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www.cityofmequonwi.gov
Office of the City Clerk

COMMON COUNCIL
Regular Meeting
Tuesday, May 13, 2025
7:30 PM
American Legion Post #457
6050 W. Mequon Road

Agenda

1) **Call to Order**

2) **Pledge of Allegiance**

3) **Roll Call**

4) **Public Hearings:**

a) **ORDINANCE 2025-1678** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, in Connection with the Implementation of 2023 WIS. ACT 16 Related to the Process and Procedures for Certain Zoning-Related Applications; **Recommended by Planning Commission February 24, 2025; Recommended by Public Welfare Committee April 8, 2025; First Reading at Common Council April 8, 2025.**

1) Public Hearing
2) Consideration of Ordinance

b) **ORDINANCE 2025-1679** - An Ordinance Amending Section 58-41(g) of the Mequon Municipal Code, Relating to the Issuance of Decisions by the Board of Appeals; **Recommended by Board of Appeals January 2, 2025; Recommended by Planning Commission February 24, 2024; Recommended by Public Welfare April 8, 2025; First Reading at Common Council April 8, 2025.**

1) Public Hearing
2) Consideration of Ordinance

c) **ORDINANCE 2025-1680** - Ordinance Amending the City of Mequon Code of Ordinances, Chapter 58 - Planning and Development Regulations, Article III Impact Fees Relating to the Imposition of Impact Fees; **Recommended by Planning Commission April 21, 2025; Further Recommendation Forthcoming by Public Welfare May 13, 2025; First Reading.**

1) Public Hearing
2) Consideration of Ordinance (Potential waiver of rules related to second readings)

5) Personal Appearances and Public Comment:

Citizens wishing to address the Council on any matter **not** on the agenda may do so at this time. If you desire to be heard on agenda items, you may be heard when that item is considered on the agenda. Please speak into the microphone at the podium. The time limitation is **FIVE** minutes. **To speak or to have your opinion recorded, please complete a registration slip found on the table in the lobby and return it to the bin in the Council Chambers.**

6) Public Officials' Reports:

a) Mayor
b) City Administrator

7) Consent Agenda:

a) Architectural Board meeting minutes of March 10, 2025
b) Board of Appeals meeting minutes of March 6, 2025 and April 3, 2025
c) Common Council meeting minutes April 8, 2025 and April 15, 2025
d) Economic Development Board meeting minutes of March 18, 2025
e) Festivals Committee meeting minutes of March 17, 2025
f) Finance-Personnel Committee meeting minutes of March 11, 2025
g) Milwaukee River Advisory Committee meeting minutes of October 22, 2024
h) Park and Open Space Board meeting minutes of February 19, 2025
i) Planning Commission meeting minutes of March 17, 2025
j) Public Welfare Committee meeting minutes of March 11, 2025
k) Public Works Committee meeting minutes of March 11, 2025
l) Tree Board meeting minutes of October 8, 2024
m) Ordinance First Readings

NOTE: First reading of Ordinances will not be acted upon unless a suspension of the rules is approved by a recorded vote of two-thirds majority of all aldermen.

1. **ORDINANCE 2025-1681** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to Structures on the Lake Michigan Bluff; **Recommended by Planning Commission April 21, 2025; Recommendation Forthcoming by Public Welfare May 13, 2025; Recommendation Forthcoming by Committee of the Whole May 13, 2025; First Reading.**

2. **ORDINANCE 2025-1682 -** An Ordinance Amending the Following within Chapter 58 of the Mequon Municipal Code, in Connection with Planned Improvements for the Property Located at 10806 West Freistadt Road: A) The City's Land Use Plan Map from Neighborhood Commercial to Residential 1-1.5 Acres; and B) the City's Zoning Map from B-1 (Neighborhood Commercial) to R-4 (Residential 3/4 Acre); **Recommended by Planning Commission April 21, 2025; First Reading.**

8) Ordinances: None.

9) Resolutions:

a) **RESOLUTION 4208** - A Resolution Approving an Agreement for Legal Services with Stafford Rosenbaum LLP of Madison, Wisconsin for the Period June 1, 2025 - December 31, 2025; **Recommendation Forthcoming by Finance-Personnel Committee May 13, 2025.**

b) **RESOLUTION 4209** - A Resolution Ratifying Two Change Orders to a Contract with Seltzer-Ornst Construction of Milwaukee, Wisconsin in the Amount of $31,786, in Connection with the Replacement of Various HVAC Units and Other Upgrades within the Council Chambers at City Hall; **Recommendation Forthcoming by Public Works Committee, May 13, 2025.**

c) **RESOLUTION 4210** - A Resolution Granting a Temporary Limited Easement at the Northeast Corner of Mequon Road and Robin Lane to the Wisconsin Department of Transportation; **Recommendation Forthcoming by Public Works Committee, May 13, 2025.**

d) **RESOLUTION 4211 -** A Resolution Granting Two Permanent Limited Easements at the Trinity Creek Crossing of Wauwatosa Road (Approximately 410 Feet North of County Line Road) to the Wisconsin Department of Transportation; **Recommendation Forthcoming by Public Works Committee, May 13, 2025.**

e) **RESOLUTION 4212 -** A Resolution Awarding a Design Contract for the Donges Bay Road Turn Lane Improvement to Harwood Engineering Consultants Ltd., of Milwaukee, Wisconsin, in the Amount of $21,000; **Recommendation Forthcoming by Public Works Committee, May 13, 2025.**

10) Specified Unfinished Business From Prior Meetings: None.

11) Specified New Business:

a) Mayoral Appointment
   1) Board of Appeals: Allison Korger Alternate #1
   2) Festivals Committee: Janet Wirth

12) Adjourn

Dated: May 13, 2025 /s/ Andrew Nerbun, Mayor

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting. Any questions regarding this agenda may be directed to the City Clerk's Office at 262-236-2914, Monday through Friday, 8:00 AM – 4:30 PM

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Office of City Attorney

TO: **Common Council**
FROM: **Brian Sajdak, City Attorney**
DATE: **April 8, 2025**
SUBJECT: **ORDINANCE 2025-1678 An Ordinance Amending Chapter 58 of the Mequon Municipal Code, in Connection with the Implementation of 2023 WIS. ACT 16 Relating to the Process and Procedures for Certain Zoning-Related Applications**

Update

After the first reading, former Mayor Wirth reached out with a question about the language in Section I of the ordinance which repeals and recreates sec. 58-42(k) of the Code. As written in the first reading, the final sentence of the section read:

> if the change or amendment is requested, or agreed to, by the owner of the land affected by the proposed change or amendment, such change or amendment may be enacted by approval of a simple majority of the **members present and voting**.

The language from Wis. Stat. § 66.10015(3), says:

> if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the **members-elect**.

The version in the packet for final consideration has been revised to include the language of the statute. The difference between the two versions is small, and it probably does not make a difference since the property owner would have requested the change, but the language should match the statute to avoid legal challenges later.

Background

The proposed ordinance makes a number of changes to the City's Zoning Code to reflect changes in the statutes based upon recent legislation.

The most significant change is that the statute now prohibits protest petitions, and reflects the continuation of recent legislation which removes local control over many matters, including zoning decisions. The current outright prohibition follows the Legislature's removal of protest petition language from the statute in 2017. The provision related to protest petitions was added to the legislation by a lobbyist for the Realtors Association, and it is speculated that this was done because very few communities removed their protest petition language when the law was

changed in 2017. Because of this change, the proposed ordinance removes the three locations where the Municipal Code allows for protest petitions. These changes are reflected in Sections I, III, and V.

Similarly, the statute also provides that any rezoning must be approved by a simple majority of the members present and voting. This is inconsistent with Section 2-43(4) of the Code which requires five affirmative votes for council action, except where otherwise provided for in the Code. Accordingly, the proposed ordinance adds a paragraph that matches the statute's lower vote requirement in Section I (which replaces existing protest petition language).

Finally, the remaining changes address statutory changes related to judicial review of zoning decisions. Specifically, the statute provides for broader use of certiorari review together with an "expedited" version of certiorari review for certain residential zoning applications. The proposed ordinance incorporates these changes as well in Sections II and IV.

Analysis

Most of the changes are fairly simple and easy to understand, with one exception. The elimination of the protest petition provision caused significant discussion before the Planning Commission. Accordingly, a more detailed analysis of this change (and a discussion of some of the issues raised by the Planning Commission) is appropriate.

1. What is the history of protest petitions?

For a large part of Wisconsin history, provisions within the statutes related to zoning provided for what has commonly come to be known as protest petitions for changes to the zoning of property. In short, the statute provided that where a verified petition meeting certain qualifications was filed with the municipality, any change in zoning to a property would require a supermajority vote of three-fourths of the members of the governing body to pass instead of the typical simple majority vote. The most recent version of this language was found in Wis. Stat. § 62.23(7)(2m)(a). Many communities, including Mequon, adopted this language in their local codes.

In 2018, the legislature enacted changes to this long-standing provision in 2017 Wisconsin Act 243. Act 243 was often called the "Developers Bill" because it made numerous changes sought by the Wisconsin REALTORS and Wisconsin builders' associations to limit and regulate municipal powers related to development. In the case of protest petitions, Act 243 was fairly simple - it repealed Section 62.23(7)(2m)(a). In the aftermath of this change, there was much debate about whether this repeal eliminated protest petitions completely - including removing statutory authority for local municipalities to retain their local code provisions - or if it only removed the requirement in the statute while leaving local communities with the power to require it locally. Based upon the opinion of this office at the time, the Common Council chose to keep the protest petition language within the Zoning Code, although it did change the terms and standards within that language to the version that is currently in the Code.

Anecdotally, my understanding is that most municipalities followed Mequon's approach and elected to retain some form of protest petition in their local codes when they were presented with

the choice to remove their local protest petitions following Act 243. I suspect that this choice led the lobbyists for the developers' groups to seek additional changes. These changes were ultimately enacted by the legislature in 2023 as Wisconsin Act 16. Act 16 included numerous changes designed to make residential development easier. It also includes a provision that creates Wis. Stat. § 66.10015(3)(a), which reads in relevant part that "the enactment of a zoning amendment shall be approved by a simple majority of a quorum of the members-elect." In short, this change requires that all zoning amendments be approved by a simple majority vote of the governing body and, therefore, eliminates any authority for local municipalities to require a supermajority vote for zoning changes through protest petitions or otherwise.

2. I thought the First Amendment guaranteed the right to petition the Government?

There are concerns that this ordinance impacts the First Amendment right "to petition the Government for a redress of grievances." In short, the concern is that by eliminating protest petitions, the code eliminates the ability to petition altogether. Nothing can be further from the truth. First, recall that the term "protest petition" is not actually found in the statute or code. The term is merely nomenclature that has been adopted as shorthand for the process of protesting a zoning change. Second, this change does not eliminate anyone's right to file a petition with the City. The sole impact to the amendment is that there will be no supermajority votes required for zoning changes. Finally, the change does not in any way eliminate any of the rights to appear at and speak at the public hearing required for a zoning change or eliminate the right to otherwise send comments to Council members on a proposal or speak at the Council meeting.

3. Does the City have to act to remove the language?

Certainly not. But by not acting there are impacts. Act 16 became effective on January 1, 2025, and after that effective date there is legally no impact to not acting. Whether the City adopts the ordinance or not, the statute requires that zoning amendments be adopted by a simple majority. Any attempt to deny a zoning change because it did not receive a three-fourths vote after the filing of a protest under a local ordinance would be summarily dismissed in short order by any reviewing court because that ordinance conflicts with state law. In other words, even if the Code is not changed, legally it cannot be applied. Furthermore, even if the Council has no intent to follow the language of the current Code by imposing the higher vote requirement after receiving a protest petition, leaving an unenforceable provision in the Code sets unrealistic expectations for the public that may result in criticism, distrust and a lack of faith in the process. Protest petitions usually required significant work and effort by residents to meet the standards. Leaving the language in could result in a resident reviewing the Code and expending significant effort to file a protest petition only to be told that their work was for a naught because "our hands are tied" by the statute. It sets unrealistic expectations that will result in distrust and a lack of faith in the process.

4. Can the City adopt regulations that are more restrictive than the statute?

Yes, in some circumstances. More importantly, "more restrictive" would not mean a more restrictive vote. The Wisconsin Constitution grants cities and villages in Wisconsin broad "Home Rule" authority to regulate their local affairs and government. Wis. Const. art. XI, § 3. This

authority is "subject only to this constitution and to such enactments of the legislature of statewide concern as with uniformity shall affect every city or every village." Id. In addition to the Constitutional Home Rule authority, the legislature has delegated and granted villages broad management and police power authority, "limited only by express language." Wis. Stat. § 61.34(1). However, a legislative grant of authority under the statutes is limited such that "ordinances may not 'infringe the spirit of a state law or . . . general policy of the state.' " Wisconsin's Env't Decade, Inc. v. Dep't of Nat. Res., 85 Wis. 2d 518, 534-35, 271 N.W.2d 69, 76 (1978) (quoting Fox v. Racine, 225 Wis. 542, 545, 275 N.W. 513, 514 (1937)). The Supreme Court has held:

> If a municipality acts within the legislative grant of power but not within the constitutional initiative, the state may withdraw the power to act; so if there is logically conflicting legislation, or an express withdrawal of power, the local ordinance falls. Furthermore, if the state legislation does not logically conflict, or does not expressly withdraw power, it is possible that the local ordinance nevertheless must fall if an intent that such an ordinance not be made can be inferred from the fact that it defeats the purpose or goes against the spirit of the state legislation.

Id. (quoting Solheim, Conflicts Between State Statute and Local Ordinance in Wisconsin, 1975 Wis. L. Rev. 840, 848).

Within this framework, the initial question is under what authority the ordinance is adopted. Here, there is no question that the authority is granted expressly by statute in Wis. Stat. § 62.23(7)(am):

> *Grant of power*. For the purpose of promoting health, safety, morals or the general welfare of the community, the council may regulate and restrict by ordinance, subject to par. (hm), the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, subject to s. 66.10015 (3) the density of population, and the location and use of buildings, structures and land for trade, industry, mining, residence or other purposes if there is no discrimination against temporary structures. This subsection and any ordinance, resolution or regulation enacted or adopted under this section, shall be liberally construed in favor of the city and as minimum requirements adopted for the purposes stated. This subsection may not be deemed a limitation of any power granted elsewhere.

Further, the courts have held that zoning is a matter of statewide concern. See State ex rel. Ziervogel v. Washington Cnty. Bd. of Adjustment, 2004 WI 23, ¶¶ 37-40, 269 Wis. 2d 549, 571-73, 676 N.W.2d 401, 411-12. "A municipality may regulate matters of statewide concern so long as 'such ordinances do not conflict with ... the state legislation.' " Scenic Pit LLC v. Vill. of Richfield, 2017 WI App 49, ¶ 8, 377 Wis. 2d 280, 287, 900 N.W.2d 84, 87 (quoting DeRosso Landfill Co., Inc. v. Oak Creek, 200 Wis. 2d 642, 651, 547 N.W.2d 770). "An ordinance is preempted when any of the following four tests are satisfied: (1) the legislature has expressly withdrawn the power of the municipality to act, (2) the ordinance logically conflicts with state

legislation, (3) the ordinance defeats the purpose of state legislation, or (4) the ordinance violates the spirit of state legislation." Id. In short, a "municipality may enact ordinances in the same field on the same subject covered by state legislation where such ordinances do not conflict with, but rather complement the state legislation." Johnston v. Sheboygan, 30 Wis. 2d 179 (1966). A key question in this regard is whether the local ordinance moves "in the same direction . . . farther but not counter to" the statute. Wisconsin's Env't Decade, 85 Wis. 2d at 535.

Applying this standard here, it is clear that the intent of the legislation was to make it easier to adopt zoning changes. The drafting files on Act 16 include an email <https://docs.legis.wisconsin.gov/2023/related/drafting_files/wisconsin_acts/2023_act_016_ab_266/01_ab_266/23_0585df.pdf> to the legislative drafting bureau from Representative Brooks' office requesting that the bill include a provision "to prohibit supermajority votes for zoning changes." Accordingly, retaining an ordinance that maintains a supermajority vote for zoning changes is preempted because it conflicts with the legislative directive. If the Board desired to go beyond what the statute requires, the only option would be to further reduce the vote requirement - although I am aware of no law (local or otherwise) which would allow for the passage of something by a clearly undemocratic non-majority vote.

5. The email from the REALTORS Association in the drafting files was more explicit in prohibiting protest petitions. Given that the adopted language is different, does that not mean protest petitions are not prohibited?

The REALTORS Association's email provided:

> Here is the draft language to prohibit supermajority votes for zoning changes. Let me know what you think. "Except as provided under Wis. Stat. s. 66.10015, a political subdivision is prohibited from requiring more than a simple majority vote of a quorum of the members-elect for any zoning amendment."

The final language in the Act reads:

> Except as provided in par. (b) and ss. 59.69 (5) (e) 5m., 60.61 (4) (c) 3., and 62.23 (7) (d) 2m., the enactment of a zoning amendment shall be approved by a simple majority of a quorum of the members-elect.

The reasons for this slight difference are likely two-fold. First, the Legislative Reference Bureau (the non-partisan agency that drafts all legislation for the legislature) included the language within § 66.10015, so the REALTORS language needed to be changed to remove the reference to § 66.10015. Second, the Legislative Reference Bureau would be aware of prior caselaw on various issues, the Supreme Court provided guidance on this exact issue in Vaicelunas v. Fechner, 7 Wis. 2d 14, 95 N.W.2d 786 (1959). In that case, the Supreme Court was faced with an apparent conflict between the statute which provided for passage of an ordinance by a majority vote of the council and a City of Kenosha zoning ordinance that required a three-fourths majority vote by the council to adopt a zoning change where the plan commission had disapproved of the change. "The trial court stated that the word 'majority' means the greater number or more than half but that word as used in sec. 64.07(3), Stats., did not define the limitations of the majority.

Therefore, the zoning ordinance did not conflict with the statute." Id. at 16. The Court continued to note "the use of the word 'majority' in the statute is not contradicted by the use of the words 'three-fourths majority' in the ordinance, and that the two may stand side by side without any inconsistency." Id.

Unlike the statute in the Vaicelunas case, the statute here uses the words "simple majority" instead of "majority." The courts have routinely recognized that there is a difference between a simple majority and a three-fourths majority. See, e.g., Merkel v. Germantown, 218 Wis. 2d 572, 576, 581 N.W.2d 552, 554 (Ct. App. 1998)(analysis of a simple majority vote in the context of a protest petition). Therefore, the holding in Vaicelunas that "three-fourths majority" is not in conflict with "majority" does not apply here as there is a clear conflict between "simple majority" and "three-fourths majority." The Legislative Reference Bureau likely drafted the final language in recognition of this caselaw.

6. The City can/should just enforce the higher vote as a form of protest to the statute and the legislature's overreach.

While this is clearly an example of the legislature interfering with local control over local matters such as appropriate land use and the operations of local governing bodies, this office cannot recommend this form of protest. The most obvious reason why is that the legislature will never know that the protest is occurring. More importantly, as noted in section 3 above, there could be impacts to not acting such that this approach is not recommended because it represents a poor use of taxpayer dollars and also represents an increasing risk of liability for damages in a civil rights lawsuit.

Under the law, a denial of a zoning amendment would be subject to judicial review under the certiorari standard. Under this standard, the reviewing court will determine:

> (1) Whether the Board "kept within its jurisdiction"; (2) whether the Board "acted according to law"; (3) whether the Board's action "was arbitrary, oppressive, or unreasonable and represented its will and not its judgement"; and (4) whether the evidence was such that the Board "might reasonably make the order or determination in question."

Marris v. City of Cedarburg, 176 Wis. 2d 14, 24, 498 N.W.2d 842, 846-47 (1993). "The phrase 'acted according to law' has been interpreted as including 'the common-law concepts of due process and fair play.' " Id. As discussed above, if the City were to apply the higher vote requirement to an application, that action is not in accordance with the law. Thus, the reviewing court would quickly resolve any challenged filed, overrule the City and order the adoption of the zoning change. If there was a good-faith basis to argue that the statute should not apply, there may be a benefit to paying legal fees to make the case. Paying legal fees simply because the City does not like the statute and wants to protest is not, in this office's opinion, a good use of taxpayer dollars.

