

**CHAPTER 16 - STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES**

**ARTICLE II. STREETS**

**Sec. 16-37 Official map.**

(d) **Changes and amendments.** The Common Council may, change or add to the official map of the City so as to establish the exterior lines of planned new streets, highways and parkways, or to widen, narrow, extend or close existing streets, highways and parkways per Wis. Stat. §62.23(6)(b) (2021-22), as amended from time to time.

(1) Initiation of Amendments. Proposed amendments may be initiated by: Aldermanic Resolution, Community Development Director, Public Works Director, and/or Director of Parks and Recreation.

(2) Amendment Procedure.

- a. **Proposal.** Amendments that serve a general interest may be proposed by Aldermanic resolution in compliance with Council Rules or by direct initiation by the Community Development Director, Public Works Director, and/or Director of Parks and Recreation.
- b. **Authority of the Plan Commission.**
  - 1. Within sixty (60) days of receiving the proposed amendments, the Plan Commission shall transmit to the Common Council its recommendation.
  - 2. If Plan Commission fails to make a recommendation within sixty (60) days of receipt, the Common Council may hold a public hearing after the expiration of said sixty (60) day period. Failure to receive said recommendation from the Plan Commission shall not invalidate the proceedings or action of the Common Council.
  - 3. Community Development Director is responsible for analyzing the facts regarding the official map amendment and prepare a staff review and recommendation for consideration.
- c. **Public hearing.**
  - 1. The City Clerk shall establish a date, time and place to hold a public hearing before the Common Council.
  - 2. Class 2 Notice shall be given prior to public hearing.
- d. **Authority of the Common Council.**
  - 1. Within forty-five (45) days of the Plan Commission recommendation, the Common Council shall hold public hearing.
  - 2. Common Council may refer the matter back to the Plan Commission consistent with Council Rules. In such cases, the Common Council shall present their rationale for the referral.
  - 3. The Common Council may approve or deny approval of the proposed amendment. Council action to approve the amendment shall be done by ordinance.

**Sec. 23-32. Application of this chapter.**

(c) From and after the effective date of this chapter:

(2) Any existing lot, existing building or structure, and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided in §23-42 with respect to nonconforming properties or uses.

**Sec. 23-65. Zoning amendments.**

(a) **Purpose.** The purpose of this section is to provide regulations which govern the amendment process and requirements to review and approve or deny changes to the zoning text and zoning map.

(b) **Initiation of Amendments.**

- (1) Proposed text amendments may be initiated by: Aldermanic Resolution, Plan Commission, or the Director.
- (2) Proposed zoning map amendments may be initiated by: Aldermanic Resolution, the owner of, or owner's designated agent of the particular property to be rezoned.

(c) **Text amendments Procedure.**

(1) **Proposal.** Text amendments that serve a general public interest may be proposed by Aldermanic resolution in compliance with Council Rules, a majority of the Plan Commission, or the Director.

(2) **Public hearing.**

- a. Zoning text amendments will be submitted to the Plan Commission per Wis. Stat. §62.23(7)(d)(2) (2021-22), as amended from time to time. The Director shall establish a date, time and place to hold a public hearing.
- b. Class 2 Notice shall be published prior to the public hearing. In addition, at least ten (10) days before said public hearing, written notice shall be provided to the Clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by the proposed amendment.
- c. The Director will be responsible for analyzing the facts regarding the zoning text amendment and prepare a staff review and recommendation for consideration by the Plan Commission.
- d. In the case of any text amendment relating to floodplain and shoreland zoning, the Director shall also submit the amendment and the notice of public hearing to the Wisconsin Department of Natural Resources (DNR) and Federal Emergency Management Agency (FEMA).

(3) **Authority of the Plan Commission.**

- a. Within sixty (60) days of submitting the proposed amendments the Plan Commission shall transmit to the Common Council its recommendation.
- b. If Plan Commission fails to make a recommendation within sixty (60) days of submitting the proposed amendment, the Common Council may hold a public hearing after the expiration of said sixty (60) day period. Failure to receive said recommendation from the Plan Commission shall not invalidate the proceedings or action of the Common Council. The public hearing must comply with procures set forth in 23-65(c)(2).

