

ORDINANCE NO. 2025-05

**ORDINANCE TO CREATE SECTION 40.109(C) OF THE MUNICIPAL CODE OF THE
VILLAGE OF PEWAUKEE REGARDING REASONABLE ACCOMMODATIONS
THROUGH SPECIAL ZONING PERMIT WAIVERS**

The Village Board of the Village of Pewaukee, Waukesha County, Wisconsin do ordain as follows:

SECTION I

Section 40.109(c) of the Municipal Code of the Village of Pewaukee is hereby created as follows:

- (c) Reasonable Accommodations through Special Zoning Permit Waiver. For purposes of this subsection, “disability” shall be defined as having the meaning set forth in 42 USC § 12102, Title II of the Americans With Disabilities Act, and all regulations pertaining thereto, as amended from time to time.
- 1. The Village Administrator shall use a zoning permit which waives any provisions of Chapter 40 setting forth regulations on building/structure location, setback, offset, or height or open space regulations, if the administrator or his designee determines, in the administrator’s or designee’s sole reasonable discretion, that all of the following conditions have been met:
 - i. The requested waiver of a provision or provisions under this chapter is a reasonable accommodation which is necessary to afford a person with a disability equal housing opportunity or equal access to public accommodations; and
 - ii. The waiver is the minimum accommodation that will give the person with a disability adequate relief; and
 - iii. The accommodation granted by the waiver will not unreasonably undermine the basic purposes of this Chapter 40.
- 2. The Village Administrator, prior to making the determination required under subsection (c) 1., shall require the following from an applicant
 - i. An application for a special zoning permit waiver on a form created by the Village which includes a written statement from the applicant explaining the reasons for the requested waiver and a statement from a physician or medical professional verifying the need for the requested accommodation.
- 3. The Village Administrator, prior to making the determination required under subsection (c) 1., may request a written report from Village staff including, but not limited to, the Village Planner, the Village Engineer, the Director of Public Works, and

the Village Attorney, with such report reviewing the proposed application and setting forth any reasonable conditions which respective staff members determine, in their sole discretion, are necessary to mitigate to the greatest extent possible any detrimental impact to the basic purposes of Chapter 40 posed by the requested waiver.

4. The Village Administrator shall take care to document and affix to any zoning permit and waiver considered under this section a statement summarizing the basis on which any requested waiver has been granted or denied; and, further, any conditions which are attached to such approval.
5. In the event a request under this section is not granted by the Village Administrator, the applicant shall retain the right to pursue a special exception, variance, or conditional use grant, as the case may be, and as otherwise allowed by the Village of Pewaukee Municipal Code for a waiver or exception to the requirements of Chapter 40.
6. A waiver granted under this subsection shall automatically expire upon the termination of the occupancy of the property by the person with a disability named in the application.
7. Any waivers considered or granted under this subsection shall be strictly limited to waivers of regulations of building location, setback, offset, or height or open space regulations as set forth in Chapter 40.

Passed and adopted this 3rd day of June, 2025, by the Village Board of the Village of Pewaukee.

APPROVED:


Jeff Knutson, Village President

Countersigned:


Jenna Peter, Village Clerk