Another risk is that by denying a zoning application the applicant could make a constitutional takings claim. Article I, § 13 of the Wisconsin Constitution provides, "The property of no person

shall be taken for public use without just compensation therefor." There does not need to be a physical invasion or acquisition of land in order for there to be a taking. Such takings are called "regulatory takings," see Hoepker v. City of Madison Plan Comm'n, 209 Wis. 2d 633, 651, 563 N.W.2d 145 (1997), and occur when government regulation or action denies a land "all or substantially all practical uses of a property" such that just compensation is required. Eberle v. Dane Cnty. Bd. of Adjustment, 227 Wis. 2d 609, 622, 595 N.W.2d 730, 737 (1999). The government may owe compensation even where the taking is temporary in duration and the owner has "regained full use of the property due to the government's rescission of the restriction." Zinn v. State, 112 Wis. 2d 417, 429, 334 N.W.2d 67, 73 (1983). In the right circumstances, a property owner may be able to argue that an improper denial of a zoning application using a three-fourths majority standard resulted in a regulatory taking requiring the payment of just compensation.

A related, but more realistic and larger risk is a particularly disgruntled applicant filing a claim for civil rights violations under 42 U.S.C. § 1983.

> Section 1983 provides a federal cause of action for violations of federal rights. However, a violation of federal rights does not occur automatically whenever a municipality violates a federal statute. Rather, three factors must be present. First, the federal statute at issue must have been intended by Congress to benefit the plaintiff; second, the right created must not be so amorphous that its enforcement would "strain judicial competence"; and third, the obligation must be imposed in a binding and unambiguous manner so that compliance is mandatory.

Primeco Pers. Commc'ns v. City of Mequon, 242 F. Supp. 2d 567, 580 (E.D. Wis.), *aff'd sub nom.* PrimeCo Pers. Commc'ns, Ltd. P'ship v. City of Mequon, 352 F.3d 1147 (7th Cir. 2003)(internal citation omitted)(holding that the Telecommunications Act of 1996 foreclosed recovery under § 1983 for improper zoning denial); but see Harding v. County of Door, 870 F.2d 430, 431 (7th Cir.1989) (zoning decision revoking a building permit denies substantive due process if it is invidious or irrational; held, the decision was not irrational). Depending on the circumstances and the nature of the claim, a successful claim under § 1983 can result in the recovery of actual (compensatory) damages, punitive damages where the conduct was "motivated by evil motive or intent" or involved "reckless or callous indifference to the federally protected rights of others," Smith v. Wade, 461 U.S. 30, 56 (1983), and of the party's actual attorney's fees. These damages can add up quickly. If the applicant is able to establish that a denial of an application illegally infringed on a protected right (including property rights), ignoring a statute to apply a three-fourths majority requirement could be significant evidence that the infringement was made with reckless or callous indifference.

Recommendation

On February 24, 2025, the Planning Commission approved a recommendation in favor of adopting the proposed ordinance amendments by a vote of 5-0. On April 8, 2025, the Public Welfare Committee further approved a recommendation in favor of adopting the proposed ordinance amendments by a vote of 3-0.

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2025-1678

An Ordinance Amending Chapter 58 of the Mequon Municipal Code, in Connection with the Implementation of 2023 WIS. ACT 16 Relating to the Process and Procedures for Certain Zoning-Related Applications

RECITALS

A. The Common Council previously adopted Chapter 58 of the Mequon Municipal Code pursuant to the authority granted in Wis. Stat. § 62.23 to broadly regulate the zoning of property within the City.

B. The Wisconsin legislature enacted 2023 Wis. Act 16 which largely became effective on January 1, 2025.

C. 2023 Wis. Act 16 places certain restrictions on the City's zoning authority.

D. The Common Council desires to adopt these restrictions so as to avoid inconsistencies between the statutes and the municipal code.

E. The regulation of properties in the City through zoning promotes the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 58-42(k) of the Mequon Municipal Code is repealed and recreated to read as follows:

> (k) *Vote Required*. Except as provided below, and except as provided in Wis. Stat. § 62.23(7)(d)2m, the enactment of the proposed change or amendment shall be approved by a simple majority of the members present and voting. In the event that the proposed change or amendment constitutes a down zoning ordinance as defined in Wis. Stat. § 66.10015(1)(as), enactment shall require approval by at least two-thirds of the members-elect, except that if the change or amendment is requested, or agreed to, by the owner of the land affected by the proposed change or amendment, such change or amendment may be enacted by approval of a simple majority of the members-elect.

SECTION II

Section 58-45 of the Mequon Municipal Code is created to read as follows:

Sec. 58-45. - Certiorari review.

(a) Any person or persons, jointly or severally aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board or bureau of the city, may, within 30 days after the filing of the decision in the office of the board of appeals, commence an action seeking the remedy available by certiorari as provided by Wis. Stat. § 62.23(7)(e)10.a.

(b) If the planning commission or common council deny a person's application for a conditional use permit, such person may appeal such denial to circuit court by commencing an action seeking the remedy available by certiorari as provided by Wis. Stat. § 62.23(7)(e)10.a.

(c) Notwithstanding the above, a decision of the common council, planning commission, or board or appeals, on an application for an approval, as defined in Wis. Stat. § 781.10(1)(a), is subject to review under the procedures contained in Wis. Stat. § 781.10.

SECTION III

Section 58-64 of the Mequon Municipal Code is amended to read as follows (NOTE: Deleted text is ~~struck-through~~; Added text is **bolded and underlined**):

Sec. 58-64. - Exempted uses.

The enlargement, expansion, or intensification of a nonconforming use may be allowed by the planning commission following a public hearing duly noticed and held by the planning commission, provided that the planning commission shall review, determine and set forth the following in writing with its approval:

(1) Such enlargement, expansion, or intensification is consistent with the public interest; and

(2) Such enlargement or extension will not have a deleterious effect on property in the surrounding neighborhood due to visual appearance, increased pedestrian or vehicular traffic, noise, smoke, odor, or other similar factors. Furthermore, no such enlargement, expansion, or intensification of a nonconforming use shall be permitted unless all building height, yard, coverage, and off-street parking and other requirements of this chapter for the district in which such use is located are adhered to.

~~In the event that a written protest against any enlargement, expansion or intensification of a nonconforming use, duly signed and acknowledged by the owners of 51 percent or more of the parcels of land located in whole or in part within 1,320 feet of the property line of the land upon which the enlargement, expansion or intensification is to occur, such enlargement, expansion or intensification shall not be allowed, except by board of appeals approval. Each page of the protest shall describe the land that is the subject of the proposed enlargement, expansion or intensification, a statement that the people signing the petition oppose the proposed enlargement, expansion or intensification and a statement describing the reasons for the opposition to the proposed enlargement, expansion or intensification. Any person signing a petition on behalf of an entity owner shall specify in the petition the name of the entity and the legal capacity on behalf of the entity in which he or she is signing the petition. The city shall conclusively determine which parcels are in whole or in part within 1,320 feet of the land upon which the enlargement, expansion or intensification is to occur by utilizing the buffer or notification feature of the current version of the city's GIS software. Any such protest must be filed with the clerk not later than 12:00 noon on the Thursday preceding the planning commission meeting at which the proposed enlargement, expansion or intensification is on the agenda. In the case of a petition circulated by any individual(s) among multiple owners (as opposed to an individual acknowledgment by any singular owner), each circulator shall include an acknowledgment made under penalty of perjury on the petition certifying that the circulator is an owner qualified to protest under this section; that the circulator personally circulated the petition and personally obtained each of the signatures; that the circulator knows that the signers are also owners qualified to protest under this section and that the address of each owner is correctly included on the petition; that the circulator knows the owners signed the petition with full knowledge of its content; and, that the circulator knows each signer signed on the date stated opposite his or her name.~~

SECTION IV

Section 58-88(h) of the Mequon Municipal Code is created to read as follows:

(h) *Denials of conditional use permits.* If a conditional use permit application is denied, the denial may be appealed to the circuit court through the certiorari procedures contained in section 58-45.

SECTION V

Section 58-234(e)(2) of the Mequon municipal code is amended to read as follows (NOTE: Deleted text is ~~struck-through~~; Added text is **bolded and underlined**):

(2) Council review.

a. The common council shall review an approved concept development layout plan for a conservation subdivision, as described in section 58-

234(e)(1)), upon ~~the occurrence of and as follows:~~

~~1. In the event of~~ a written request from two aldermen or one alderman and the mayor, **at which time** the concept development layout plan shall be referred to the common council and shall not be effective unless confirmed by the common council.

~~2. In the event of a written protest against the concept development layout plan, duly signed and acknowledged by the owners of 51 percent or more of the parcels of land located in or whole or in part within 1,320 feet of the property line of the land included in such conservation subdivision, the development layout plan shall be referred to the common council and shall not become effective except by the favorable vote of six members of the common council. Each page of the protest shall describe the land that is the subject of the proposed conservation subdivision, a statement that the people signing the petition oppose the concept development layout plan and a statement describing the reasons for the opposition to the concept development layout plan. Any person signing a petition on behalf of an entity owner shall specify in the petition the name of the entity and the legal capacity on behalf of the entity in which he or she is signing the petition. The city shall conclusively determine which parcels are in or whole or in part within 1,320 feet of the land included in the conservation subdivision by utilizing the buffer or notification feature of the current version of the city's GIS software. In the case of a petition circulated by one or more individuals among multiple owners (as opposed to an individual acknowledgment by any singular owner), each circulator shall include an acknowledgment under penalty of perjury on the petition certifying that the circulator is an owner qualified to protest under this section; that the circulator personally circulated the petition and personally obtained each of the signatures; that the circulator knows that the signers are also owners qualified to protest under this section and that the address of each owner is correctly included on the petition; that the circulator knows the owners signed the petition with full knowledge of its content; and, that the circulator knows each signer signed on the date stated opposite his or her name.~~

b. Any request for confirmation under subsection a. ~~or any protest under subsection b.~~ must be filed with the clerk not later than 12:00 noon on the third Friday following the planning commission's approval of the concept development layout plan or any material change to the concept development layout plan. The common council shall take action on the request for confirmation ~~or protest petition~~ no later than the second common council meeting following the approval of the planning commission.

~~c. If both a request for confirmation and a proper protest are timely filed, the common council shall proceed under the rules of the protest.~~

~~d.~~**c.** In considering a request for confirmation ~~or a protest~~, the common council may and should attempt to modify the development layout plan to mitigate legitimate concerns presented by the members of the common council requesting confirmation ~~or the protesters~~ rather than denying.

SECTION VI

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION VII

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION VIII

This ordinance shall take effect and be in full force upon its passage and the day after publication.

_____
Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____
Caroline Fochs, City Clerk

Published: _____

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www.cityofmequonwi.gov

Office of City Attorney

TO: **Common Council**
FROM: **Brian Sajdak, City Attorney**
DATE: **April 8, 2025**
SUBJECT: **ORDINANCE 2025-1679 An Ordinance Amending Section 58-41(g) of the Mequon Municipal Code, Relating to the Issuance of Decisions by the Board of Appeals**

Background

The proposed ordinance makes changes to the Mequon Municipal Code relating to the finalization of decisions by the Board of Appeals. By way of background, the Code presently provides that the Board's written decisions must be completed within 10 days of a hearing, which is then circulated for 5 days, and thereafter finalized. In other words, the decision is issued 15 days after the hearing.

There are a couple of challenges to this approach. First, based upon the current meeting schedule wherein the Board meets on the first Thursday of the month, other business required at that time often creates additional demands on the City Attorney's Office. Within the City of Mequon, I am responsible for reviewing all resolutions and ordinances that are placed on the agenda for Common Council meetings, which occur on the second Tuesday of the month. That agenda usually goes out on the Thursday before the meeting. As such, much of the time between a hearing before the Board of Appeals and the Common Council meeting is spent reviewing items for Council consideration. In addition, each of the other municipal entities the City Attorney's firm represents likewise have meetings of their governing bodies during this same time period. In short, the first part of the month is an extremely busy time, which requires the balancing of competing needs.

The second challenge to the current language is that it ignores the potential complexity of a case. In a complex case, there may be additional legal research necessary to add legal standards to a proposed decision. Similarly, some cases might require obtaining a transcript to appropriately complete the decision. The Walanta decision (related to a variance for a staircase on the Lake Michigan bluff) earlier this year is an example of this. In these circumstances, obtaining a transcript and completing the decision within 10 days is extremely difficult, if not impracticable.

Based upon these issues, the proposed change provides additional days to complete the decision. It also provides for a process to deviate from the typical process where appropriate. These changes are shown in the proposed ordinance in the packet. All told, the proposed change adds five days to the process.

There may be some members who are concerned about extending the time to complete a decision. However, the proposed amendment does not run afoul of any legal requirement or standard. Under the controlling statute, Wis. Stat. § 62.23(7)(e)6, the only requirement is that the Board decide the appeal "within a reasonable time." A survey of other Wisconsin municipalities reveals that most communities fall within one of two categories: those that either expressly or impliedly adopt the statutory language of "within a reasonable time" and those that utilize 30 days. Out of 30 other municipalities surveyed, 12 use reasonable time, 13 use 30 days, 2 use 15 days, and 3 use 60 days. These are listed in the attached chart. The proposed amendment keeps the City's typical process below the 30 days used by many. At the same time, it provides flexibility where it is needed.

Following consideration by the Board of Appeals, the proposed ordinance was amended beyond the original draft in a couple ways. First, it clarified the language to make it clear that the intent is that the decision should be finalized within 15 days, but that it may extend to 60 days (there was initial some concern that the ordinance would allow for up to 80 days). The second change is the elimination of "the chair" from any discussion related to finalizing the decision. The Board of Appeals believed that the chair should not be drafting the decision.

Finally, the Board had concerns related to the appropriate individuals to approve extensions beyond the typical 15 days. Originally, the ordinance had the initial extension being granted by the chair of the Board of Appeals, and the more than 60 days extension to be made by the full Board. The Board was concerned that they do not have sufficient knowledge as to overall workload of the City Attorney to be in a position to appropriately judge whether an extension is warranted. As such, they recommended the current version where the Mayor grants the initial extension, and that any subsequent extension be granted by the Common Council.

Recommendation

On January 2, 2025, the Board of Appeals approved a recommendation in favor of adopting the proposed ordinance amendment by a vote of 4-0, with one member abstaining. Thereafter, on February 24, 2025, the Planning Commission also approved a recommendation in favor of adopting the proposed ordinance amendment by a vote of 5-0. Last month, the Public Welfare Committee approved a recommendation in favor of adopting the proposed ordnance amendment by a vote of 3-0.

Attachments:
Chart of Other Community Standards (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2025-1679

An Ordinance Amending Section 58-41(g) of the Mequon Municipal Code, Relating to the Issuance of Decisions by the Board of Appeals

RECITALS

A. Under Wis. Stat. § 62.23(7)(e) the City is authorized to establish various rules and procedures related to the operation of the Board of Appeals, provided ultimately that any decision issued by the Board is issued within a reasonable time.

B. The Common Council previously adopted Section 58-41(g) of the Mequon Municipal Code which provides for a timeline for the Board of Appeals to issue decisions on matters it hears.

C. Based upon various considerations raised by the City Attorney, the Common Council desires to amend this timeline to provide additional flexibility while still meeting the statutory requirement of reasonableness.

D. The Board of Appeals recommended approval of these changes at its meeting on January 2, 2025.

E. The Planning Commission recommended approval of these changes at its meeting on February 24, 2025.

F. The Public Welfare Committee recommended approval of these changes at its meeting on April 8, 2025.

F. A Public Hearing on the proposed changes was held on May 13, 2025.

G. Based upon the information provided by the City Attorney, the recommendations of the Board of Appeals, Planning Commission and the Public Welfare Committee, and the testimony provided at the Public Hearing, the Common Council finds that the proposed changes are appropriate and in the best interests of the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 58-41(g) of the Mequon Municipal Code is amended to read as follows (NOTE: Deleted text is ~~struck-through~~; Added text is **bolded & underlined**):

58-41(g) *Decision.* **The board shall issue its decision within a reasonable time upon the final conclusion of the hearing. In general, the** ~~The~~ attorney representing the board ~~or the chair~~ **should** ~~shall~~ render a written decision within ~~ten~~**fifteen** days after completion of the hearing. **The time for rendering the decision may be extended with the concurrence of the mayor based upon the complexity of the matter, the need to obtain and utilize a transcript of the hearing, workload or time conflicts, or similar considerations except that any delay in rendering the decision beyond 60 days after the date of the hearing shall require approval of the common council. Upon rendering the decision, the**~~The~~ city clerk shall promptly circulate the decision to all members of the board who were present for the hearing for their review. The decision shall be deemed final unless, prior to the close of business on the fifth day following such circulation, a member who voted in the majority files a written objection with the city clerk. Upon receipt of an objection, the city clerk shall schedule another meeting of the board for the purposes of considering the objection and finalizing the decision. Within two business days following such additional meeting, the board shall file the final decision with the city clerk.

SECTION II

The terms and provision of this ordinance are severable. Should any term of provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

Caroline Fochs, City Clerk

Published: _____

Chart of Comparable Communities

15 Days:	Lannon	New Berlin		
30 Days:	Germantown	Franklin	Greenfield	Cedarburg
	Elkhorn	Glendale	Hartland	Pewaukee
	Sun Prairie	Thiensville	Verona	Waunakee
	Oconomowoc[1]			
60 Days:	Grafton	Oshkosh	Wausau	
"Reasonable Time"	Madison	Delafield	Middleton	Middleton
	Waukesha			
"Per Statute"	Brown Deer	Fitchburg		
None:[2]	Beloit	Green Bay	Menomonee Falls	Random Lake
	West Allis	Wauwatosa		

[1] Authorizes additional time if approved by Board and Applicant

[2] With none, the statutory timeline ultimately applies

Attachment: Chart of Other Community Standards (ORDINANCE 2025-1679 : Board of Appeals)

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Office of Engineering

TO: **Common Council**
FROM: **Kristen Lundeen, Director of Public Works/City Engineer**
DATE: **April 16, 2025**
SUBJECT: **ORDINANCE 2025-1680 An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Relating to the Imposition of Impact Fees**

Background

An impact fee is a one-time fee charged to pay for the capital costs that are necessary to accommodate land development. By statute, an impact fee is based upon a needs assessment. As a separate task under the contract to update the City's Comprehensive Park Plan, MSA Professional Services completed a Parks Facilities Needs Assessment earlier this year to validate the amount that should be imposed by the City as a Parks Impact Fee.

The result of the study, available here: <https://www.cityofmequonwi.gov/media/24511> is that the Parks Impact Fee should be $1,793/unit. The current park impact fee is $900/unit, most recently updated in 2007.

Analysis

Wisconsin state statutes require that a needs assessment include the following, at a minimum:

1. Inventory of existing facilities.
2. Identification of new facilities, improvements or expansions of existing facilities that will be required to the facilities in Item 1 due to land development.
3. Cost estimate of the capital costs for providing the new facilities, improvements or expansions based on Item 2.

As noted, the Parks Facilities Needs Assessment followed the statutory requirements and determined that the imposed impact fee should be $1,793/unit. Accordingly, the proposed ordinance modifies the unit price for the Parks Impact Fee.

In 1997, the City imposed impact fees for the Public Safety Building, the Library and the East Side Fire Station. As those capital costs have been paid in full, the attached ordinance eliminates all references to those impact fees. Please note that the City may impose other impact fees for eligible improvements by following the statutory process at any time.

Fiscal Impact

The current park impact fee is $900/unit and, if approved, will increase to $1,793/unit, almost a 100% increase. Impact fees are collected at the time a building permit is issued, therefore the

projected increase in fee generation is directly related to the number of building permits issued.

Please note that park impact fees must be segregated into a separate fund that is restricted in utilization, per the City's existing ordinance.

Given that the City's current impact fee amount has not been adjusted in nearly twenty years, and the fact that the spring construction season is now fully underway, the Common Council may wish to suspend the City's current rule that requires two separate readings of any ordinance under consideration, and vote to act upon the ordinance amendments as proposed during its meeting on May 13.

