



# MEMO

## PLANNING AND COMMUNITY DEVELOPMENT

To: Common Council  
From: Dave Kittel, Director of Planning and Community Development  
Date: 3/20/2025  
Re: Update to 17.51

### Background information:

In 2017 Wisconsin Act 243 passed which repealed Wis. Stat. § 62.23(7)(d)2m.a, which required a three-fourths vote by the governing body to approve a proposed zoning amendment when a protest petition was filed. And in 2023 Wis. Act 16 created Wis. Stat. § 66.10015(3)(a), which provides that a zoning amendment only requires approval by a simple majority of a quorum of the members-elect. These law changes have implications for [Section 17.51](#) in the City's ordinances. Currently 17.51(4)a has language that would require a three fourths majority vote to approve a zoning amendment if 20 percent of the owners in the immediate area signed a petition in opposition. Based on the above-mentioned law changes and guidance from the Wisconsin League of Municipalities staff is recommending to update the ordinance to remove that specific provision. See the Ordinance language below with edits:

### 17.51 Amendments

1. *Power of amendment.* The city council may from time to time, on its own motion or petition, amend, supplement, or change this chapter, including the official zoning map.
2. *Procedures.* The city council shall refer every proposed amendment to the city plan commission for a report and recommendation. If the city council does not receive a report and recommendation from the city plan commission within 60 days of submitting the proposed amendment, the city council may proceed with the necessary hearing.
3. *Public hearing and notice.* No amendment of this chapter shall become effective until a public hearing is held before the city council where parties in interest and citizens shall have the opportunity to be heard. A class 2 notice in accordance with Wis. Stats. ch. 985 shall be published in the official newspaper of the city once during each of the two weeks prior to such hearing. At least ten days before

the public hearing, a written notice of such hearing shall also be given to the clerk of any city whose boundaries are within 1,000 feet of any lands included in the proposed amendment. Failure to give such notice shall not invalidate such amendment.

4. *Final approval.*

1. An amendment shall become effective upon a majority vote of the members of the city council voting on the proposed change. ~~However, in case of a protest against such amendment, duly signed and acknowledged by the owners of 20 percent or more of the land included in such proposed amendment or by owners of 20 percent or more of the area immediately adjacent extending 100 feet therefrom, or by owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by a favorable vote of three-fourths of the members of the city council voting on the proposal.~~
2. No amendment concerning the floodway, flood fringe, or general floodplain districts, shall become effective until also being approved by the department of natural resources, the Federal Insurance Administration and, in the case of district boundary amendments, until an official letter of the boundary change has been issued by the Federal Insurance Administration.

5. *Amendments to floodplain districts.*

1. *Actions requiring amendment.* Actions which require amendment include, but are not limited to, the following:
  1. Any change to the official floodplain zoning map, including the floodway lines or boundary of the floodplain area.
  2. Correction of significant discrepancies between the water surface profiles and floodplain zoning maps.
  3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
  4. Any fill or encroachment into the floodplain that will cause a change equal to or greater than 0.01 foot in the height of the regional flood.
  5. Any upgrading of floodplain zoning ordinances required by Wis. Admin. Code § NR 116.05(4), or otherwise required by law.
2. *Referral and approval.* Copies of the proposed amendment and notice of public hearing shall be submitted to the appropriate district office of the department. No amendment to the floodplain maps or text shall become effective until reviewed and approved by the department. When considering amendments to the official zoning map in areas where no water surface profile exists, the city shall consider data submitted by the department, on-site inspections, and other available information.
3. *Flood easements.* All persons petitioning for a map amendment which involves an increase in the height of the regional flood of 0.01 foot or



more shall obtain flooding easements or other appropriate legal arrangements from all affected local units of government and property owners before the city may approve such amendment.

6. *Fees.* Any petition for an amendment shall be accompanied by a fee of \$25.00 to compensate the city for publication of notices and other expenses. No action shall be taken until such fee has been paid.
7. *Annexation to city.* All new territory annexed to the city shall automatically become residential single-family district until definite boundaries and regulations for such territory are recommended by the plan commission and adopted by the council.

(Code 2011, § 17.51)

See below links for more information:

League of Wisconsin Municipalities: <https://www.lwm-info.org/1135/Zoning-FAQ-5>

2017 Wis. Act 243: <https://docs.legis.wisconsin.gov/2017/related/acts/243>

2023 Wis. Act 16: <https://docs.legis.wisconsin.gov/2023/related/acts/16>

**Strategic Plan:**

This is a procedural review and not directly tied to the strategic plan

**Budget:**

No impact

**Recommendation:**

To review the law changes and guidance from the League of Wisconsin Municipalities and refer this item to the legislative committee for review and bring back to Common Council for a hearing and final discussion/action on updating Section 17.51 of the City's Ordinance.