(4) **Authority of the Common Council.**

- a. Within forty-five (45) days of the Plan Commission recommendation the Common Council shall act upon the recommendation.
- b. Common Council may refer the matter back to the Plan Commission consistent with Council Rules. In such cases, the Common Council shall present their rationale for the referral.
- c. The Common Council may approve or deny approval of the proposed amendment. Council action to approve the amendment shall be done by ordinance pursuant to Wis. Stat. 66.10015(3).
  1. Effective January 1, 2025, the enactment of zoning text amendments shall be approved by a simple majority of a quorum of the members-elect, pursuant to Wis. Stat. 66.10015(3).

- d. In the case of any text amendment relating to floodplain and shoreland zoning, shall not become effective until also being approved by the Wisconsin DNR and FEMA.

(d) **Zoning Map Amendments Procedure.**

- (1) **Proposal.** Zoning map amendments that serves a general public interest may be proposed by Aldermanic resolution in compliance with Council Rules. A resolution to initiate a zoning map amendment must be accompanied by the information required on an application form provided by the City and shall be processed in accordance with the provisions of this section. If the Plan Commission determines a zoning map amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees.
- (2) **Application procedure by property owner or property owner's designated agent.**
  - a. A property owner or property owner's designated agent wishing to amend the zoning map for their property shall meet with the Director to discuss the proposed zoning map amendment.
  - b. If the property owner or property owner's designated agent wishes to pursue a zoning map amendment, they shall supply the information as required on an application form provided by the City.
- (3) **Public hearing.**
  - a. Zoning map amendments will be submitted to the Plan Commission per 62.23(7). The Director shall establish a date, time and place to hold a public hearing.
  - b. Public Hearing notice shall be provided in accordance with Wis. Stat. §62.23(7)(d) (2021-22), as amended from time to time. At least ten (10) days before said public hearing, written notice shall be mailed to owners of record of all parcels within area of land extending 100 feet from boundary of subject land.
  - c. The Director will be responsible for analyzing the facts regarding the zoning map amendment and prepare a staff review and recommendation for consideration by the Plan Commission.
- (4) **Authority of the Plan Commission.**
  - a. Within sixty (60) days from the filing of the completed application the Plan Commission shall transmit to the Common Council its recommendation.
  - b. If Plan Commission fails to make a recommendation within sixty (60) days from the filing of the completed application, the Common Council may hold a public hearing after the expiration of said sixty (60) day period. Failure to receive said recommendation from the Plan Commission shall not invalidate the proceedings or action of the Common Council. The public hearing must comply with procures set forth in 23-65(d)(3).
- (5) **Authority of the Common Council.**
  - a. Within forty-five (45) days of the Plan Commission recommendation public hearing the Common Council shall act upon the recommendation.
  - b. Common Council may refer the matter back to the Plan Commission consistent with Council Rules. In such cases, the Common Council shall present their rationale for the referral.

- c. The Common Council may approve or deny approval of the proposed amendment. If Council action is to approve the change, it shall further act to formally amend the Official Zoning Map by adopting an ordinance pursuant to Wis. Stat. 66.10015(3).
  1. Effective January 1, 2025, the enactment of zoning map amendments shall be approved by a simple majority of a quorum of the members-elect, pursuant to Wis. Stat. 66.10015(3).

**(e) Standards for zoning amendments.** All recommendations for Zoning amendments shall be consistent with the adopted plans, goals and policies of the City and with the purpose and intent of this zoning ordinance.

- (1) Prior to making a recommendation on a proposed zoning amendment, the Plan Commission shall make a finding to determine if the following conditions exist. No zoning amendment shall be approved prior to finding at least one (1) of the following:
  - a. The request for a zoning amendment is consistent with the Comprehensive Plan for the City of Appleton.
  - b. Factors have changed such as availability to new data, growth patterns and rates, the presence of new road or other infrastructure, additional development, annexation, or other zoning changes, making the subject property more appropriate for a different district.
- c. There is an error in the zoning ordinance text or zoning map as enacted.