Recommendation

On April 21, 2025, the Planning Commission approved a recommendation in favor of adopting the proposed ordinance amendments by a vote of 7-1. Additionally, on May 7, 2025, the Park & Open Space Board approved a recommendation in favor of adopting the proposed ordinance amendments by a vote of 5-0. A recommendation from the Finance-Personnel Committee is forthcoming on May 13, 2025.

Attachments:
ARTICLE III. IMPACT FEES (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2025-1680

An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Relating to the Imposition of Impact Fees

RECITALS

A. In 1997, the City of Mequon established an impact fee for parks, which was subsequently amended in 2007.

B. Pursuant to Wis. Stats. 66.0617, the City of Mequon is authorized to impose impact fees.

C. In early 2025, MSA Professional Services on behalf of the City of Mequon completed a Needs Assessment Study related to parks.

D. The needs assessment was approved by the Park & Open Space Board, which established the need for certain public facilities.

E. The Common Council adopts the needs assessment as its guide to determine the amount of the impact fee adopted by this ordinance.

F. The conclusion of the Parks Facilities Needs Assessment is that the current park impact fee should be $1,793/unit, as opposed to the $900/unit impact fee implemented in 2007.

G. The previous impact fees for the 1997 Safety Building, 1997 Library Building and 1997 East Side Fire Station Facility have been collected in full and associated language is no longer required or applicable.

H. The Planning Commission, by majority vote, adopted a recommendation to approve the impact fee ordinance amendment on the 21st day of April 2025.

I. Based upon the Planning Commission's recommendation and following a public hearing before the Common Council on May 13, 2025, the Common Council has determined that amendments to Chapter 58 of the Mequon Municipal Code, are appropriate.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

The City of Mequon Code of Ordinances, Chapter 58 - Planning and Development Regulations, Article III. Impact Fees is hereby amended as follows:

1. Sec. 58-138(a) is amended to strike the following: “library; city hall; public works; and public safety and”.

2. Sec. 58-138(e) is amended to strike the following: “"Park Needs Assessment and Impact Fees Analysis" dated February 28, 2007” and replace with “"Parks Facilities Needs Assessment" dated February 2025”.

3. Sec. 58-143 shall be repealed in its entirety and any remaining sections shall be renumbered accordingly.

4. Sec. 58-143.5 shall be renumbered as Sec. 58-143 and the amount of $900/unit amended to $1,793/unit.

5. Sec. 58-145 shall be repealed and replaced as follows: There is hereby established separate impact fee trust accounts for the following category: Parks, playgrounds, land for athletic fields.

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All other ordinances or parts of ordinances contravening the terms of this ordinance are hereby and to that extent repealed.

SECTION IV

This ordinance shall take effect and be in full force upon its passage and the day after its publication.

_____

Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

Caroline Fochs, City Clerk

Published: _____

ARTICLE III. IMPACT FEES[1]

Sec. 58-138. Legislative findings to support impact fees.

(a) The City of Mequon has expanded or must expand its ~~library; city hall; public works; and public safety and~~ park facilities and services if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the public health, safety and welfare.

(b) The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

(c) Each of the types of land development described in section 58-145 hereof, will create a need for the construction, equipping, or expansion of the capital facilities.

(d) The fees established by section 58-145 are derived from, are based upon, and do not exceed the costs of providing additional facilities and equipment necessitated by the new land developments for which the fees are levied.

(e) Each of the reports entitled, "City of Mequon, impact fee needs assessment", dated January 29, 1997, and entitled ~~"Park Needs Assessment and Impact Fees Analysis" dated February 28, 2007~~ ""Parks Facilities Needs Assessment" dated February 2025, respectively, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need and costs for additional public capital facilities in the city.

(Code 1957, § 3.19(9)(a); Ord. No. 97-915, 3-11-1997; Ord. No. 2007-1203, § I, 6-12-2007)

Sec. 58-139. Intent and purpose.

(a) This article is intended to assist in the implementation of the City of Mequon comprehensive plan.

(b) The purpose of this article is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide needed improvements in the City of Mequon.

(Code 1957, § 3.19(9)(c))

Sec. 58-140. Construction of article.

(a) The provisions of this article shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

(b) For the purposes of administration and enforcement of this article, unless otherwise stated in this article, the following rules of construction shall apply to the text of this article:

[1]State law reference(s)—Impact fees, Wis. Stats. § 66.0617.

Attachment: ARTICLE III. IMPACT FEES (ORDINANCE 2025-1680 : Park Impact Fee Update)

(1) In case of any difference of meaning or implication between the text of this section article and any caption, illustration, summary table, or illustrative table, the text shall control.

(2) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(3) The term "administrator" means the city administrator or the municipal officials he/she may designate to carry out the administration of this article. Any municipal official so designated shall be approved by the appropriate municipality before exercising duties hereunder.

(Code 1957, § 3.19(9)(d))

Sec. 58-141. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Capital equipment means equipment with an expected use life of three years or more.

Capital improvement includes parks planning, land acquisition, site improvements, buildings, and equipment, but excludes maintenance and operation.

City comprehensive plan means the long-range master plan which includes the following component plans: land use plan; environmental plan; park, recreation and open space plan; and transportation plan.

Development means any manmade change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit.

Feepayer is a person applying for the issuance of a building permit.

Housing for the elderly means housing which is deed restricted to residents aged 62 and above.

Independent fee calculation study means the demographic and/or public facilities documentation prepared by a feepayer to allow the determination of the impact fee other than by the use of the table in section 58-45 of this chapter.

(Code 1957, § 3.19(9)(e); Ord. No. 2006-1187, § I, 7-11-2006)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 58-142. Imposition of the impact fee.

(a) Any person who seeks to develop land within the City of Mequon, by applying for a building permit or an extension of a building permit is hereby required to pay an impact fee in the manner and amount set forth in this chapter.

(b) Any new building permit for any activity requiring payment of an impact fee pursuant to section 58-45 of this chapter shall be conditioned upon and its effective date delayed until the impact fee(s) hereby required have been determined and paid. Any parcel for which the park and open space fee has already been paid shall not be required to pay this additional fee.

(Code 1957, § 3.19(9)(f); Ord. No. 2006-1187, § II, 7-11-2006)

Attachment: ARTICLE III. IMPACT FEES (ORDINANCE 2025-1680 : Park Impact Fee Update)

Sec. 58-143. Computation of the amount of impact fee.

(a) At the option of the feepayer, the amount of the impact fee may be determined by the following fee schedule. The fee schedule reflects a discount of five percent from net cost to encourage use of this schedule in order to avoid the expenditure of administrative time on the processing of variance requests for independent fee calculation.

1997 Safety Building Impact Fee Schedule

Land Use Type	Gross Fee[1]	Net Fee[3]	Discounted Fee[4]
Single-family residential[2]	$238.00/unit	$_____ unit	$_____ unit
Multi-family residential[2]	$119.00/unit	$_____ unit	$_____ unit
Elderly residential	$ 92.00/unit	$_____ unit	$_____ unit
Commercial	$.107/sq. ft.	$_____ unit	$_____ unit
Industrial[5]	$.035/sq. ft.	$_____ unit	$_____ unit

1997 Library Building Impact Fee Schedule

Land Use Type	Gross Fee[1]	Credit/$1000 value[7]	Net Fee[3]	Discounted Fee[4]
Single-family residential[2]	$319.00/unit	$0.2510	$ unit	$ unit
Multi-family residential[2]	$160.00/unit	$0.2510	$ unit	$ unit
Elderly residential	variable[6]	$0.2510	$ unit	$ unit

1997 East Side Fire Station Facility Impact Fee Schedule

Land Use Type	Gross Fee[1]	Discounted Fee[4]
Residential	$28.99/unit	$27.54/unit
Elderly residential	variable[6]	
Commercial	$0.0272/sq. ft.	$0.02584/sq. ft.
Industrial[5]	$0.0152/sq. ft.	$0.0144/sq. ft.

Notes:

1	Fees assessed on the basis of square feet (i.e., sq. ft.) shall be calculated by gross floor area.
2	Single-family residential shall be defined as one unit per building. Multi-family residential shall be defined as two more units per building.
3	Net fee = gross fee — applicable credit.
4	Discounted fee = Net fee x 95 percent and rounded down to nearest dollar.
5	Industrial shall be defined as real estate assessed by the state as manufacturing.
6	Fee calculations for elderly housing shall be calculated by the administrator and based on specific project characteristics.
7	Credit calculations shall be based on staff estimated value of proposed improvements.

a. If the type of development activity that a building permit is applied for is not specified on the above fee schedule, the administrator shall use the fee applicable to the most nearly comparable

Attachment: ARTICLE III. IMPACT FEES (ORDINANCE 2025-1680 : Park Impact Fee Update)

type of land use on the above fee schedules. The administrator shall be guided in the selection of a comparable type by the comprehensive plan, supporting documents of the comprehensive plan, and this chapter. If the administrator determines that there is no comparable type of land use on the above fee schedule then the City of Mequon committee on finance-personnel (committee) shall determine the appropriately discounted fee by considering demographic or other documentation which is available from state, local and regional authorities.

b. In case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net positive increase in the impact generated from the new use as compared to the previous use. The administrator shall be guided in this determination by the sources listed above.

(b) If a feepayer opts not to have the impact fee determined according to section 58-45, then the feepayer shall apply for a variance to the committee and prepare and submit to the committee an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The committee shall consider the documentation submitted by the feepayer but is not required to accept such documentation as the committee shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the feepayer shall pay impact fees based upon the schedule shown in this article. If an acceptable independent fee calculation study is presented, the committee may adjust the fee to that appropriate to the particular development.

(Code 1957, § 3.19(9)(g); Ord. No. 95-847, 4-11-1995; Ord. No. 97-915, 3-11-1997)

Sec. 58-143.~~5.~~ Computation of impact fee for parks.

The impact fee for parks, which includes parkland, playgrounds and land for athletic fields, as calculated in accordance with the applicable comprehensive park plan and needs assessment, shall be imposed in accordance with the following table:

Parkland Impact Fee Schedule

Land Use Type	Impact Fee
Residential	~~$900.00~~$1793.00/unit

(Ord. No. 2006-1187, § VI, 7-11-2006; Ord. No. 2007-1203, § II, 6-12-2007)

Sec. 58-144. Fee payment.

The feepayer shall pay the impact fees required by this section (i.e. section 58-45) to the administrator or his/her designee within fourteen days of the issuance of a building permit, however, the permit shall be conditioned upon and shall not be effective until the impact fees have been paid. Any parcel for which the park and open space fee has already been paid shall not be required to pay this additional fee.

(Code 1957, § 3.19(9)(h); Ord. No. 2006-1187, § III, 7-11-2006)

Sec. 58-145. Administration of impact fees.

(a) There is hereby established separate impact fee trust accounts for the following categor~~y~~ies~~:~~

~~(1) Library building trust account.~~

~~(2) Public safety building trust account.~~

~~(3) Public safety southeast side fire station trust account.~~

~~(4)~~ Parks, playgrounds, land for athletic fields.

(b) Upon receipt of impact fees, the city accounting department shall be responsible for placement of such funds into separate, segregated accounts. All such funds shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.

(c) The city accounting department shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; that shall account for all monies received; that shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program; and that shall provide an annual accounting for each impact fee account showing the source and amount of all funds collected and the projects that were funded.

(d) Funds withdrawn from these accounts must be used in accordance with the provisions of section 58-146.

(Code 1957, § 3.19(9)(i); Ord. No. 97-915, 3-11-1997; Ord. No. 2006-1187, § IV, 7-11-2006)

Sec. 58-146. Use of funds.

(a) Funds collected from impact fees shall be used solely for the purpose of acquiring or making capital improvements and shall not be used for maintenance or operations.

(b) Funds shall be expended in the order in which they are collected.

(c) In the event that bonds or similar debt instruments are issued for advanced provisions of capital facilities for which impact fees may be extended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection (a) above.

(d) At least once each fiscal period the administrator shall present to the common council a proposed capital improvement program for assigning funds, including any accrued interest, from the impact fee trust accounts to specific improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same impact fee trust accounts until the next fiscal period except as provided by the refund provisions of section 58-147.

(e) Funds may be used to provide refunds as described in section 58-147.

(f) The collecting governmental entity shall be entitled to retain not more than five percent of the funds collected as compensation for the expense of fee collection and administration.

(Code 1957, § 3.19(9)(j))

Sec. 58-147. Refunds.

(a) If a building permit expires without commencement of construction, then the feepayer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance except that the city shall retain

Attachment: ARTICLE III. IMPACT FEES (ORDINANCE 2025-1680 : Park Impact Fee Update)

two percent of the fee to offset a portion of the costs of collection and refund. The feepayer must submit an application for such a refund to the administrator within 30 days of the expiration of the permit. The application shall include such supporting documentation as the city may reasonably require.

(b) Any funds not expended or encumbered within the period of seven years from the date the impact fee was collected by the city shall be returned to the current owner of the property with respect to which the impact fee was imposed, together with any interest actually accumulated on said funds.

(Code 1957, § 3.19(9)(k); Ord. No. 2006-1187, § V, 7-11-2006)

Sec. 58-148. Exemptions.

The following shall be exempted from payment of the impact fee:

(1) Alterations or expansion of an existing residential building where no additional residential units are created.

(2) The construction of accessory residential buildings or structures.

(3) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.

(4) Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(Code 1957, § 3.19(9)(l))

Sec. 58-149. Credits.

The following procedures apply regarding credits to the impact fee:

(1) The administrator shall, if appropriate, establish and apply a credit equaling the net present value of any future property tax payments the feepayer will pay towards capital facilities and equipment to be funded by impact fees.

(2) Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(3) Determinations made by the administrator pursuant to this subsection may be appealed to the committee by filing a written request with the administrator within ten days of the administrator's determination.

(Code 1957, § 3.19(9)(m))

Sec. 58-150. Review.

The fee schedule contained in this article shall be reviewed by the common council at least once each fiscal year and modified, if necessary, as a result of:

(1) Changes in credit calculation;

(2) Changing facility needs;

(3) Inflation;

(4) Revised cost estimates for capital improvements;

Attachment: ARTICLE III. IMPACT FEES (ORDINANCE 2025-1680 : Park Impact Fee Update)

(5) Changes in the availability of other funding sources applicable to public facility projects; and

(6) Such other factors as may be relevant.

(Code 1957, § 3.19(9)(n))

Sec. 58-151. Variance provision.

See section 58-143 of this article.

(Code 1957, § 3.19(9)(p))

Sec. 58-152. Appeal.

Any property owner upon whom an impact fee has been imposed may contest the amount, collection or the use of the impact fee by filing an appeal to the board of appeals addressed to the city clerk. A copy of the appeal shall be forwarded to the appropriate department head who shall attend the hearing of the matter before the board. After fully hearing the matter, the board shall reduce its findings and decisions to writing within three days, and file the same with the clerk. The clerk shall forthwith send a copy thereof to the appellant by certified mail. If the appellant is aggrieved by the decision of the board of appeals, he may file an appeal with the circuit court within 30 days of the date of the board's decision.

(Ord. No. 2006-1187, § VII, 7-11-2006)

Secs. 58-153—58-170. Reserved.

Attachment: ARTICLE III. IMPACT FEES (ORDINANCE 2025-1680 : Park Impact Fee Update)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2924
Fax: 262-242-9655
www.ci.mequon.wi.us
Inspection Department

ARCHITECTURAL BOARD
Monday, March 10, 2025
6:00 PM
City Hall – Lower Conference Room

Agenda

After Architectural Board approval, please call the Building Inspection's Office at (262-236-2924) to schedule issuance of the building permit.

It is advisable that someone is present to represent your building permit application.

ALL TIMES LISTED ARE APPROXIMATE AND IT IS STRONGLY RECOMMENDED THAT APPLICANT(S) ARRIVE AT 6:00 PM AT THE START OF THE MEETING TO ENSURE THAT YOU ARE AVAILABLE WHEN YOUR ITEM IS DISCUSSED.

Enter at the East or West (Elevator) Entrance - Reasonable accommodation will be made for those citizens who are unable to attend the meeting in the methods identified above upon at least two hours' notice. Notice can be given to the City Clerk's Office at 262-236-2914.

Attachment: Arch Board 3.10.25 (10277 : Arch Board)

I) Call to Order

II) Approval of Meeting Minutes
Action requested: review and approval

1. Meeting Minutes from February 10, 2025

III) Architectural Board Applications:

1. **Wade & Ashley Williams** — **New Single-Family Residence**
   11045 N. Cedarburg Road
   Subdivision: Assessor's Plat
   District 4 – 6:00 pm
   Contractor: Owner
   Architect: MFP Design

2. **Kaerek Homes, Inc.** — **New Single-Family Residence**
   9866 N. Cygnet Court
   Subdivision: Swan Ridge Farms
   District 4 – 6:05 pm
   Contractor: Kaerek Homes, Inc.
   Architect: Kaerek Homes, Inc.

3. **Kaerek Homes, Inc.** — **New Single-Family Residence**
   9800 N. Migratory Court
   Subdivision: Swan Ridge Farms
   District 4 – 6:10 pm
   Contractor: Kaerek Homes, Inc.
   Architect: Kaerek Homes, Inc.

4. **Kaerek Homes, Inc.** — **New Single-Family Residence**
   9938 N. Migratory Lane
   Subdivision: Swan Ridge Farms
   District 4 – 6:15 pm
   Contractor: Kaerek Homes, Inc.
   Architect: Kaerek Homes, Inc.

5. **Kaerek Homes, Inc.** — **New Single-Family Residence**
   9842 N. Migratory Lane
   Subdivision: Swan Ridge Farms
   District 4 – 6:20 pm
   Contractor: Kaerek Homes, Inc.
   Architect: Kaerek Homes, Inc.

Attachment: Arch Board 3.10.25 (10277 : Arch Board)

6. **Kaerek Homes, Inc.**
   9766 N. Migratory Court
   Subdivision: Swan Ridge Farms
   District 4 – 6:25 pm

   New Single-Family Residence

   Contractor: Kaerek Homes, Inc.
   Architect: Kaerek Homes, Inc.

7. **Peter & Roberta Buening**
   Lot #11 Highland Meadows
   Subdivision: Highland Meadows
   District 5 – 6:30 pm

   New Single-Family Residence

   Contractor: Victory Homes of WI
   Architect: David Pluim

8. **Daniel Schumacher and Alexandra Urrita-Comas**
   Lot #13 Highland Meadows
   Subdivision: Highland Meadows
   District 5 – 6:35 pm

   New Single-Family Residence

   Contractor: Allan Builders
   Architect: David Pluim

9. **Rollin Bertran**
   10026 N. Brookdale Drive
   Subdivision: Brookdale Estates
   District 6 – 6:40 pm

   Attached Garage

   Contractor: Owner
   Architect: Draftsmith, Inc.

10. **Tim O'Brien Homes**
    9902 N. Migratory Lane
    Subdivision: Swan Ridge Farms
    District 4 – 6:50 pm

    Resubmittal:
    New Single-Family Residence
    Contractor: Tim O'Brien Homes
    Architect: Tim O'Brien Homes

11. **Tim O'Brien Homes**
    9420 W. Huntington Drive
    Subdivision: Swan Ridge Farms
    District 4 – 7:00 pm

    Resubmittal:
    New Single-Family Residence
    Contactor: Tim O'Brien Homes
    Architect: Tim O'Brien Homes

IV) Adjourn Meeting

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Attachment: Arch Board 3.10.25 (10277 : Arch Board)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

www.cityofmequonwi.gov
Office of the City Clerk

BOARD OF APPEALS
Thursday, March 6, 2025
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order

Present:
Chair Kathleen Massey
Board Member Ramona Larson
Board Member Robert Stern
Board Member James Wawrzyn
Vice Chair Thomas Flanagan -- **Excused**
Board Member Steve Helfer -- **Excused**

Also present City Attorney Sajdak and City Clerk Fochs.

2) Approve meeting minutes of February 6, 2025

Motion to approve Board of Appeals meeting minutes of February 6, 2025.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Board Member Wawrzyn
SECONDED BY:	Board Member Stern

AYES:	Massey, Larson, Stern, Wawrzyn

3) Discussion

a. Procedures and Processes of the Board of Appeals

The Board tasked City Attorney Sajdak with summarizing the current process for the Board to determine if any changes could be adopted. Chair Massey reviewed each section of the Board procedures and added revisions, which will be incorporated into the final version.

