and submitted to the County Clerk's Office on the Friday prior to the Committee meeting.
- d. Items IV and V of the work session agenda shall be reserved solely for petitions with completed town action reports. Town action reports must be received by the department ~~at least 5 calendar days in advance~~ by 12:00 noon the prio Thursday of the scheduled work session. Items without town action and at least 60 days past the public hearing at which the item(s) were first heard, may be placed on the work session agenda at the discretion of the Committee Chair. *(Added 7-8-2008)*
- e. In order to shorten discussion, the following general rules of motion making shall apply.
 1. Unless otherwise indicated a simple **motion to postpone** shall mean that the item shall be deferred until additional information or action by another agency is received at which time it shall routinely be placed back on the agenda as determined by staff or the Chair.
 2. Conditional Rezoning - Unless otherwise indicated a **motion to approve subject to Town Conditions** shall mean the rezoning or CUP is approved or recommended subject to the intent of the Town's conditions as stated in the minutes drafted by staff and approved by

the committee. Wherever practical Restrictive Covenants shall be imposed in a positive manner indicating such things as usage which are permitted.

3. Conditional Use Permits – Unless otherwise indicated, a **motion to approve a Conditional Use Permit**, shall mean that the Committee has made affirmative findings of fact for the standards enumerated in §10.255(2)(h), and, if applicable, the relevant factors in §10.123(3)(a), Dane County Code of Ordinances.
4. Whenever a motion is made to approve a re-zoning or CUP with a condition of a community wastewater system, the condition means that the system shall comply with the nitrate-nitrogen standard established by the federal Maximum Contaminant Level (MCL) and the Wisconsin Groundwater Enforcement Standard (ES). The federal MCL is found in §40 CFR 141.62. The Wisconsin Groundwater Enforcement Standard is found in Wisconsin Administrative Code NR 140.10.

f. Action on Rezoning Petitions and CUPs.

1. Zoning Petitions or Conditional Use Permits (CUP) shall be judged “non-controversial” if they meet the following guidelines:
 - i. No opposition from anyone at public hearing.
 - ii. No unresolved issues by staff.
 - iii. No substantive concerns by the Town in their approval.
 - iv. No committee members in opposition to the petition. (must pass the committee by unanimous vote of all members in attendance and have the agreement of all committee members that it is non-controversial).
2. Rezoning petitions which are non-controversial may be acted upon at the same committee meeting as the public hearing where they are heard and will be referred to the next County Board meeting. The chair shall note as each item is approved if it is a non-controversial item.
3. The Committee shall have the option of taking action on combined rezone / CUP applications at the same meeting. The

committee shall utilize the following procedures for approving combined rezone / CUP applications at the same meeting:

- i. Two (2) motions will be required – the first motion will be to recommend approval of the zoning change, and the second motion will be to approve the CUP application.
- ii. The second motion approving the CUP shall include a statement that committee approval of the CUP is contingent upon the rezoning receiving all necessary town / county approvals and being deemed effective by the zoning administrator. The CUP shall only take effect upon effectuation of the zoning change and, if applicable, compliance with any and all conditions of approval. If the rezoning is denied or becomes null and void, the CUP shall be disapproved.

g. In all cases where a petition for rezoning areas zoned for exclusive agricultural use are considered the rezoning amendment shall include findings of the County Board that the following conditions exist as required by Wis. Stats. 91.48 (1)(a):

1. The land is better suited for a use not allowed in the farmland preservation zoning district.
2. The rezoning is consistent with any applicable comprehensive plan.
3. The rezoning is substantially consistent with the county certified farmland preservation plan.
4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

h. In all cases where a rezoning petition includes a Delayed Effective Date for recording of a plat, the committee recommendation shall include a condition requiring that a subdivision plat conforming to all applicable provisions of Chapter 236 of Wisconsin Statutes and Chapter 75, Dane County Code of Ordinances, be approved by the committee and recorded with the Dane County Register of Deeds within two (2) years of the date of rezone approval by Dane County.

i. If no action has been taken on a petition or application within one (1) year of the public hearing at which the item is heard, the application shall be expired

and considered withdrawn. However, that period of time is tolled while the petition is in litigation. The applicant shall be notified the application is withdrawn, and the Committee will not take further action on the request. If the applicant wishes to pursue the conditional use permit and/or rezoning, the applicant must complete a new application and public hearing in its entirety. *(Added 7-8-2008)*

- j. If the Committee determines that a new public hearing is required for an active petition, a fee may be assessed to cover the cost of noticing the new public hearing. Any such fee shall be assessed in accordance with the applicable provisions of Chapter 12, Dane County Code of Ordinances. *(Added 7-8-2008)*

VI. Procedural Items outside of committee meetings.

- a. The Department shall prepare a Class II notice of Public Hearing as indicated by Wis. Stats.
- b. The Department shall send a courtesy copy of a Notice of Public Hearing to all surrounding property owners within 300 feet of the affected property at least one week prior to the date of the Public Hearing.
- c. The Department shall also send the petitions to all parties of interest, (for example, Dane County Environmental Health, Dane County Highway, etc) for their review and comment. All such comments shall be forwarded to the Committee for consideration.
- d. As requested by the Committee the Department shall comment on any item appearing on the agenda or seek comments from other county departments as appropriate.

Comment [p1]:

e. Land Use Plan Review and Approval Process:

Process for review and approval of the local Land Use plans and their amendments by the County should generally follow these steps:

1. The local Unit of Government will submit a preliminary version of the Plan to the Planning and Development Department for staff review.
2. The plan is reviewed by the staffs of the County Planning and Development Department and other local units of government where appropriate. The local unit makes appropriate adjustments, takes local approval action and submits by letter to the County Clerk along with 90 copies (of which up to 70 copies may be electronic) of the plan amendment.
3. The Plan is then referred to the Committee who will set a Public Hearing Date allowing for at least a 30 day review period.
4. The Department of Planning and Development will then coordinate with the County Clerk and mail the proposed plan to all required jurisdictions for review prior to the hearing.

5. Upon completion of the Public Hearing, the Committee shall consider the matter and make a recommendation to the County Board.
6. County Board shall consider the matter and recommendations of the Committee, and other commenting agencies and take action as appropriate.