**(f) Time Period.**

- (1) **Extension.** The time period for action may be extended by an agreement in writing between the Director and the property owner or property owner's designated agent.
- (2) **Withdrawal.** An applicant shall have the right to withdraw an application at any time by submitting a written request to the Director prior to the decision on the application for a proposed zoning map amendment by the Plan Commission or Common Council.
- (3) **Reapplication time period.** No application for an amendment to the zoning text or map shall be considered by the Plan Commission within a one (1) year period following a denial of the same request by the Common Council, except that the Plan Commission may permit a new application if the request is different.

**(g) Concurrent planning and zoning actions.** Applicants may submit applications concurrently.

**(h) Zoning of annexed areas.** All territory that is annexed to the City shall be assigned zoning classifications as recommended by the Plan Commission during review of the annexation petition. The Plan Commission shall consider the criteria in 23-65(e) in selection of an appropriate zoning district for the annexed land.

A zoning classification of AG Agricultural Zoning District shall be assigned to newly annexed territory with no hearing required. However, if the Plan Commission recommends a zoning classification other than AG Agricultural Zoning District, the Plan

Commission shall hold a public hearing on the assigned zoning classifications in accordance with the application procedures 23-65(d), Zoning map amendments. If annexed territory does not comply with AG Agricultural Zoning District standards, 23-32(c)(2) defines existing uses, buildings, structures, and lots as nonconforming and must comply with 23-42.

**Section 23-91. AG Agricultural district.**

(b) **Principal permitted uses.** The following uses are permitted as of right in the AG district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> <li>• Governmental facilities</li> <li>• Public parks or playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>• Agriculture</li> <li>• Community garden</li> <li>• Greenhouse or greenhouse nursery.</li> <li>• Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</li> <li>• Nursery, orchards or tree farm</li> <li>• Urban farm pursuant to §23-66(h)(17)</li> <li>• Winery pursuant to §23-66(h)(21)</li> </ul>

**Section 23-151. PD planned development overlay district.**

(m) **Procedure for approval of a Development Plan within the district.**

(2) **Step 2.** *Application, Development Plan and Implementation Plan Document (IPD).* The Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the PD overlay district shall be submitted by the applicant to the Director who, after determining the application to be complete, will file the Development Plan, complete application and fee and Implementation Plan Document (IPD) for the PD overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, public hearing, and recommendation.

The required procedure for consideration and approval of the PD overlay district shall be:

a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:

1. All information listed in §23-151(n), Specific contents of Development Plans.
2. Written application and application fee for approval of a PD district to be made on forms and in the manner prescribed by the City.
3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Director by electronic mail. The

Implementation Plan Document (IPD) functions to inform all whom deal with the PD overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.

4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.

- b. **Development Plan and Implementation Plan Document (IPD) review.** The Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for a public hearing.

c. The PD overlay district zoning map amendment shall comply with 23-65(d)(3) Public Hearing, (4) Authority of Plan Commission, (5) Authority of Common Council, 23-65(e) Standards for Zoning Amendments, and 23-65(f) Time Period.

d. **Period of Validity.**

e. **Recording of Development Plan and Implementation Plan Document (IPD).**

### **Section 23-152 TND traditional neighborhood development overlay district.**

#### **(n) Procedure for approval of a Development Plan within the district.**

##### **(2) Step 2. Application, Development Plan and Implementation Plan Document (IPD).**

The Development Plan, complete application and fee and Implementation Plan Document (IPD) for the TND overlay district shall be submitted by the applicant to the Director who, after determining the application to be complete, will file the Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the TND overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, public hearing, and recommendation.

The required procedure for consideration and approval of the TND overlay district shall be:

- a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:

1. All information listed in §23-152(o), Specific contents of Development Plans.
2. Written application and application fee for approval of a TND overlay district to be made on forms and in the manner prescribed by the City.
3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Director by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the TND overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.
4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.

- b. **Development Plan and Implementation Plan Document (IPD) review.** The Director shall coordinate a review of the Development Plan and Implementation

Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for a public hearing.

- c. The TND overlay district zoning map amendment shall comply with 23-65(d)(3) Public Hearing, (4) Authority of Plan Commission, (5) Authority of Common Council, 23-65(e) Standards for Zoning Amendments, and 23-65(f) Time Period.
  
- d. **Period of Validity.**
- e. **Recording of Development Plan and Implementation Plan Document (IPD).**