The Board began its discussion of the application process. City Attorney Sajdak said some municipalities have a subject expert vet the application. Generally, larger communities have the Clerk manage the application process and prepare the meeting packets, agendas, postcards, etc.

Attachment: BOA 3.6.25 Minutes FINAL (10275 : BOA minutes)

Chair Massey said the City Clerk and staff do an excellent job organizing and providing notice for the Board of Appeals in a timely manner, but the Clerk should not be expected to know all the zoning and building codes.

The Board discussed the need for the public to understand what the standards are and what constitutes a hardship. City Attorney Sajdak said the staff tries to educate applicants before and during the process to prevent unnecessary appeals. Supervisor Golden has often explained to applicants that they do not have a hardship, but they choose to proceed with the appeal regardless. An updated application should include a script that covers question by question some guidelines that help the applicant determine if they have a hardship.

City Attorney Sajdak will revise the Board of Appeals procedures and Variance Application using the samples highlighted in this meeting for the Board to review and approve. These revisions should be ready for the April meeting.

4) Adjourn

Motion to adjourn at 6:51 PM.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Board Member Stern
SECONDED BY:	Board Member Wawrzyn

AYES:	Massey, Larson, Stern, Wawrzyn

Respectfully Submitted,

Beth Kong
Deputy Clerk

Attachment: BOA 3.6.25 Minutes FINAL (10275 : BOA minutes)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

www.cityofmequonwi.gov
Office of the City Clerk

BOARD OF APPEALS
Thursday, April 3, 2025
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order

Present:
Chair Kathleen Massey
Vice Chair Thomas Flanagan
Board Member Steve Helfer
Board Member Ramona Larson
Board Member Robert Stern – Arrived 6:01 PM

Members Wawrzyn and Reigle attended in the audience.

2) Approve meeting minutes of March 6, 2025

Motion to approve Board of Appeals meeting minutes of March 6, 2025.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Stern
SECONDED BY: Board Member Larson

AYES: Massey, Helfer, Larson, Stern
ABSTAIN: Flanagan

3) Discussion

a) Procedures and Processes of the Board of Appeals

City Clerk Fochs was asked to swear in anyone from the gallery that would like to speak during the meeting (including members attending as the general public):

James Wawrzyn 708 W McIntosh Lane, Mequon WI

The Board met in March and began its discussion regarding the Rules and Regulations as well as the Application process. Since the March meeting, City Attorney Sajdak participated in a meeting with attorneys representing 24 other municipalities. They compared how the appeals process is handled and determined that most task Planning Staff with reviewing Appeals applications. Some felt the application should be reviewed exactly as submitted; leaving the responsibility to the applicant for providing complete information for an appeal.

DRAFT

Attachment: BOA Minutes 4.3.25 (10275 : BOA minutes)

Chair Massey asked to address two questions: 1) Should applicants be helped with the application and, if so, 2) Who should help the applicants. She believes applicants should be given help with their application because the interaction with the Board of Appeals is not meant to be adversarial. There are benefits to both sides in having the opportunity to review the application and provide more information/detail before appearing before the Board.

Member Helfer agreed with the Chair as this process can be intimidating to residents. This Board serves the citizens and should not be a burden or a hurdle to the citizens. Therefore, it is appropriate for the City staff to be helpful and curteous when reviewing the application.

Member Larson concurred that it can be intimidating. Most applicants want to supply sufficient information and a complete application to best present their case.

Member Flanagan believes the staff does a good job of vetting the application. There have been cases where not enough information has been given for the Board to review. It is better to have more information and provide a complete packet.

Discussion began regarding the second question of "Who should help the applicants?" – the Planning Department or the Clerks Department. Chair Massey stated that while the Clerk does a good job with the processing of the application, the Clerks Department does not have the expertise to understand zoning code, plumbing code, electrical code or other technical details.

City Clerk Fochs agrees that each department has its own areas of expertise. It is challenging for the Clerk and her staff to know and determine if everything is complete for the application process.

Member Helfer agrees that the Building, Planning and/or Engineering Departments should bear more of the burden in reviewing the applications related to coding or technical appeals.

Member Larson believes the Clerks Department should not be tasked with judging the merits of the application. Member Flanagan agrees but does not know who is the best person to review the application and determine if they have supplied hardship or a complete application.

Member Wawrzyn felt that it would be better to continue having the Clerks Department vet the application because it would be awkward to have the applicant go back to the very department that had denied their permit or plans to begin with. The updated application as presented by City Attorney Sajdak will provide a better roadmap of the application process and will encourage more detailed information on the application itself.

Currently, the Clerk reviews the application for completeness but raises questions regarding any technical or legal aspects to the appropriate department or the City Attorney.

Member Stern felt it would be beneficial for a potential Board member to have been through the permit process to understand how it works. It can be a challenge to understand the technical aspects of the permit process, and you cannot always rely on the knowledge of your contractor. The process can be confusing for a citizen; it can be hard to understand a denial based on very technical grounds. Contractors may not offer or provide any assistance in the process.

Attachment: BOA Minutes 4.3.25 (10275 : BOA minutes)

Then began discussion of changes to the proposed Board of Appeals Variance Application (packet pages 11-15). Chair Massey asked to review The Process: Step 1 Applying for a variance. Clarify what "materials" the Clerk can review or answer questions about versus Planning or Inspections or City Attorney. Clerk can review application for completeness and provide an overview of the process itself. Questions about materials of a technical nature should go to that department. It was suggested to add wording to encourage the applicant to consult their contractor, architect or other professional when completing the application form.

Proposed modifications to the Rules and Regulations for the City of Mequon Board of Appeals:

- Section 3: Meetings: Item 6: add wording "not have a conflict of interest or".
- Section 5: Contested Hearings: Item 7: remove extra word "the" in first sentence, and change the word "in" to "at" his or her discretion in the third sentence.

Modification to the Application on packet page 14, Step 2 should be changed to "City Staff will review your application."

Motion to approve the Rules and Application with amendments summarized above.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Stern
SECONDED BY: Board Member Larson

AYES:	Massey, Flanagan, Helfer, Larson, Stern

Motion to direct the Chair to meet with Mayor Nerbun regarding these topics.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Stern
SECONDED BY: Board Member Larson

AYES:	Massey, Flanagan, Helfer, Larson, Stern

The Board also recognized Members Flanagan and Stern for their years of service on the Board of Appeals. Chair Massey thanked them for all they have done. Member Flanagan has served for 7 years and has learned a great deal over that time. He pointed out that the board is voluntary and each member takes their part seriously. Member Stern had served for 10 years and was grateful for the experience.

4) Adjourn

Motion to adjourn at 7:05 PM

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Stern
SECONDED BY: Board Member Flanagan

AYES:	Massey, Flanagan, Helfer, Larson, Stern

Respectfully Submitted,
Beth Kong, Deputy Clerk

Attachment: BOA Minutes 4.3.25 (10275 : BOA minutes)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

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Office of the City Clerk
Taped and Televised

COMMON COUNCIL
Regular Meeting
Tuesday, April 8, 2025
7:30 PM
Christine Nuernberg Hall

Minutes

1) **Call to Order**

Mayor Nerbun called the meeting to order at 7:30 PM.

2) **Pledge of Allegiance**

3) **Roll Call**

Present:
Mayor Andrew Nerbun
Alderman Robert Strzelczyk - **Remote**
Alderman Kelly Tolocko
Alderman Dale Mayr
Alderman Jeffrey Hansher
Alderman Gregg Bach
Alderman Brian Parrish
Alderman Peter Bratt
Alderman William Gebhardt

Also Present: Administrator Jones, Assistant Administrator Schoenemann, City Attorney Sajdak, City Clerk Fochs, City Engineer Lundeen, Director of Community Development Tollefson, Assistant Director of Community Development Zader, Finance Director Arnett, press and interested public.

4) **Public Hearing:**

a) **ORDINANCE 2025-1675** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Allowing Showroom Sales Facilities as a Conditional Use within the City's B-4 Zoning Districts.

1) Public Hearing

Motion to open public hearing.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVER:	Alderman Mayr
SECONDER:	Alderman Strzelczyk

DRAFT

Attachment: 4.8.25 CC Minutes (10274 : CC minutes)

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

Motion to close public hearing.

RESULT: **Approved By Voice Acclamation [Unanimous]**
MOVER: Alderman Strzelczyk
SECONDER: Alderman Hansher

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

2) Consideration of ordinance.

Motion to approve ORDINANCE 2025-1675.

RESULT: **Approved By Roll Call Vote [Unanimous]**
MOVER: Alderman Mayr
SECONDER: Alderman Bach

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

5) Personal Appearances and Public Comment: None.

6) Public Officials' Reports:

a) Mayor
Mayor Nerbun invited feedback from the community for the Mequon Commons Master Plan during an Open House at the Mequon Public Market upper level on April 30 from 3-7PM.

b) City Administrator
A statewide tornado drill will happen on Thursday, April 10 at 1:45 PM and 6:45 PM. On May 10, the first annual Redbud festival will be held. This art and garden festival will feature food and drinks between noon and 5 PM.

7) Consent Agenda:

a) Architectural Board meeting minutes of February 10, 2025.
b) Board of Appeals meeting minutes of February 6, 2025.
c) Common Council meeting minutes of March 11, 2025.
d) Economic Development Board meeting minutes of February 25, 2025.
e) Festivals Committee meeting minutes of February 17, 2025.
f) Finance-Personnel Committee meeting minutes of February 11, 2025.
g) Planning Commission meeting minutes of February 24, 2025.
h) Public Welfare Committee meeting minutes of February 11, 2025.
i) Public Works Committee meeting minutes of February 11, 2025.
j) Sewer Utility District Commission meeting minutes of February 11, 2025.
k) Zoning and Code Enforcement report through April 1, 2025.
l) **RESOLUTION 4196** - A Resolution Authorizing the Vacation of Public Road Right-of-Way Adjacent to the Property Located at 2601 West Mequon Road.
m) Ordinance First Readings

NOTE: First reading of Ordinances will not be acted upon unless a suspension of the rules is approved by a recorded vote of two-thirds majority of all aldermen.

Attachment: 4.8.25 CC Minutes (10274 : CC minutes)

1) **ORDINANCE 2025-1678** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, in Connection with the Implementation of 2023 WIS. ACT 16 Related to the Process and Procedures for Certain Zoning-Related Applications.

2) **ORDINANCE 2025-1679** - An Ordinance Amending Section 58-41(g) of the Mequon Municipal Code, Related to the Issuance of Decisions by the Board of Appeals.

Motion to approve Consent Agenda.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Strzelczyk

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

8) Ordinance:

a) **ORDINANCE 2025-1676** - An Ordinance Amending Chapter 14 of the Mequon Municipal Code, Related to Alcoholic Beverage Licensing.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Strzelczyk
SECONDED BY: Alderman Parrish

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

9) Resolutions:

a) **RESOLUTION 4197** - A Resolution Approving a Second Amendment to a License Agreement with AT&T, Extending the Term for the Cellular Tower Located at 11333 North Buntrock Avenue Through 2049.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Bach
SECONDED BY: Alderman Gebhardt

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

b) **RESOLUTION 4198** - A Resolution Awarding a Contract for Replacement of the City-Wide Voice Over Internet Protocol (VOIP) Phone System and Five Years of Service Support to RingCentral of Denver, Colorado, in the Amount of $86,575.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Gebhardt
SECONDED BY: Alderman Parrish

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

c) **RESOLUTION 4199** - Adoption of a Resolution Authorizing a Sixth Amendment to the Employment Agreement Between the City of Mequon and William H. Jones, Jr.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Gebhardt

Attachment: 4.8.25 CC Minutes (10274 : CC minutes)

SECONDED BY: Alderman Bach

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

d) **RESOLUTION 4200** - A Resolution Suspending the Live Meeting Broadcasts Requirement within the City's Communications Policy from April 16 - September 30, 2025, in Connection with the Renovation of Christine Nuernberg Hall.

Mayor Nerbun explained that this meant the meetings will still be recorded and available online; however, they will not be broadcast live during the renovation.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Mayr
SECONDED BY: Alderman Bach

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

e) **RESOLUTION 4203** - A Resolution Rejecting Bids Received for the City's 2025 Road Patching Contract.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Parrish

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

f) **RESOLUTION 4202** - A Resolution Awarding the 2025 Crack Sealing Contract to American Pavement Solutions, Green Bay, Wisconsin in an Amount Not-to-Exceed $258,000.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Mayr

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

g) **RESOLUTION 4201** - A Resolution Approving Award of the 2025 Road Improvements Contract to Payne & Dolan, Jackson, Wisconsin, in the Amount of $1,890,000.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Bratt

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

h) **RESOLUTION 4204** - A Resolution Awarding the 2025 GSB-88 Bituminous Road Sealing Contract to Fahrner Asphalt Sealers of Wanaukee, Wisconsin in an Amount Not-to-Exceed $130,000.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hansher

Attachment: 4.8.25 CC Minutes (10274 : CC minutes)

SECONDED BY: Alderman Gebhardt

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

i) **RESOLUTION 4205** - A Resolution Authorizing the Following Contractors to Exceed $25,000 in Annualized Expenditures for Work Performed on Behalf of City Departments During Fiscal Year 2025: Branch Out Land Clearing LLC, Egelhoff's Lawn Mower Service Inc., Ennis Paint Inc., Frank D Gillitzer Electric Company Ltd., Lannon Stone Products Inc., Western Culvert & Supply Inc., Traffic & Parking Control Company Inc., and Outdoor Lighting Construction Company, Inc.

The Council asked to clarify if any individual contracts would exceed $25,000. City Engineer Lundeen explained that most expenditures have a cumulative amount that will not exceed $25,000. However, lightning damage to the traffic lights at Buntrock Road and Mequon Road, will cause expenditures for outdoor lighting to exceed $25,000 for those repairs.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Bratt

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

j) **RESOLUTION 4206** - A Resolution Granting an Electrical Distribution Easement to Wisconsin Electric Power Company (We Energies) Upon the Mequon Nature Preserve Property Located at 8200 West County Line Road.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Parrish

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

k) **RESOLUTION 4207** - A Resolution Approving Award of the FEMA Floodplain Letter of Map Change Contract to M Squared Engineering, LLC, Cedarburg, Wisconsin, in the Amount of $75,300.

Assistant Director Zader shared the FEMA Map and explained that a resident asked for the project to incorporate his property. M Squared Engineering was able to increase the scope of the project to include that portion of the map without an additional charge in the contract. The Village of Thiensville is providing funding ($5000) based on their portion of the river frontage that was included in the scope of this project. The project itself should take between 18 to 24 months to complete, depending on the timeline from the DNR and FEMA.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Strzelczyk

Attachment: 4.8.25 CC Minutes (10274 : CC minutes)

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

10) Specified Unfinished Business From Prior Meetings: None.

11) Specified New Business: None.

12) Adjourn

Motion to adjourn at 7:57 PM.

RESULT:	**Approved By Voice Acclamation [Unanimous]**
MOVER:	Alderman Hansher
SECONDER:	Alderman Bratt

AYES:	Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

Respectfully Submitted
Beth Kong
Deputy Clerk

Attachment: 4.8.25 CC Minutes (10274 : CC minutes)

11333 N. Cedarburg Road
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www.cityofmequonwi.gov

Office of the City Clerk
Taped and Televised

COMMON COUNCIL
Annual Organizational Meeting
Tuesday, April 15, 2025
7:00 PM
Christine Nuernberg Hall

Minutes

1) **Call to Order**

   Mayor Nerbun called the meeting to order at 7:02 PM.

2) **Pledge of Allegiance**

3) **Roll Call**

   Present:
   Mayor Andrew Nerbun
   Alderman Kelly Tolocko
   Alderman Dale Mayr
   Alderman Jeffrey Hansher
   Alderman Brian Parrish
   Alderman Peter Bratt
   Alderman William Gebhardt
   Alderman Gregg Bach - **Excused**
   Alderman Robert Strzelczyk - **Excused**

   Also present: City Administrator Jones, Assistant City Administrator Schoenemann, City Attorney Sajdak, City Clerk Fochs

4) **Report of April 1, 2025 Election Results**

5) **City Clerk to Administer Oaths of Office to:**

   a) Alderman Robert Strzelczyk, District 1
   b) Alderman Jeffrey Hansher, District 4
   c) Mayor Andrew Nerbun

   Alderman Hansher was sworn in followed by Mayor Nerbun. Alderman Strzelczyk was sworn in by City Clerk Fochs prior to the meeting.

6) **Election of Common Council President**

   Motion to nominate and approve Alderman Gebhardt as the new Common Council President.

RESULT:	**Approved By Voice Acclamation [Unanimous]**
MOVER:	Alderman Mayr
SECONDER:	Alderman Hansher

DRAFT

Attachment: 4.15.25 CC Org Minutes (10274 : CC minutes)

AYES:	Tolocko, Mayr, Hansher, Parrish, Bratt, Gebhardt
DEEMED NO:	Strzelczyk, Bach

7) Nominations and Election of Committee Members

a) Nomination by Common Council President Gebhardt

1) Planning Commission

Common Council President Gebhardt recommended Alderman Strzelczyk as the Aldermanic Representative to the Planning Commission and Alderman Parrish as the Alternate.

2) Finance-Personnel Committee

Common Council President Gebhardt recommended Aldermen Gebhardt, Parrish and Strzelczyk as the Aldermanic Representatives to the Finance-Personnel Commission.

3) Public Safety Committee

Common Council President Gebhardt recommended Aldermen Bach, Mayr and Tolocko as the Aldermanic Representatives to the Public Safety Committee.

4) Public Welfare Committee

Common Council President Gebhardt recommended Aldermen Bach, Mayr and Parrish as the Aldermanic Representatives to the Public Welfare Committee.

5) Public Works Committee

Common Council President Gebhardt recommended Aldermen Bratt, Hansher and Tolocko as the Aldermanic Representatives to the Public Works Committee.

6) Economic Development Board

Common Council President Gebhardt recommended Alderman Gebhardt as the Aldermanic Representative to the Economic Development Board and Alderman Tolocko as the Alternate.

7) Frank L. Weyenberg Library Board of Trustees

Common Council President Gebhardt recommended Alderman Hansher as the Aldermanic Representative to the Library Board and Alderman Bratt as the Alternate.

8) Park and Open Space Board

Common Council President Gebhardt recommended Alderman Bratt as the Aldermanic Representative to the Park and Open Space Board and Alderman Mayr as the Alternate.

Motion to approve Alderman Bach to the Mequon-Thiensville Bike and Pedestrian Way Committee and all other nominations made by Council President Gebhardt.

RESULT:	**Approved By Voice Acclamation [Unanimous]**
MOVER:	Alderman Hansher
SECONDER:	Alderman Mayr

AYES:	Tolocko, Mayr, Hansher, Parrish, Bratt, Gebhardt
DEEMED NO:	Strzelczyk, Bach

8) Designation of Official City Newspaper

Motion to approve News Graphic as the Official Paper.

Attachment: 4.15.25 CC Org Minutes (10274 : CC minutes)

RESULT: **Approved By Voice Acclamation [Unanimous]**
MOVER: Alderman Parrish
SECONDER: Alderman Hansher

AYES: Tolocko, Mayr, Hansher, Parrish, Bratt, Gebhardt
DEEMED NO: Strzelczyk, Bach

9) Mayoral and Aldermanic Appointments

Motion to appoint to approve all Mayoral and Aldermanic appointments.

RESULT: **Approved By Voice Acclamation [Unanimous]**
MOVER: Alderman Mayr
SECONDER: Alderman Gebhardt

AYES: Tolocko, Mayr, Hansher, Parrish, Bratt, Gebhardt
DEEMED NO: Strzelczyk, Bach

10) Adjourn

Motion to adjourn at 7:12 PM.

RESULT: **Approved By Voice Acclamation [Unanimous]**
MOVER: Alderman Mayr
SECONDER: Alderman Bratt

AYES: Tolocko, Mayr, Hansher, Parrish, Bratt, Gebhardt
DEEMED NO: Strzelczyk, Bach

Respectfully Submitted,
Beth Kong
Deputy Clerk

Attachment: 4.15.25 CC Org Minutes (10274 : CC minutes)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2902
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www.cityofmequonwi.gov

ECONOMIC DEVELOPMENT BOARD
Tuesday, March 18, 2025
8:00 AM
North Conference Room

Minutes

d1) Call to Order, Roll Call

Present:
Chair Timothy Carr
Alderman William Gebhardt
Board Member Daniel Gannon
Board Member Michael Kramer
Board Member Inge Plautz
Board Member Jeff McLean – **Absent / Joined the meeting virtually**
Alt. Board Member Colin Boyd -- **Absent**
Alt. Board Member Dennis Engel -- **Absent**
Board Member Tracy Johnson -- **Absent**
Alternate Alderman Jeffrey Hansher -- **Excused**

Chairman Carr called the meeting to order at 8:05 a.m.

2) Approval of Meeting Minutes from February 25, 2025

Action
Board Member Kramer made a motion to approve the February 25, 2025, meeting minutes.
Board Member Gannon seconded the motion.
A voice vote was taken; vote passe (5-0)

RESULT:	**Approved [Unanimous]**
MOVED BY:	Board Member Kramer
SECONDED BY:	Board Member Gannon

AYES:	Carr, Gebhardt, Gannon, Kramer, Plautz
ABSENT:	Boyd, Engel, Johnson, McLean

Attachment: EDB_03.18.25_FINAL (10327 : Eco Dev Bd)

3) Southwest Industrial Sewer Service Analysis

Community Development Director Kim Tollefson stated that her staff memo was a recap of all the progress made on this project. She added that she has an update regarding the water connection cost estimate from the Water Utility. After the last EDB meeting, staff met to discuss this proposed project as the Board had supported the path to partially serve the site and that the city should be ready to partner with prospective development as it happens. She commented that the plus side is that the city is not extending expenditures based on speculation that development would happen. The downside is that it then ends up happening systematically closest to the public utility connection point (Granville Road ad County Line Road), Fortunately, this location does line up with the properties that are most likely to be sold by the current property owners.

Dir. Tollefson reminded the Board of the decisions made at the last meeting:

- Decided not to pursue adding a new lift station along Granville.
- Decided not to expand public sewer to the residential area north of the industrial study area site. This area could be rezoned from 5-acres down to 1-acre to allow for residential development not reliant on public systems.
- These decisions help reduce the cost by approximately $3.5M of the $10M originally explored.

She mentioned that the consultants explored different funding mechanisms that could be implemented. Staff recommend initiation of a sewer service map amendment to include the portion of the industrial study area to the extent where staff have a reasonable consensus among the property owners. She reminded the Board that once a property is included in the sewer service charges are assessed.

Dir. Tollefson stated that she reached out to a few large industrial developers as well as M7 and Ozaukee County. The feedback is that there may be a slowing in pace/normalization for the industrial market and emphasized that if the city can have a good handle on the intention of the property owners in this area regarding selling their properties that it would help move development along. Both Ozaukee County Economic Development (“OED”) and M7 have communicated that they can assist property owners ready to sell their land and prospective industrial builders.

She explained that there are two options for the water connection:

- If the City Attorney can negotiate a third connection with Milwaukee, the analysis run by the Water Utility is approximately $393,000 (with a $75,000 contingency).
- If Milwaukee does not agree to the additional connection, the public water would be run from Swan Road and County Line Road (approx. $2.5M).

Dir. Tollefson stated that staff reached out to with OWLT for a meeting. They have not made any improvements to their property and staff plans to inquire whether they are interested in developer contributions to improvements to the open space so that it can be utilized for the

Attachment: EDB_03.18.25_FINAL (10327 : Eco Dev Bd)

proposed industrial park. She explained that it would be beneficial to OWLT to have their property enhanced while the employees and the public could enjoy open space features. The developers would therefore not need to meet all of the open space requirements on their land.

Alderman Bill Gebhardt gave an overview from the Common Council perspective including:

- There will be a Council workshop in the next few months where this proposed development will be discussed and he will support it.
- ARPA funds that have previously been available have been assigned and are no longer available for new projects.
- The Council is hyper-sensitive about costs; costs to run the city globally are increasing.
- A business case needs to be created to properly present the proposed industrial park to the Council.
- He discussed the Janseen property and believes it should be able to be rezoned and developed.
- He supports moving forward with both projects and does not believe one is dependent on the other.

The Board discussed the information presented. The consensus is that the industrial park and the Janseen property should move forward. The Board voiced that the proposed industrial park should support the rezoning for the Janseen property to be rezoned to residential. It was mentioned that the Board should not be too ingrained in the details but to view the city more globally. The Board directed staff to prepare these projects and to have them ready for Council action.

4) Port Washington Road Zoning Changes

Director Tollefson stated that staff will continue to finesse the details and if the Board supports the recommendations, then it should be presented to the Planning Commission ("PC"). Assuming there is consensus from both EDB and PC, staff will then do the work to formulate all the rezoning which will them go to PC for official approval.

She summarized the changes that have been made:

- The east side of Port Washington Road will be treated differently than the west side including:
  - Structures larger than 20,000 sq. ft. would be allowed.
  - 3-story structures allowed.
- Consolidated sites on the east side to larger scale development, ignoring non-conforming uses.
- Took the retail overlay off of the south property, as it is a prospective site for a hotel.
- Consolidated the west side shopping center and retail.
- Showcased potential residential infill sites will most likely dwindle down the number of sites that will ultimately be included and only designated on the land use plan map.
- All changes were matched back to the market analysis to demonstrate consistently

Attachment: EDB_03.18.25_FINAL (10327 : Eco Dev Bd)

with those recommendations.

The Board consensus is to support staff recommendations and forwarded to the Planning Commission.

Dir. Tollefson stated that a next step is to move forward on a new hotel development feasibility RFP located on Port Washington Road.

5) Staff Updates

Dir. Tollefson talked about the Civic Campus master planning project and that the consultant, The Lakota Group, has completed the focused sessions with all the alderpersons as well as identified community stakeholders; in which 100% of the stakeholders participated. A project website will be launched which will provide opportunities for the general public to weigh in, take surveys and ask questions. The consultant will host an open house in which they will present their gathered baseline analysis of the civic campus along with some of the feedback from the stakeholders focus groups in presenting some visual preferences. The public will be invited to this open house. The public outreach will continue.

Staff discussed various other developments in the city.

6) Announcements

The next meeting will be Tuesday, April 22, 2025, at 8:00 a.m.

7) Adjourn

Action
Board Member Kramer made a motion to adjourn the meeting.
Board Member Plautz seconded the motion.
A voice vote was taken; vote passe (5-0)

The meeting concluded at 9:25 a.m.

Respectfully Submitted,

Kim Tollefson
Director of Community Development

Attachment: EDB_03.18.25_FINAL (10327 : Eco Dev Bd)

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www.cityofmequonwi.gov

FESTIVALS COMMITTEE
Monday, March 17, 2025
6:30 PM
North Conference Room

Minutes

1) Call to Order, Roll Call

Present:
Chair Miranda White
Vice Chair Deanna Conaty
Committee Member Brett Benson
Committee Member Lisa Liljegren
Committee Member Laeh McHenry
Committee Member Vanessa Nerbun
Committee Member Jenne Hohn -- **Absent**
Committee Member Tracy Johnson -- **Absent**
Committee Member Moshe Luchins -- **Absent**
Committee Member Brittany Maynard -- **Absent**

Also Present: Executive Assistant Enea, Janet Fussell, and Connie Pukaite

2) Approval of Meeting Minutes
   a. February Minutes

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Committee Member White
SECONDED BY:	Committee Member McHenry

AYES:	White, Conaty, Benson, Liljegren, McHenry, Nerbun
ABSENT:	Hohn, Johnson, Luchins, Maynard

3) Sponsor Update

The M-T Sunrise Rotary and Sommer's Automotive will be the stage sponsors for the Redbud Festival. Town Bank gave $3,000 to sponsor all 3 festivals. Kohler Credit Union is sponsoring Redbud and Taste of Mequon with $4,800. Sommer's is also sponsoring all 3 festivals with $5,750. They are also donating 20 redbud trees, one to be planted at the festival.

4) Rotary Plans for Redbud

Attachment: Festival Mins 031725 (10318 : Festivals)

Connie Pukaite discussed Rotary's plans for the Redbud Festival. They were going to sell redbud trees, but they would be nearly $200 each. So, they will probably just raffle some off. Also, they are hoping to have beach ball bowling down the hill.

5) MTSD Logo Submissions

The Committee decided on which logo they wanted to use from MTSD, but asked for the font to be changed.

6) Vendor Updates
Executive Assistant Enea provided an update on Taste of Mequon and Redbud vendors.

7) Flower Bar Quote

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Committee Member White
SECONDED BY:	Nerbun

AYES:	White, Conaty, Benson, Liljegren, Nerbun
ABSENT:	Hohn, Johnson, Luchins, Maynard
RECUSED:	McHenry

8) Photo Booth Quote
Janet Fussell said that Range Line Preschool will sponsor the Mother's Day Card booth with supplies.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Committee Member White
SECONDED BY:	Member Conaty

AYES:	White, Conaty, Benson, Liljegren, McHenry, Nerbun
ABSENT:	Hohn, Johnson, Luchins, Maynard

9) Selling Artwork & Totes
An Event Brite account has been set-up for people to submit pre-orders of the maps and tote bags.

10) Next Meeting Date and Time: 4/21 at 6:30pm

11) Adjourn

Committee Member Nerbun moved to adjourn at 7:07 PM and Committee Member Benson seconded.

Respectfully Submitted,
Carrie Enea
Executive Assistant

Attachment: Festival Mins 031725 (10318 : Festivals)

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Fax: 262-242-9655

www.ci.mequon.wi.us Office of the City Administrator

FINANCE-PERSONNEL COMMITTEE
Tuesday, March 11, 2025
5:30 PM
North Conference Room

Minutes

1) Call to Order, Roll Call

Present:
Mayor Andrew Nerbun
Alderman William Gebhardt
Alderman Brian Parrish
Alderman Robert Strzelczyk

Also present: William Jones, City Administrator, Brenda Arnett, Finance Director, Marie Keyser, Assistant Finance Director, Caroline Fochs, City Clerk, Brian Sajdak, City Attorney, Justin Schoenemann, Assistant City Administrator and Kristen Lundeen, DPW Director/City Engineer.

2) Approve Meeting Minutes
   a. Finance-Personnel Meeting Minutes of February 11, 2025

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Strzelczyk
SECONDED BY: Alderman Parrish

AYES:	Gebhardt, Parrish, Strzelczyk

3) License Applications
   a. March, 2025 Licenses

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Gebhardt
SECONDED BY: Alderman Parrish

AYES:	Gebhardt, Parrish, Strzelczyk

4) Vouchers Paid
   a. February 2025 Vouchers Paid List

RESULT: **Approved by Voice Acclamation [Unanimous]**

Attachment: FP 031125 (10259 : FP Minutes)

MOVED BY: Alderman Strzelczyk
SECONDED BY: Alderman Gebhardt

AYES: Gebhardt, Parrish, Strzelczyk

5) Ordinances

a. **ORDINANCE 2025-1676** An Ordinance Amending Chapter 14 of the Mequon Municipal Code, Related to Alcoholic Beverage Licensing

Attorney Sajdak briefed the Committee on the basis of this Ordinance. Committee members asked a few follow up questions. Attorney Sajdak will advise on those comments before the second reading in April.

RESULT: **Recommend [Unanimous]**
MOVED BY: Alderman Strzelczyk
SECONDED BY: Alderman Gebhardt

AYES: Gebhardt, Parrish, Strzelczyk

b. **ORDINANCE 2025-1677** An Ordinance Amending Section 2-230 of the Mequon Municipal Code, Relating to Employee Discipline

Assistant Administrator Schoenemann explained that during the formation of Southern Ozaukee Fire & EMS Department (SOFD), the personnel code needed to be updated in order to reflect that formation. During that process, provisions relating to employee disciplinary actions were inadvertently removed from the Code. This seeks to restore such provisions.

RESULT: **Recommend [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Gebhardt

AYES: Gebhardt, Parrish, Strzelczyk

6) Resolutions

a. **RESOLUTION 4184** A Resolution Approving the First Amendment to a License Agreement with AT&T, Extending the Term for the Cellular Tower Located at 11800 North Port Washington Road Through 2041

RESULT: **Recommend [Unanimous]**
MOVED BY: Alderman Gebhardt
SECONDED BY: Alderman Parrish

AYES: Gebhardt, Parrish, Strzelczyk

b. **RESOLUTION 4185** A Resolution Clearing the Personal Property Tax Roll of Delinquent Accounts Deemed Uncollectible for Tax Roll Year 2023

Attachment: FP 031125 (10259 : FP Minutes)

Committee members asked if these accounts could be flagged (potentially in the Land Management System), so that if any of these businesses request a license or permit, they would not be able to until the debt is paid in full.

RESULT: **Recommend [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Strzelczyk

AYES:	Gebhardt, Parrish, Strzelczyk

c. **RESOLUTION 4186** A Resolution Amending the City's FY2025 Compensation Plan, in Connection with a Reorganization of the Public Works Department

DPW Director Lundeen explained the purpose of the restructuring within the department and that the net number of full-time equivalent positions remains unchanged.

RESULT: **Recommend [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Gebhardt

AYES:	Gebhardt, Parrish, Strzelczyk

7) Discussion Items
   a. Finance - Personnel Work Plan

   A couple of topics were asked to be added to the work plan including exploring additional revenue sources and fundraising for various community endeavors.

8) Adjourn

   A motion to adjourn was made at 6:01 PM by Alderman Strzelczyk, seconded by Alderman Parrish. All voted in favor "aye."

Respectfully Submitted,

Marie Keyser
Assistant Finance Director

Attachment: FP 031125 (10259 : FP Minutes)

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www.ci.mequon.wi.us

MILWAUKEE RIVER ADVISORY COMMITTEE
Tuesday, October 22, 2024
5:30 PM
North Conference Room

Minutes

1) Call to Order, Roll Call

The meeting was called to order at 5:30 PM.

Present:
Vice Chair Kenneth Quant
Committee Member Ronald Dorszynski
Committee Member Wendy Porterfield
Committee Member Cynthia Raatz
Committee Member Perry Robinson
Committee Member Bill Spaulding
Chair Michael Gross -- **Absent**
Committee Member Molly Ticcioni -- **Excused**

Also present: Michael Farina (11920N River Rd.), Kelly Tolocko (3249W Oak Shore Ln.), Sergeant Heinen of the Mequon Police Department, Parks and Forestry Superintendent Gies and Administrative Assistant Schlereth.

2) Approval of Meeting Minutes

a. June 26, 2024, Minutes

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Committee Member Spaulding
SECONDED BY:	Committee Member Robinson

AYES: Quant, Dorszynski, Porterfield, Raatz, Robinson, Spaulding
ABSENT: Gross
EXCUSED: Ticcioni

3) Discussion

a. Motion to Suspend the Rules

Attachment: Mil River 10-22-24 (10352 : Milw River)

The Committee voted to suspend the order of the agenda for Sergeant Heinen of the Mequon Police Department to speak about patrolling the Milwaukee River in Mequon.

The City of Mequon has the only boat patrol on the Milwaukee River in Ozaukee County. The PD averages 85-95 hours patrolling the river between the months of April to October.

A total of 6 citations were issued to boaters in 2024.

- 2 citations were issued for not having any personal floatation device on board
- 1 citation was issued for slow-no-wake
- 3 citations were issued for correctable violations, or "fix-it" ticket, is a repair that can be dismissed upon proof of correction being submitted to the court.

Residents should report complaints or violations as they are happening to the non-emergency police line, (262)242-3500.
The Police encourage residents to photograph or record the activity being reported if possible.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Committee Member Robinson
SECONDED BY: Committee Member Quant

AYES: Quant, Dorszynski, Porterfield, Raatz, Robinson, Spaulding
ABSENT: Gross
EXCUSED: Ticcioni

b. Review Mission, Purpose and Membership

c. Agenda topics requested by members- future topics

Discussion ensued on the submitted agenda topics requested by Committee Members.
Topics discussed and resolved:

- Currently the tree root mass under the Highland Rd. bridge is not a hazard.
- The City of Mequon has hired GRaEF for an independent review of the recently adopted Flood Insurance Rate Maps and associated Flood Insurance Study. <https://www.ci.mequon.wi.us/sites/default/files/fileattachments/community_development/page/27165/graef_proposal.pdf>
- A 'No Wake' sign will be added to the Highland Rd. bridge by the Department of Public Works.
- Vice Present Quant will contact River Keepers to arrange a future clean up on the river.
- The committee should email Anne@familyfunb4@gmail.com for involvement in the 2025 parade.

The remaining topics were separated between the February and April meetings for further discussion.

Attachment: Mil River 10-22-24 (10352 : Milw River)

4) Adjourn

a. Motion to Adjourn at 7:45 Pm

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Committee Member Quant
SECONDED BY: Committee Member Robinson

AYES: Quant, Dorszynski, Porterfield, Raatz, Robinson, Spaulding
ABSENT: Gross
EXCUSED: Ticcioni

Respectfully Submitted,

Ren Schlereth
Administrative Assistant

Attachment: Mil River 10-22-24 (10352 : Milw River)

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www.cityofmequonwi.gov
Office of Parks and Operations

PARK AND OPEN SPACE BOARD
Wednesday, February 19, 2025
6:30 PM
South Conference Room

Minutes

1) Call to Order, Roll Call

The meeting was called to order at 6:30 pm.

Present:
Chair Jason Cain
Alderman Peter Bratt
Board Member Harlan Balkansky
Board Member James Lysaught
Board Member Anton Usowski
Board Member Gerald Vite
Board Member David Wolfson
Board Member Steven Kulick -- **Excused**

Also Present: Director of Community Development Tollefson, Director of Public Works/City Engineer Lundeen, Administrative Assistant Schlereth, Jennifer & Steve Wirth (12517 Emily Ln.).

2) Approval of Meeting Minutes

a. November 20, 2024, Minutes
RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Board Member Lysaught
SECONDED BY: Board Member Balkansky

AYES: Cain, Bratt, Bach, Balkansky, Lysaught, Usowski, Vite, Wolfson
NOT PRESENT: Kulick

Attachment: POSB 2.19.25 (10350 : POSB)

3) Discussion and possible action

a. Civic Campus Master Plan

Staff stated that POSB is the appropriate recommended body as most of the area on the Civic Campus is Community Park space.

The POSB has been identified as a stakeholder group to attend a session with The Lakota Group.

Sessions will follow the Open Meeting Laws.

b. **RESOLUTION 4183** A Resolution Adopting the 2025 City of Mequon's Comprehensive Park, Recreation and Open Space Plan

Staff will provide hard copies to the Board Members once accepted by the Common Council.

RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Board Member Balkansky
SECONDED BY: Board Member Vite

AYES: Cain, Bratt, Bach, Balkansky, Lysaught, Usowski, Vite, Wolfson
NOT PRESENT: Kulick

c. **RESOLUTION 4187** A Resolution Approving Amendments to the City of Mequon Fee Schedule for Fiscal Year 2025, Related to Athletic Field Fees, Lemke Park Concession Fees and Pool Fees

Amendment to the Fee Schedule - Delete one of the repeated lines, 'Mequon/Thiensville User Tournament Fee⁰'

Discussion ensued on fees currently structured to cover costs.

Adjustments to the field fees based on use in 2024 and the maintenance contract.

Memorializing fees that have been adjusted based on feedback from the user groups.

The old tournament fee was based on weekend use; the new fees are based on daily use.

RESULT: Approved with Amendments [Unanimous]
MOVED BY: Board Member Balkansky
SECONDED BY: Board Member Vite

AYES: Cain, Bratt, Bach, Balkansky, Lysaught, Usowski, Vite, Wolfson
NOT PRESENT: Kulick

Attachment: POSB 2.19.25 (10350 : POSB)

d. Impact Fee Assessment

Staff clarified that Impact Fees are paid for by the developer or property owner of new residential units at the time of building permit.

Discussion ensued on how impact fees are separated from general funds, can only be used solely for new projects, and have a timeline to be spent.

The Board recommended that staff move forward with the process to request that the Common Council increase the Park Impact Fee.

e. POSB Pending Policy Discussion

Community Sign Template Discussion

Conversation ensued about having a consistent sign template vs a unique design for each park.

Community Development is looking for POSB to recommend a sign standard to ensure that the new Lemke sign conforms with that standard.

Members requested that Community Development share design ideas with the POSB.

Park Fee Discount Discussion

Clarification was made that this discussion concerns pavilion and field rentals, not Special Event Agreements.

Board Members stated that they had directed staff to charge all Users the same fees established in the Fee Schedule.

Discussion ensued about how all user groups should be charged the same fees and how to approach the conversations with groups previously not charged from the Fee Schedule.

Resident Jen Wirth requested a lower user fee and recognition for field users who have donated to the parks via the City Donation Dedication Agreements.

Staff stated that any fees related to the Field Maintenance Contract would require a budget amendment because the City does not fund that contract.

The City entered the Field Maintenance Contract, which was created based on a response from the Users' feedback.

The cost of the Field Maintenance Contract is evenly distributed among the user groups.

Staff stated that the Donation Dedication Agreements are intended to recognize the contributions to the City.

Attachment: POSB 2.19.25 (10350 : POSB)

4) Adjourn

a. Motion to Adjourn at 8:05 pm
RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Board Member Balkansky
SECONDED BY: Board Member Vite

AYES: Cain, Bratt, Bach, Balkansky, Lysaught, Usowski, Vite, Wolfson
NOT PRESENT: Kulick

Respectfully Submitted,

Ren Schlereth
Administrative Assistant

Attachment: POSB 2.19.25 (10350 : POSB)

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www.cityofmequonwi.gov

Department of Community Development
Taped and Televised

PLANNING COMMISSION
Regular Meeting
Monday, March 17, 2025
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call

Present:
Alderman Brian Parrish – Acting Chair
Commissioner Bruce Barnes
Commissioner Martin Choren
Commissioner John Stoker
Commissioner Nancy Urbani
Commissioner Stephanie Hawley - **Absent**
Commissioner Rebecca Schaefer - **Absent**

Acting Chair Brian Parrish called the meeting to order at 6:00 p.m.

a) Approval of Minutes from February 24, 2025

Action
Commissioner Stoker made a motion to approve the February 24, 2025, meeting minutes. Commissioner Urbani seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	**APPROVED [5 TO 1]**
MOVER:	John Stoker, Commissioner
SECONDER:	Nancy Urbani, Commissioner
AYES:	Parrish, Barnes, Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

2) Consent Agenda

a) Wirth Law for Julie Flessas. The applicant is seeking minor request approval for a road right-of-way vacation to remove 150 feet of road right-of-way for the property located at 2601 W. Mequon Road.

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

Action
Commissioner Barnes made a motion to approve the Consent Agenda.
Commissioner Urbani seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	**APPROVED [5 TO 1]**
MOVER:	Bruce Barnes, Commissioner
SECONDER:	Nancy Urbani, Commissioner
AYES:	Stoker, Parrish, , Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

3) Public Hearing

a) Sergio Rodrigues SER RZ3, LLC. The applicant is seeking conditional use grant and building and site plan amendment approval to allow for a restaurant for the property located at 10352 N. Port Washington Road (formally Sobelmans).

Action
Commissioner Stoker made a motion to open a public hearing.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (5-0)

No public comment.

Action
Commissioner Stoker made a motion to close the public hearing.
Commissioner Urbani seconded the motion.
A voice vote was taken; vote passed (5-0)

Assistant Director Jac Zader stated this request is for a conditional use grant ("CUG") and building and site plan approval. This item was tabled in July 2024 because the proposed design at that time, showed a stucco improvement and removal of the front porch. City staff, the Commission architect and the applicant architect have met several times and arrived at the proposed architectural plans in the packet. He showed the elevations that display a similar look to the existing building will be replaced with clapboard siding with an LP smart siding which will have a light gray color with red accents. The front porch will remain, and old rotting boards will be replaced and will match the existing trim as much as possible. Staff is supportive of the newly designed plans.

Asst. Dir. Zader further explained that the hours of operation will be 11:00 a.m. to 9:30 p.m. and the parking lot has 56 stalls, which exceeds the zoning code requirement of 45 stalls. The approval requires cleanup of the site. Submittal of a landscape plan is deferred until warmer weather and the conditions on the site can be assessed. The landscape plan will need to be approved by the Commission sometime this summer.

The site plan shows the parking lot being resealed but there are some potholes and cracking, and staff recommends that the parking lot be repaired. The plan shows a future outdoor patio on the

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

south side of the site and the Commission will need to approve a full plan for this area.

He commented that there has been some compliance action against the site which was deferred based on completing the required repairs which must be completed by the following dates:

- July 31, 2025, replacement of the building windows, siding and trim.
- September 1, 2025, parking lot repairs.
- October 15, 2025, the landscape installation.

Staff recommends approval of the CUG and building and site plan based on the conditions in the report.

The applicant, Sergio Rodrigues, and the architect stated that their intent is to clean up the site and to match the existing building as closely as possible. They clarified that the proposed patio on the south side of the building is tentative until they can confirm that it physically works in that location.

The Commission gave feedback that the proposed plan is a good design and keeps the integrity of the building and neighboring properties. Keeping the front porch is also favorable to the Commission.

Action
Commissioner Stoker made a motion to approve the item per staff conditions.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	**APPROVED [5 TO 0]**
MOVER:	John Stoker, Commissioner
SECONDER:	Martin Choren, Commissioner
AYES:	Parrish, Barnes, Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

b) Kids Rule Academy. The applicant is seeking conditional use grant and building and site plan amendment approval to all for a childcare facility for the property located at 12308 N. Corporate Parkway.

Action
Commissioner Choren made a motion to open a public hearing.
Commissioner Urbani seconded the motion.
A voice vote was taken; vote passed (5-0)

No public comment.

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

Action
Commissioner Stoker made a motion to close the public hearing.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (5-0)

Asst. Dir. Zader stated this request is for a daycare facility to move into a multi-tenant corporate center. He explained the indoor space is approximately 12,000 sq. ft. and there is approximately 4,000 sq. ft. of outdoor space. The use is very similar to other daycares in the city; they are licensed for up to 100 children and the hours of operation will be 7:00 a.m. until 6:00 p.m. There are no issues with the requested CUG.

He explained that a previous owner added parking spaces at the rear of the building which encroached into the parking setback. The resolution is to remove those parking spaces and keep the asphalt as a driveway. A site visit revealed a number of dead ash trees in the northwest corner and the southeast corner of the site and there is a condition in the report to have the trees removed and replaced by the fall; per the original landscaping plan approval.

The applicant of the daycare, Alex Mazur, and the building owner representative, John Wirth, were in attendance. Alex Mazur, Kids Rule Academy owner, stated that they have operated this business for the past 12 years, there are 100 families enrolled with 17 full-time employees, and they need additional space for their operations.

There was some discussion from the Commission regarding the parking lot and the lack of a sidewalk and the safety of children being dropped off and picked up. Staff commented that a sidewalk is not required at any of the childcare facilities located in the city.

Action
Commissioner Choren made a motion to approve the CUG.
Commissioner Barnes seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	**APPROVED [5 TO 0]**
MOVER:	Martin Choren, Commissioner
SECONDER:	Bruce Barnes, Commissioner
AYES:	Parrish, Barnes, Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

c) Dennis Thornton for Vital Care. The applicant is seeking conditional use grant approval to allow for a compounding pharmacy for the property located at 12308 N. Corporate Parkway.

Action
Commissioner Stoker made a motion to open a public hearing.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (5-0)

No public comment.

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

Action
Commissioner Choren made a motion to close the public hearing.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (5-0)

City Planner Natalie Redding stated that the request is for a compounding pharmacy for Vital Care located at 12308 N. Corporate Parkway. It is zoned B-4 which allows for pharmacies as conditional use. Vital Care offers home infusion pharmacy services and operates as a closed door pharmacy which offers treatments which are then mostly administered at home, but en suite infusion appointments are offered as well. The business hours will be 9:00 a.m. to 5:00 p.m. M-F and the business will employ 5 full time employees.

The parking issue discussed in the previous project relates here but due to this not being a walk-in pharmacy and on site infusions will be by appointment only, staff does not have concerns regarding parking. Staff recommends approval based on the conditions in the staff report.

Action
Commissioner Choren made a motion to approve the item subject to staff conditions.
Commissioner Urbani seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	**APPROVED [5 TO 0]**
MOVER:	Martin Choren, Commissioner
SECONDER:	Nancy Urbani, Commissioner
AYES:	Parrish, Barnes, Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

d) Cardinal Equipment & Event Rentals, LLC. The applicant is seeking conditional use grant and building and site plan amendment approval to allow for commercial use of a historically significant structure including office and warehousing for the property located at 7426 W. Donges Bay Road.

Action
Commissioner Urbani made a motion to open a public hearing.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (5-0)

No public comment.

Action
Commissioner Urbani made a motion to close the public hearing.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (5-0)

Planner Redding stated that the request for conditional use grant and building and site plan amendment approval is for a rental resource company supplying equipment and event rentals and

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

materials. The building is located in B-7 zoning which allows for the commercial use of a historic structure as a conditional use. The site was designated a local landmark in 1996.

The applicant is not proposing any changes to the building and will be using the existing asphalt driveways, which are non-conforming, but the usage is approved by staff. The west side of the parking lot will be for employee parking and the east side is deemed parking for customers. Staff recommends that the parking lot be seal coated and striped to bring it into city compliance.

The most notable aspect of the project is the proposed outside storage because outside storage is typically not allowed in this zoning district. But due to the industrial nature of the adjacent uses, it is compatible with the neighboring properties and the site is well screened with existing landscaping. The equipment will be stored on an installed asphalt lot to the rear of the building. She explained that the applicant is planning to install a fence in front of the customer parking area which will also provide screening from the outdoor storage. Some additional landscaping will be added as well. Staff recommend the proposed mulch beds extend along the east side of the building to enhance connectivity. A landscaping plan is required to be submitted to staff for final approval. The existing concrete pad on site will be removed.

The business hours will be 8:30 a.m. - 5:30 p.m. M-F and 8:30 a.m. - 1:00 p.m. on Saturdays. The applicant requested earlier pick up times on weekdays to begin at 7:30 a.m. but staff is concerned about noise impacting nearby residential neighbors and recommends all operations be confined to the regular business hours outlined. Staff recommends approval of the CUG.

The applicant asked for clarity on the outdoor storge space for equipment and whether it can be gravel or if it needs to be asphalt. Staff replied that typically concrete or asphalt is required but a concession can be made for gravel to be used for a specified period of time.

The Commission discussed the outdoor storage area ground material and what would be accepted to give the applicant some time to get the business up and running due to cost concerns. There was also mention of the operating hours and the understanding that contractors probably want to pick up equipment earlier in the day. There was clarification from staff regarding landscaping screening and the designation of customer and employee parking.

Action

Commissioner Stoker made a motion to approve the CUG, modify condition #10 in the staff report and to allow outdoor storage on a stone base for up to 9 months, the applicant will need to submit plans if they want to expand further.
Commissioner Barnes made a friendly amendment to allow the business to open at 7:30 a.m. on weekdays.
Commissioner Stoker accepted the friendly amendment.

Commissioner Barnes seconded the motion.
A voice vote was taken; vote passed (5-0)

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

RESULT:	**APPROVED WITH CONDITIONS [5 TO 0]**
MOVER:	John Stoker, Commissioner
SECONDER:	Bruce Barnes, Commissioner
AYES:	Parrish, Barnes, Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

e) North Shore Dance Studio. The applicant is seeking conditional use grant amendment and building and site plan amendment approval to allow for an addition to the existing building for the property located at 10433 N. Baehr Road.

Action
Commissioner Urbani made a motion to open a public hearing.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (5-0)

No public comment.

Action
Commissioner Urbani made a motion to close the public hearing.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (5-0)

Planner Redding stated that this request is for a conditional use grant amendment as well as building and site plan amendment to allow for an addition to the existing structure. North Shore Dance Studio was previously approved for a CUG in June of 2018. The business is expanding its operations due to growing demand for more studio space, which requires an amendment to the CUG as well as the building and site plan. The building materials will match the existing materials, and the addition will not have any windows as to avoid light trespass from passing vehicles and to allow for internal lighting to be utilized to enhance performances and dances. Staff supports this because it is not out of character for the area as the neighboring uses are industrial with similar type buildings. She explained that the addition will be approximately 4,000 sq. ft. added to the existing 7,500 sq. ft. and will meet the 50-foot setback.

An additional 12 parking spaces will be added, and this does meet previous industry standards set in the CUG. Staff approve of the proposed 1% deficiency in the interior parking lot landscaping (9% instead of the 10% required by the city code) because the updated plan reduces the overall amount of paving and eliminates the previous truck turn around area. Staff recommends that the proposed evergreens be a minimum of 7 feet in height, this is different than what the applicant proposed, but this has been a precedent in past projects and the height will aid in screening the parking lot areas.

The lighting proposed does not match city code compliance as they are not shown as full cut off; which is required. A site visit revealed two lights on site that appear to be similar to the proposed lighting and are likely not full cut off, so staff recommends the applicant select lighting that match one of the compliant lights on the site. A lighting plan is required that shows the light trespass so that staff can ensure that the lighting on site meets city code requirements.

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

Overall, the business will maintain operations approved in 2018. Staff recommends approval of the requested approvals.

Action
Commissioner Choren made a motion to approve the CUG amendment and building and site plan amendment per conditions in the staff report.
Commissioner Urbani seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	**APPROVED [5 TO 0]**
MOVER:	Martin Choren, Commissioner
SECONDER:	Nancy Urbani, Commissioner
AYES:	Parrish, Barnes, Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

4) Regular Business

a) Lemberg Electric for Chase Bank. The applicant is seeking minor request approval for a sign waiver for the property located at 11001 N. Port Washington Road.

Planner Redding stated the request is for two signs waivers to allow for a wall sign on the north elevation and a larger wall sign on the east elevation. She explained that the sign code typically allows for one wall sign per building unless the building faces two publics streets in which case one wall sign per elevation is allowed. Chase Bank does face two streets in this case: Port Washington Road (east elevation) and Town Square Road (north elevation). Town Square Road is a private street, so the additional wall sign proposed does require a sign waiver. Staff supports the sign waiver for the north elevation as it is abutting a street and it will provide a clarifying identity of the building for traffic along Town Square Road.

Planner Redding explained that the east wall sign per code is allowed to be 26.25 sq. ft. and the proposed sign is slightly larger at 29.7 sq. ft.. Both signs have the same design. Staff does not support this larger wall sign as there is no proven hardship or visual validation and approval of the larger sign would set a precedent in the city. Staff did request a rendering of the sign at the code compliance size but it was not submitted by the applicant.

In summary, staff supports the north elevation wall sign but does not support the larger size wall sign on the east elevation.

The applicant stated that the larger sized sign is requested due to their national industry standard sign size.

There was some discussion among the Commission about the varying size of the proposed signs. The Commission believes the larger sign will be out of proportion and there is no hardship justified for the waiver.

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

Action
Commissioner Stoker made a motion to approve per staff recommendations due to no hardship proven, the larger sign would be disproportional and the sign on the north elevation will be more visible for traffic on Port Washington Road.
Commissioner Urbani seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	**APPROVED [5 TO 0]**
MOVER:	John Stoker, Commissioner
SECONDER:	Nancy Urbani, Commissioner
AYES:	Parrish, Barnes, Choren, Stoker, Urbani
ABSENT:	Hawley, Schaefer

5) Policy

1) An Amendment to Chapter 58, City of Mequon Zoning Code, Related to Section 58-416 Building and Structure Location, Setbacks and Related to Setback from Lake Michigan Bluff

Building Inspections Supervisor Greg Golden explained that in August of 2024 the Committee of the Whole directed staff to author code language that would allow property owners along the Lake Michigan bluff permission to access the lake from their property. The highlights from the analysis done include:

- The bluff is unstable (many studies were reviewed and are included in the packet).
- There is not a building code that applies to bluff structures.
- Proposed drafted text amendment states that any building structure constructed on the bluff comes with inherent risks. The responsibility will be placed on the property owner and professional engineer.
- Structure height, weight and maintenance restrictions will be required.
- All federal regulations must be adhered to.

He explained that staff is waiting to hear back from the DNR regarding the high water mark.

Supervisor Golden explained that staff inspectors will be inspecting the location of the staircase only. The liability will be on the property owners and professional engineer.

Alderman Gregg Bach explained that three residents that are lake property owners have come forward voicing their intent to build floating staircases on the bluff on their properties in order to access the beach (similar to the staircase at Virmond Park).

The Commission stated that this is a complex issue and that they would like more time to think about it as they have unanswered questions. They would like to hear from a bluff expert as well as have a full Commission in attendance to decide about making a recommendation to the Common Council; they believe the item should be tabled until next month.

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

Acting Chair Brian Parrish recommended that the City Attorney should listen to this discussion and provide a legal analysis regarding this item and should attend the meeting next month.

Action
Commissioner Stoker made a motion to table this item so that an expert can be at the next meeting as well as a legal opinion can be provided from the City Attorney.
Commissioner Barnes seconded the motion.
A voice vote was taken; vote passed (5-0)

6) Announcements

The next meeting is Monday, April 21, 2025, at 6:00 pm.

Staff congratulated John Stoker, President of Victory Homes, for being awarded Builder of the Year.

7) Adjourn

Action
Commissioner Urbani made a motion to adjourn the meeting.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (5-0)

The meeting was adjourned at 7:28 p.m.

Respectfully Submitted,

Jac Zader

Attachment: PC_03.17.25_FINAL (10326 : Plan Comm)

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www.ci.mequon.wi.us Office of the City Administrator

PUBLIC WELFARE COMMITTEE
Tuesday, March 11, 2025
5:15 PM
Lower Conference Room

Minutes

1) Call to Order, Roll Call

Present:
Chair Dale Mayr
Alderman Gregg Bach
Alderman Brian Parrish

Also Present: Assistant City Administrator Schoenemann, Executive Assistant Enea, and Management Intern Randall

2) Approval of Meeting Minutes
   a. February Minutes

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Alderman Parrish
SECONDED BY:	Alderman Bach

AYES:	Mayr, Bach, Parrish

3) Discussion Items

Ahead of the COTW Meeting taking place at 6:00 PM, the Committee received feedback from Alderman Bratt and Alderman Gebhardt. The Committee discussed adding a third map of the Port Washington Corridor for question 9 or one large map of Mequon and noting areas A, B, and C as it related to three of the questions. The Committee also discussed editing the cover letter to better explain that several elements are taken into account when making decisions.

4) Work Calendar

The Committee will meet again on March 20 to incorporate feedback from the COTW meeting into the final survey instrument.

5) Adjourn

Alderman Bach moved to adjourn at 5:30 PM and Alderman Mayr seconded.

Attachment: PWelf Minutes 031125 (10319 : Pub Welfare)

Respectfully Submitted,

Carrie Enea
Executive Assistant

Attachment: PWelf Minutes 031125 (10319 : Pub Welfare)

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www.cityofmequonwi.gov
Public Works Department

PUBLIC WORKS COMMITTEE
Tuesday, March 11, 2025
5:30 PM
South Conference Room

Minutes

1) Call to Order, Roll Call

Meeting called to order at 5:30 P.M.

Present:
Chair Jeffrey Hansher
Alderman Kelly Tolocko
Alderman Peter Bratt

Also present: Director of Public Works/City Engineer Lundeen (5:30 p.m.-5:45 p.m.), Assistant City Engineer McCraw, Buildings Superintendent Bodoh, and Administrative Assistant Schlereth.

2) Approval of Minutes

a. Public Works Committee meeting minutes of February 11, 2025

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Tolocko
SECONDED BY: Alderman Bratt

AYES: Hansher, Tolocko, Bratt

3) Resolutions

Action requested: review and recommend approval

a. **RESOLUTION 4187** A Resolution Approving Amendments to the City of Mequon Fee Schedule for Fiscal Year 2025, Related to Athletic Field Fees, Lemke Park Concession Fees and Pool Fees

Discussion ensued on fees being comparable to what surrounding communities charge.
Clarification was made that fees are currently not set for profit but to cover cost.
Alderman Tolocko recommended that Park fees be revisited at the end of the season for possible revenue for the City.

Attachment: Pub Works 3.11.25 (10349 : Pub Works)

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Bratt
SECONDED BY: Alderman Tolocko

AYES: Hansher, Tolocko, Bratt

b. **RESOLUTION 4189** A Resolution Authorizing a Contract for Preemption Upgrades to the Highway-Grade Crossing on Mequon Road Required to Activate the Traffic Signals at the Intersection of Mequon Road and Weston Drive to CDL Electric Company, LLC of Pittsburg, Kansas, in the Amount of $74,789.

If approved, the City can contract directly with CDL and consequently finish the work needed for the traffic lights and crossing lights to be properly sequenced, allowing enough time for traffic to clear from the intersection before a train enters the crossing.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Tolocko
SECONDED BY: Alderman Bratt

AYES: Hansher, Tolocko, Bratt

c. **RESOLUTION 4191** A Resolution Authorizing Supplemental Inspection Services in Excess of $25,000 During the 2025 Construction Season with the Following Engineering Firms: GRAEF-USA, Kapur & Associates, M-Squared, The Sigma Group, raSmith and Ruekert-Mielke, Inc.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Tolocko
SECONDED BY: Alderman Bratt

AYES: Hansher, Tolocko, Bratt

d. **RESOLUTION 4188** A Resolution Adopting the 2025 Mequon-Thiensville Bike & Pedestrian Way Plan

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Tolocko
SECONDED BY: Alderman Bratt

AYES: Hansher, Tolocko, Bratt

Attachment: Pub Works 3.11.25 (10349 : Pub Works)

e. **RESOLUTION 4190** A Resolution Awarding a Contract for 2025 HVAC Preventative Maintenance & Emergency Response Services to J.F. Ahern Company, Milwaukee, Wisconsin, for a Total Estimated Cost of $31,689

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Tolocko
SECONDED BY: Alderman Bratt

AYES: Hansher, Tolocko, Bratt

4) Discussion Items

Discussion and Possible Action

a. Public Works Work Plan (3.11.25)

5) Adjourn

a. Motion to Adjourn at 5:51 P.M.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Bratt
SECONDED BY: Alderman Tolocko

AYES: Hansher, Tolocko, Bratt

Respectfully Submitted,

Ren Schlereth
Administrative Assistant

Attachment: Pub Works 3.11.25 (10349 : Pub Works)

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TREE BOARD
Tuesday, October 8, 2024
5:30 PM
North Conference Room

Minutes

1) Call to Order, Roll Call

The meeting was called to order at 5:30 PM.

Present:
Vice Chair Cheryl Brickman
Board Member Karen Dredge
Board Member Nancy Szatkowski
Chair Carol Bangs -- **Absent**
Alderman Robert Strzelczyk -- **Absent**
Also Present: Dean Frederick Vice President at Thomson Corporation, Administrative Assistant Schlereth, and Forestry Worker Herlache.

2) Approval of Meeting Minutes

a. January 11, 2024, Minutes

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Board Member Szatkowski
SECONDED BY:	Board Member Dredge

AYES: Brickman, Dredge, Szatkowski
ABSENT: Bangs, Strzelczyk

3) Discussion Items

a. HIGHLAND MEADOWS STREET TREE PERCENTAGES

Discussion ensued on which tree species best suited the Highland Meadows location based on the current climate, biodiversity, and other biotic/abiotic factors.

Board-approved tree species for Highland Meadows:

Attachment: Tree 10-8-24 (10351 : Tree Board)

SPECIES	# OF TREES	PERCENTAGE
Early Glow Buckeye	14	11.8%
Freeman Maple	12	10%
Planetree	20	16.9%
Tuliptree	9	7.6%
Catalpa	9	7.6%
Common Hackberry	17	14.4%
Kentucky Coffee	21	17.8%
Adirondak Crabapple	6	5%
Silver Linden	6	5%
Swamp White Oak	2 (cul-de-sac)	1.6%
Serviceberry	2 (cul-de-sac)	1.6%
	TOTAL: 118	

4) Adjourn
   a. Motion to Adjourn at 6:00 PM

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Szatkowski
SECONDED BY: Board Member Dredge

AYES: Brickman, Dredge, Szatkowski
ABSENT: Bangs, Strzelczyk

Respectfully Submitted,

Ren Schlereth
Administrative Assistant

Attachment: Tree 10-8-24 (10351 : Tree Board)

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Office of Inspections

TO: **Common Council**
FROM: **Kim Tollefson, Director of Community Development**
DATE: **May 13, 2025**
SUBJECT: **ORDINANCE 2025-1681 An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to Structures on the Lake Michigan Bluff**

Background

In August 2024, the Common Council Committee of the Whole (COTW) directed staff to author proposed code amendments that would allow property owners along the Lake Michigan Bluff the ability to access the lake. Since that time, City staff has developed regulatory standards and consulted with agencies, municipalities and engineers. The draft regulations were presented to the Planning Commission at their meetings in March and April 2025.

Policy Objectives

To provide context of the issues associated with the policy objectives, the following outlines several considerations.

Issue: Bluff Stability

One important issue to understand when contemplating the idea of allowing structures on the Lake Michigan Bluff (LMB) is the known conditions of the LMB. The Wisconsin Shoreline Inventory & Oblique Photo Viewer provides relevant information regarding this. As illustrated in Exhibit A, the majority of the LMB in Mequon is classified as "Moderately Unstable" (yellow) or "Unstable/Failing" (red). In 2019, the Wisconsin Coastal Management Program along with the National Oceanic and Atmospheric Administration funded a comprehensive study entitled: *Southeastern Wisconsin Coastal Recession Between 1956 to 2015* (Exhibit B). This study produced the map referenced above in Exhibit A, and led to these classifications of the bluff documented through photographic evidence from 1956-2015.

Additionally, an interactive web-based tool for viewing the historical transformation of the bluff is available at:

https://www.arcgis.com/apps/instant/minimalist/index.html?appid=c47ab45bb8c046e099a46df28837ca88

Notably, one section classified as "Moderately Stable" (green) near Highland Road is the portion of the LMB at Concordia University, which had a stone revetment installed in 2007 to prevent further erosion. That project was the subject of a 2011 lawsuit claiming it was causing the LMB

on neighboring properties to collapse. An Ozaukee County jury "unanimously agreed that the stone revetment is a nuisance that has caused significant harm to neighboring properties"

Issue: Building Code Limitations
A second issue to take into consideration is how the City's Building Code relates to structures constructed on the LMB. Per City ordinances and the City's Building Code, structures are defined as follows:

- Section 58-8 - Definitions: Structure means a combination of materials other than natural terrain or plant growth erected or constructed to form among other things, a building, shelter, sign enclosure, retainer, container, support, base, or decoration.
- 2015 International Building Code - Definitions: Structure - That which is built or constructed.

Mequon currently adopts SPS 321, construction standards for all one- and two-family dwellings along with the 2015 International Building Code (IBC). A free-standing deck is the only structure, other than a one- or two-family dwelling, in which SPS 321 can be applied, and the IBC is silent on any structures not associated with a building. Walking paths and steps embedded in the ground are considered landscaping and not regulated by either code.

Staff evaluated neighboring communities which have properties along the LMB. Both Whitefish Bay (Exhibit C) and Fox Point (Exhibit D) have ordinances similar to one another regarding structures on the LMB. Those regulations rely heavily on the use of a registered professional engineer throughout the process. The LMB in these communities, according to the comprehensive study of the Southeastern Wisconsin Coastal Recession, has been classified as "Moderately Stable" (Exhibit E). Ozaukee County adopts ordinance 19.0300 (Exhibit F), very similar to the current Mequon Code of Ordinance 58-416 (Exhibit G). In particular, Whitefish Bay allows structures, while Fox Point does not.

Legal Summary
Recreational immunity statutes under Wisconsin State Law apply to the property owner, whether private or public land, and exempt the owner from liability, protecting the owner from a lawsuit. The City has no recreational immunity applicable to the Lake Michigan bluff because there is no City-owned land along the lake. The City's legal authority and liability is limited to: 1) the approval of structures - if allowed by zoning; 2) the issuance of permits for construction; 3) the inspection of such structures; and 4) approval, if "at the time of inspection it is in compliance". The City does not provide on-going inspection of structures, and does not evaluate the condition of, or any structure's ongoing compliance with regulations after final inspection, unless enforcement ensues, or modifications are proposed to the structure through subsequent permit applications. The City must also enforce the code and as such, shall require removal of structures that are constructed but never permitted, if the City is aware of a known violation. According to City Attorney Sajdak, there is no record of case law related to the construction of structures on the bluff in the state.

Agency Input

Community Development routed the draft text amendment to potentially impacted departments, including the Southern Ozaukee Fire Department, the Mequon Police Department and the Mequon Engineering Division for review and commentary. Exhibit I contains their responses.

In addition, staff reached out to the Wisconsin Department of Natural Resources (DNR). DNR representative Haley Anderson advised that anything below the ordinary high-water mark (OHWM) would require permitting from the DNR. She also indicated that the County should be able to identify the OHWM for a homeowner or the DNR could perform that service for a $200 fee. The DNR provided the following link to a free download of "Living on the Coast" which addresses the protection of investments in shore property on the Great Lakes:

<https://publications.aqua.wisc.edu/product/living-on-the-coast-protecting-investments-in-shore-property-on-the-great-lakes/>

Analysis

The building of any structure on the Lake Michigan bluff comes with inherent risks. A proposed text amendment (Exhibit H: Original Amendment with Track Changes and Exhibit K: Proposed Text Amendment) places the responsibility of design, construction and safety on a professional engineer (PE) and the property owner. The qualifications of the professional engineer required by the text amendment are very specific. Further, the regulations limit the size, height and location of these structures and addresses maintenance, should they fall into disrepair and/or become a visual nuisance or potential debris for the Great Lakes. These regulations are as follows:

1) Height restrictions always existed but further definition of how to measure height was added as follows:

   a. Four (4) feet six (6) inches measured vertically from the structure's walking surface to the top of the structure.

   b. Fifteen (15) feet measured vertically from the walking surface to grade.

2) To ensure the professional engineer is properly qualified to design these structures, specific certifications were added.

3) Property owner shall maintain the structure to avoid such becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the City with a repair or replacement plan within 60 days of being notified of non-compliance.

Fiscal Impact

The fiscal impact is neutral.

Recommendation

On April 21, 2025, the Planning Commission approved a recommendation in favor of adopting

the proposed ordinance amendments by a vote of 8-0. A recommendation is forthcoming from the Public Welfare Committee on May 13, 2025.

Attachments:
Exhibit A (PDF)
Exhibit B (PDF)
Exhibit C (PDF)
Exhibit D (PDF)
Exhibit E (PDF)
Exhibit F (PDF)
Exhibit G (PDF)
Exhibit H (DOCX)
Exhibit I (PDF)
Exhibit J (PDF)
Exhibit K (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2025-1681

An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to Structures on the Lake Michigan Bluff

RECITALS

A. Pursuant to the authority granted to it under Section 62.23(7) of the Wisconsin Statues, the City of Mequon previously adopted a comprehensive Zoning Code for the City which includes the Lake Michigan Bluff under Section 58-416 of the Municipal Code.

B. On April 21, 2025, the Planning Commission, by a majority vote, adopted a recommendation to approve a text amendment allowing for the building of certain structures on the Lake Michigan Bluff.

C. Following due notice and a public hearing by the Common Council, the Council finds that the proposed amendment is consistent with the City's comprehensive master plan and that the amendment would further the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 58-416(c)(2) is amended to read as follows (NOTE: Deleted text is ~~stricken~~; Added text is bold underlined):

> (2) *Setback from Lake Michigan Bluff.* Except as otherwise provided in this section, all ~~All~~ permanent structures, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.
>
> Structures to gain access to Lake Michigan shall be permitted subject to the following conditions:
>
> a. The structure shall be limited to 5 feet in width and the following height restrictions shall apply:

1. Four (4) feet six (6) inches measured vertically from the structure's walking surface to the top of the structure.
2. Fifteen (15) feet measured vertically from the walking surface to grade.

b. A building permit from the department of community development shall be obtained.

c. A survey shall be provided with the building permit and shall include the ordinary high-water mark (OHWM).

d. Structures shall comply with required side yard offsets of the city base zoning district. Structures and any component of the structures, whether above or below grade, including but not limited to cables, anchors, supports, are not eligible for the offset exemptions of Sec. 58-416.

e. Regulations of Chapter 84 shall be met.

f. Structures shall comply with all other applicable municipal codes and state or federal regulations.

g. Property owners shall certify to the city their awareness of potential problems of lake shore erosion, including but not limited to, the possibility of adding fill of various types to stabilize the bluff area, the requirement for securing of a fill permit from the city engineering division for any such filling, the provisions of said fill permit ordinance, and the potential cost incurred. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.

h. A registered professional engineer, board certified by the American Society of Civil Engineers, in geotechnical engineering (CPEGE), who is hired by the owner of the lot, shall certify to the city that the construction of any proposed structure located within 75 feet of the top edge of the bluff will be safe. Specifically, the professional engineer shall certify that:

1. The design of any structure, the method of constructing such structure, and the materials used therefore are structurally adequate and will protect public health and safety.
2. The proposed structure will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites.
3. The proposed structure will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession on the subject site or adjoining or adjacent site.
4. The drainage system will not adversely affect the adjacent and adjoining properties.
5. There is no danger to the proposed structure or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.
6. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.

7. The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:
   i. Recommendations regarding site preparation, foundation design, lateral earth pressure and support of the structure.
   ii. The stability of the slope before, during and after construction.
   iii. The effect of the construction on natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.

i. Property owner shall maintain the structure to avoid becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the city a repair or replacement plan within 60 days of being notified of being in noncompliance.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff. Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.

SECTION II

The terms and provision of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

_____

Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____

Caroline Fochs, City Clerk

Published: _____

Exhibit A

Attachment: Exhibit A (ORDINANCE 2025-1681 : LM Bluff Structures)

Exhibit B

Southeastern Wisconsin Coastal Recession Between 1956 to 2015

Nick Jordan, FreshWater Engineering (formerly), Inver-Fluve (current affiliation)
Adam Bechle, Wisconsin Sea Grant, Wisconsin Coastal Management Program
Boyuan Lu, University of Wisconsin–Madison Department of Civil and Environmental Engineering
Isak Fruchtman, University of Wisconsin–Madison Department of Civil and Environmental Engineering
Prakriti Khanal, University of Wisconsin–Madison Department of Civil and Environmental Engineering
Chin H. Wu, University of Wisconsin–Madison Department of Civil and Environmental Engineering

May 6, 2019

Executive Summary

Lake Michigan coastal bluff and shoreline recession data are provided for Kenosha, Racine, Milwaukee, and Ozaukee Counties (collectively called "southeastern Wisconsin") for a time period between 1956 to 2015 and is publicly available on the Wisconsin Shoreline Inventory and Oblique Viewer (http://floodatlas.org/asfpm/oblique_viewer/). Coastal recession is the distance that coastal bluff or shoreline features have receded, or moved landward. For areas with coastal bluffs, recession information is provided for the bluff crest, where the relatively flatter upland meets the steeper bluff face, and the bluff toe, where the bluff face meets the beach. In areas that lack a bluff, recession information is provided for the shoreline, where the beach meets the water. Recession was measured from the position of these features in historic aerial orthophotography over two analysis periods: a long-term period from 1956 to 2015 and a short-term period from 1995 to 2015. Recession is represented as both the distance coastal feature changed in position over the analysis period ("recession distance") as well as the average annual of change of the coastal feature's position ("recession rate") Each recession data point represents an average of recession measurements along a 300-foot section of coast and does not represent any specific property or municipal boundary. Approximate uncertainty in the long-term recession distances is ±4 feet (±0.07 ft/year for recession rate) and in the short-term recession distances ±2 feet (±0.1 ft/yr for recession rate). This data should be considered preliminary and are intended for informational purposes. Care should be exercised in interpreting these data based on knowledge of coastal geology, engineering and mapping.

This data was produced as a part of ongoing studies at the University of Wisconsin-Madison Coastal Sustainability Laboratory with assistance from Freshwater Engineering. This data has been made public through collaborations of the University of Wisconsin-Madison, the Wisconsin Coastal Management Program, University of Wisconsin Sea Grant, and the Association of State Floodplain Managers.

Funding
Funded by the Wisconsin Coastal Management Program and the National Oceanic and Atmospheric Administration, Office for Coastal Management under Grant # NA17NOS4730144.

WISCONSIN COASTAL MANAGEMENT PROGRAM

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

Southeastern Wisconsin's Coast

The Lake Michigan coast of Southeastern Wisconsin (defined here as Kenosha, Racine, Milwaukee, and Ozaukee Counties) is composed of low sandy shores of less than 10 feet in elevation, low bluffs 10 feet to 50 feet high, and high bluffs up to 130 feet high (Figure 1). Bluffs in this region are principally composed of clayey soil deposited by glaciers during the last Ice Age. The coast is also composed of breakwaters and harbor infrastructure near the port and harbor cities of Port Washington, Milwaukee, Racine, and Kenosha.

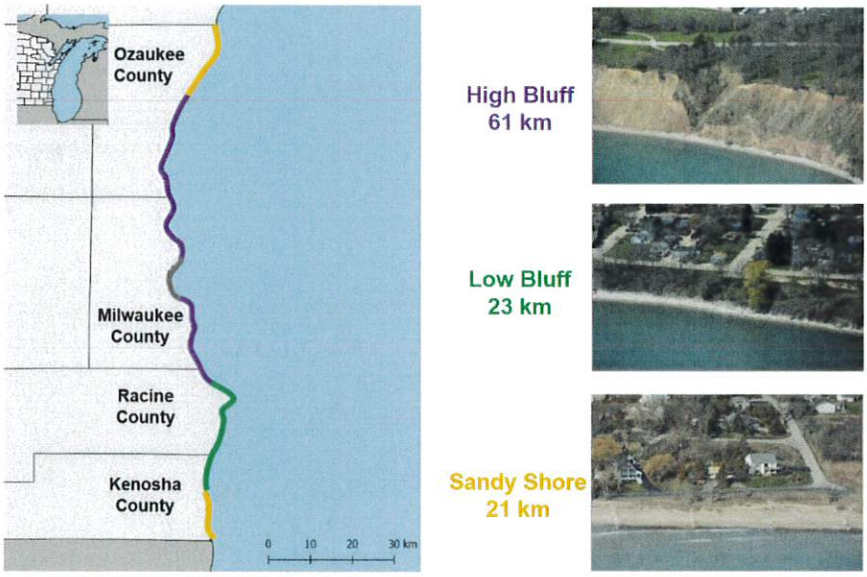


Figure 1: Southeastern Wisconsin's coast is composed of high bluffs (purple), low bluffs (green), sandy shores (tan), and harbor infrastructure (gray).

This coastline is subject to erosion and bluff slope failures which can cause the coast to recede, or move landward, and threaten upland coastal properties. Coastal recession is often referenced to key recognizable coastal features which are depicted in Figure 2 and defined as follows:

Bluff Crest: the location where the relatively flatter upland meets the steeper bluff face

Bluff Toe: the location where the bluff face meets the beach

Shoreline: the location where the beach meets the water

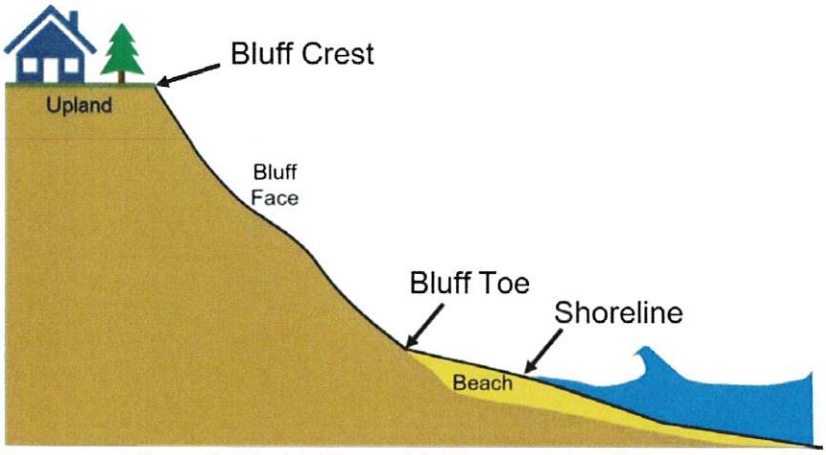


Figure 2: The bluff crest, bluff toe, and shoreline

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

Coastal Recession Measurements

Coastal recession is the distance the bluff or shoreline has receded, or moved landward over a given period of time. Recession was measured along bluffed coasts for the bluff crest and the bluff toe or, in areas that lack a bluff, for the shoreline (Figure 3). Coastal feature recession distances were measured from historical aerial photos in Geographic Information System (GIS) software for two analysis periods: 1956-2015 and 1995-2015.

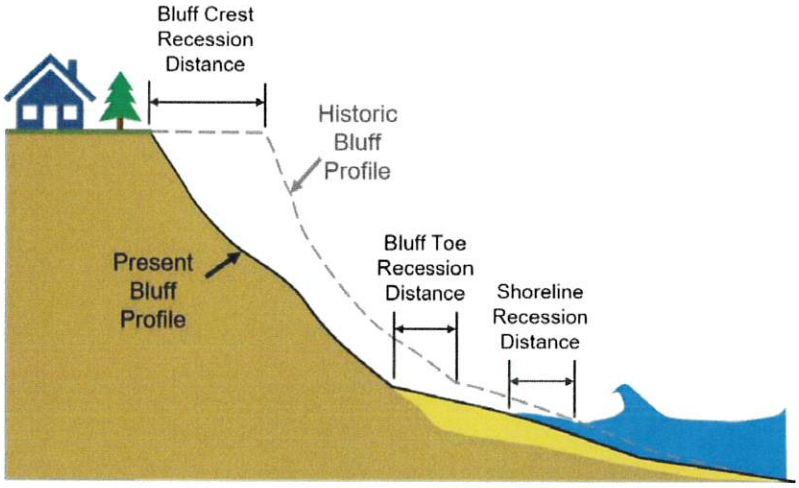


Figure 3: Coastal recession measurements which compare the positions of coastal features over time

The procedure for making coastal recession measurements explained below and summarized in Figure 4 (following page).

1) Photos from each analysis year (1956, 1995, and 2015) were orthorectified to remove vertical distortions caused by the camera lens and georeferenced to position them accurately in space. The photos used for this analysis are summarized in Table 1.

Table 1: Summary of aerial photos used in recession analysis

Year	*Month*	*Photo Source*	*Photo Description*	*Photo Scale*	*Resolution (m)*
1956	May/June	USDA	Scanned B&W Aerial Photo	1:20,000	N/A
1995	April	SEWRPC	B&W Aerial Orthophoto	1:20,000	N/A
2015	April	SEWRPC	Color Aerial Orthophoto	N/A	0.152

2) Coastal features were traced in each photo using differences in soil color, vegetation or other indicators to distinguish the features on each photo.

3) Once each feature is digitized, the United States Geological Survey (USGS) Digital Shoreline Analysis System (DSAS) software was used to measure the location of each digitized feature along transect lines spaced at 10-meter intervals (~33 feet) along the shoreline.

4) Recession distances are averaged at 100 meter intervals (~328 foot) along the coast using a spatial averaging technique. This spatial averaging serves two purposes: i) to represent recession over a distance wider than the typical scale of a single lot, and not at a specific parcel and ii) in order to removes spikes in the data which may result from localized erosion events.

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

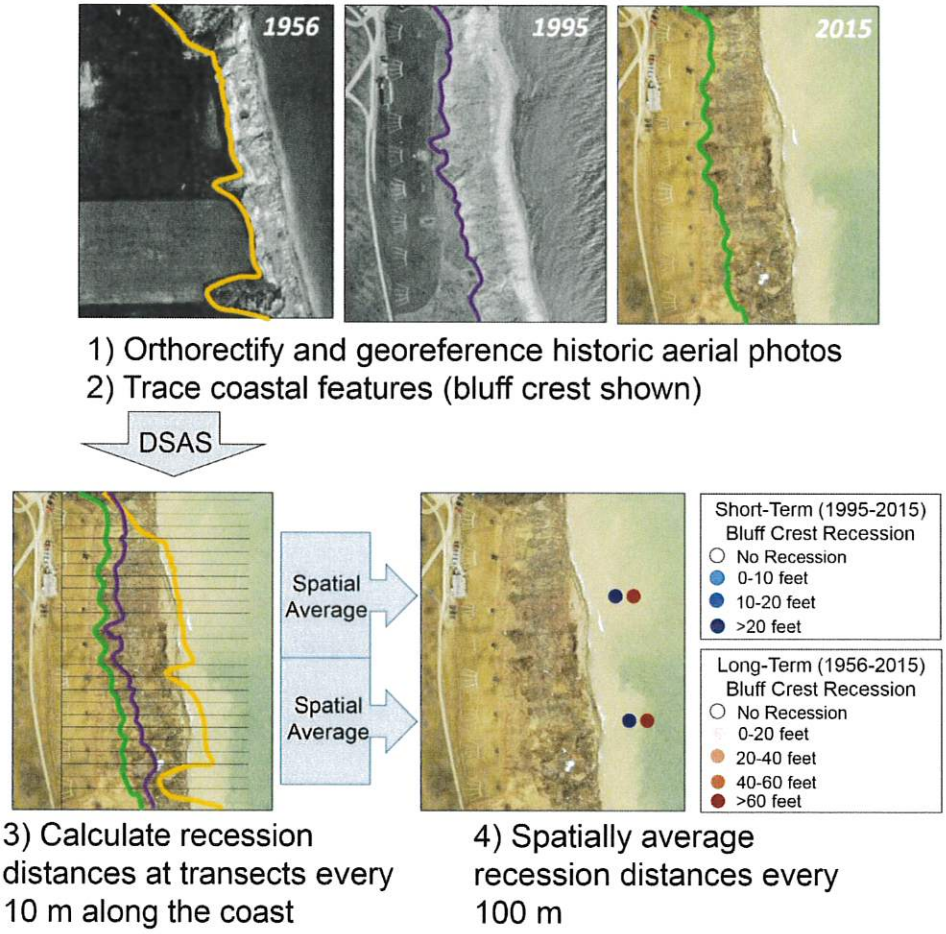


Figure 4: Coastal recession measurement procedure

The following recession measurements are available.

Layer	Description
Bluff Toe Recession – Long-term (1956 – 2015)	The distance the bluff toe has moved landward between 1956 and 2015.
Bluff Crest Recession - Long-term (1956 - 2015)	The distance the bluff crest has moved landward between 1956 and 2015.
Shoreline Recession – Long-term (1956 - 2015)	The distance the shoreline has moved landward between 1956 and 2015.
Bluff Toe Recession – Short-term (1995 – 2015)	The distance the bluff toe has moved landward between 1995 and 2015.
Bluff Crest Recession – Short-term (1995 - 2015)	The distance the bluff crest has moved landward between 1995 and 2015.
Shoreline Recession – Short-term (1995 - 2015)	The distance the shoreline has moved landward between 1995 and 2015.
Shoreline Position (2015)	The location where the beach met the water, as measured in 2015 aerial photographs

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

Each data point represents an average of recession measurements along a 300-foot section of coast and does not represent any specific property or municipal boundaries. By clicking on a point, the actual average measured recession distance and an average annual rate of recession can be viewed. Note that a positive recession value represents a landward movement of the feature and a negative recession value represents a lakeward movement of the feature, also known as accretion.

The recession information can provide useful insights into the historic migration of the southeastern Wisconsin coast. It should be noted that the recession distances provided here represent how the bluffs and shorelines have responded to historic environmental conditions and human actions over a specific time period in the past (1956-2015 and 1995-2015). There is always uncertainty in how bluff and shoreline recession will respond to future conditions. Bluff recession can also be sporadic. For example, a bluff crest that had remained unchanged for decades can recede many feet almost instantly due to a bluff collapse. Human actions may also change the evolution of the coast. For example, a bluff that may have been heavily eroded historically may have been recently stabilized or had shore protection added such that recession could be expected to decrease compared to historic rates.

Disclaimer

Please note that the data presented here should be considered preliminary and may not reflect current conditions along the coast. Care should be exercised in interpreting these data based on knowledge of coastal geology, engineering and mapping. Site assessments may be necessary to property interpret this data. As the Lake Michigan coast is a dynamic and constantly changing environment, one should consider consulting with local authorities and qualified professionals before building or making other land use decisions along the coast.

Methods

Bluff recession distances were measured from historical aerial photos in Geographic Information System (GIS) software for two analysis periods: 1956-2015 and 1995-2015. Using GIS software, photos from each year are georeferenced to position them accurately in space and orthorectified to remove vertical distortions caused by the camera lens. The bluff crest, bluff toe, and shoreline are carefully traced on each photo. The bluff crest is identified as the break in slope between the upland and the bluff slope, the bluff toe is identified as the break in slope between the bluff slope and beach, and the shoreline is defined as the location that appears as the interface between the water and the land at the time the photo was acquired. Differences in soil color, vegetation or other indicators are used to distinguish the features on each photo. Once each feature is digitized, the Digital Shoreline Analysis System (DSAS) software is used to measure the location of each digitized feature along transect lines spaced at 10-meter intervals along the shoreline. The data presented here shows recession data which have been spatially averaged along 300-foot sections of coast. The data shown on this data viewer therefore represents average recession over a distance wider than a typical single lot, parcel, or shoreline frontage, and not at a specific parcel or location on the coast.

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

Measurement Uncertainty

Uncertainty is inherent in any measurement. Errors during the digitization process of coastal features are the primary source of uncertainty for these bluff recession measurements. The most important sources of uncertainty during the digitization process are georeferencing errors of older photographs, photo resolution and/or quality, and visual obstruction of features in photos (i.e., dense forests concealing the bluff crest). Approximate uncertainty in the long-term recession distances is ±4 feet (±0.07 ft/year for recession rate) and in the short-term recession distances ±2 feet (±0.1 ft/yr for recession rate). Uncertainty values may be higher in some areas that suffer from image quality issues.

Funding

Funded by the Wisconsin Coastal Management Program and the National Oceanic and Atmospheric Administration, Office for Coastal Management under Grant # NA17NOS4730144.

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

Appendix: Metadata

Dataset Title	Southeastern Wisconsin 2015 Shoreline Position
Dataset Reference Date	1/4/2019
Dataset Responsible Party	UW-Madison Coastal Sustainability Lab
Geographic location of the dataset	Northernmost Latitude: 43 32' 44" Southernmost Latitude: 42 29' 36" Easternmost Longitude: 87 45' 26" Westernmost Longitude: 87 51' 44"
Dataset language	English
Dataset topic category	Shoreline Lake Michigan Great Lakes Coastal Erosion Environmental Hazard Landform Land Status
Abstract defining the dataset	This dataset contains a digitized shoreline position in 2015 in Kenosha, Racine, Milwaukee, and Ozaukee Counties on Southeastern Wisconsin's Lake Michigan coast. The shoreline is traced in GIS software from vertical aerial photos taken in Spring 2015 by the Southeastern Wisconsin Regional Planning Commission. The position of the shoreline is defined as the wet/dry line visible in photos. Shoreline position in the Great Lakes is highly sensitive to lake level fluctuation, wave conditions, beach material, and beach slope. The shoreline position in this dataset represents one moment in time and may not reflect current shoreline positions.
Update Frequency	Not planned
Spatial representation type	ESRI Shapefile
Reference system	EPSG 3069
Metadata language	English
Metadata point of contact	Chin Wu - chinwu@engr.wisc.edu
Metadata date stamp	

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

Dataset Title	Southeastern Wisconsin Bluff Recession Rates
Dataset Reference Date	1/4/2019
Dataset Responsible Party	UW-Madison Coastal Sustainability Lab
Geographic location of the dataset	Northernmost Latitude: 43 32' 44" Southernmost Latitude: 42 29' 36" Easternmost Longitude: 87 45' 26" Westernmost Longitude: 87 51' 44"
Dataset language	English
Dataset topic category	Bluff Shoreline Lake Michigan Great Lakes Coastal Erosion Environmental Hazard Landform Land Status
Abstract defining the dataset	This dataset contains bluff crest, bluff toe, and shoreline change data in Kenosha, Racine, Milwaukee, and Ozaukee Counties on Wisconsin's Lake Michigan coast. Rates of change are presented for two time periods: 1956-2015 and 1995-2015. Rates are calculated at 10 m intervals from features digitized from leaf-off vertical aerial photos in GIS software and measured using the Digital Shoreline Analysis System. A spatial averaging technique is applied to the dataset to provide data at 100 m intervals along the coast.
Update Frequency	Not planned
Spatial representation type	ESRI Shapefile
Reference system	EPSG 3069
Metadata language	English
Metadata point of contact	Chin Wu - chinwu@engr.wisc.edu
Metadata date stamp	

Attachment: Exhibit B (ORDINANCE 2025-1681 : LM Bluff Structures)

Chapter 16. Zoning

Article III. Zoning Districts

§ 16-8. District 1 - Lake Shore Residence District.

[Amended by Ord. No. 1227; Ord. No. 1343; Ord. No. 1365; Ord. No. 1467; Ord. No. 1685; Ord. No. 1722; Ord. No. 1723; Ord. No. 1724]

A. In District 1, except as in this chapter otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered, or maintained which is arranged, intended or designed to be used except for one or more of the following uses:

(1) Single-family dwellings. Not more than one dwelling shall be located on any lot.

(2) Noncommercial greenhouses, nurseries and gardens.

(3) Accessory.

(a) Uses and buildings accessory to those enumerated above in this subsection, including private garages designed for not more than one motor vehicle for each 2,400 square feet of top land area, but not including any store, trade, professional office, business or industry. However, not exceeding one person may, in a dwelling used as his residence:

[1] Furnish room or table board to no more than two persons.

[2] Carry on a customary home occupation, provided no persons other than members of his own household are employed therein. (Cannot stock materials and cannot create parking problems.)

(b) Improved space is not allowed in accessory buildings or structures, except that one area of up to 220 square feet of improved space on the ground floor of any garage is allowed, provided at least 440 square feet of garage space in the garage is maintained for vehicle parking. In no event may accessory buildings or structures be used for sleeping.

(4) Garage.
[Amended 3-2-2020 by Ord. No. 1862]

(5) Access from the public street or alley or from a private road to each garage required in Subsection **A(4)** above shall be by means of an approved driveway.

(6) Newly constructed driveways shall have a concrete, an asphaltic concrete or an asphaltic penetration surface, free of dust, loose stones or gravel, constructed on an adequate base.

(7) Parking spaces shall have an adequate concrete, asphaltic concrete, asphaltic penetration, or a geogrid with organic ground cover surface, free of dust, loose stones or gravel, constructed on an adequate base.
[Amended 8-5-2019 by Ord. No. 1853; 8-1-2022 by Ord. No. 1892]

(a) The minimum setbacks for an approved parking space shall be as follows:

[1] In Districts 1, 1A, 2 and 3, three feet from side and rear property lines where no alley exists.

[2] In Districts 1, 1A, 2 and 3, five feet from the adjacent alley line.

Attachment: Exhibit C (ORDINANCE 2025-1681 : LM Bluff Structures)

[3] In Districts 1, 1A, 2 and 3, the established setback from the adjacent street property line.

[4] In Districts 4, 4A, 5, 6 and 7, as required under § **16-17**.

(b) The maximum number of vehicles permitted to be parked on an approved parking space in Districts 1, 1A, 2 and 3 shall be two.

(c) A plot plan to a minimum scale of one inch equals 20 feet, showing the location and size of the proposed parking space, the location and dimensions of all buildings and physical features on the premises and the location of buildings immediately adjacent to the parking space shall be submitted to the Building Inspector.

(d) The Building Inspector may refer said plot plan to the Architectural Review Commission for approval or denial if he believes the proposal will have a depreciating effect on the property values of the neighborhood.

(e) The permit fee for construction of the parking space, if approved, shall be as set from time to time by the Village Board.

(8) Parking of vehicles, except on public streets, where not otherwise prohibited or restricted; on approved off-street parking facilities; in garages; on approved driveways or approved parking spaces, is prohibited.

(9) Parking in the public way, except upon the public street where permitted, is prohibited.

(10) Notwithstanding Subsection **A(8)** above, no vehicle except an automobile may be parked in the front setback area of an interior lot, nor between adjacent residences which front on the same street, nor in the side setback area which fronts on a street or a corner lot.

B. In District 1, each lot shall abut either upon a public street or upon the westerly line of said district; shall extend from such public street or the westerly line of District 1 to the shore of Lake Michigan; shall contain at least 9,600 square feet of top land lot area and have an average width from north to south of at least 80 feet for each single-family dwelling erected, altered or maintained thereon. No dwelling shall be erected, altered or maintained on any lot in District 1 which occupies more than 30% of the top land area of the lot. No building accessory to a dwelling, including garages, shall occupy more than 10% of the top area of the lot. The combined area of the dwelling and all accessory buildings including garages and any satellite earth station shall not exceed 40% of the top land lot area of the lot.

C. Yard minimums; structure maximums.

(1) Each dwelling shall have two side yards each at least three feet in width; in case the height of any building exceeds 25 feet, the required width of the side yards shall be increased 10% for each foot that such dwelling exceeds such height. Dwellings shall have a rear yard of at least 10 feet in depth. No building, when accessory to a dwelling, shall be over 18 feet in height. Subject to the provisions of § **16-35A**, each garage attached or detached, and each accessory building, shall have a minimum side yard of three feet; a detached garage or an accessory building, except where adjacent to alley (see § **16-36**), shall have a minimum rear setback of three feet; an attached garage shall have a minimum rear yard of five feet except when dwelling space or quarters are provided over said garage, in which event a minimum rear yard of 10 feet shall be provided.

(2) The maximum height of single- and two-family residential structures shall be as designated in Article **XVI**, Single-Family and Two-Family Residential Design Guidelines.[1]

[1] *Editor's Note: Original Subsection (3)(c), which immediately followed this subsection, was repealed by Ord. No. 1724.*

D. In the event that the property is on the bluff of Lake Michigan, the following requirements shall also apply:

(1) A registered professional engineer, having a minimum of 10 years of geotechnical experience involving foundation investigation/engineering and shoreline slope stability evaluation, and who is hired by the owner of the lot, shall certify to the Village that the construction of any building and structure(s) proposed to be located within 100 feet of the top edge of the bluff will be safe. Specifically, he shall certify that:

Attachment: Exhibit C (ORDINANCE 2025-1681 : LM Bluff Structures)

(a) The design of any building or structure(s), the method of constructing such buildin structure(s), and the materials used therefor are structurally adequate and will protect the public health and safety;

(b) The proposed building and structure(s) will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites;

(c) The proposed building and structure(s) will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession;

(d) The drainage system will not adversely affect the adjacent and adjoining properties;

(e) There is no danger to the proposed or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.

(2) The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:

(a) Recommendations regarding site preparation, foundation design, lateral earth pressure and support of slabs on grade;

(b) The stability of the slope before, during and after construction;

(c) The effect of the construction on the natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.

(3) The owner of the property shall certify to the Village that he/she is aware of potential problems of lake shore erosion, including but not limited to the possibility of adding fill of various types to stabilize the bluff area, is aware of the requirement for securing of a fill permit from the Village for any such filling, is aware of the provisions of said fill permit ordinance, and is further aware of the potential cost involved.

(4) A memorandum of said certifications, including the legal description of the property, shall be recorded with the Register of Deeds of Milwaukee County.

Attachment: Exhibit C (ORDINANCE 2025-1681 : LM Bluff Structures)

Exhibit D

Chapter 285. Stormwater Management, Erosion Control and Bluff Regulation

Article I. Construction and Cutting on Banks of Ravines and Lake Bluff

§ 285-6. Structure or building at foot of lake bluff or ravine bank.

A. A structure or building may be built at the foot of the lake bluff where the bluff abuts on North Beach Drive or on flat land that abuts on North Beach Drive or a ravine bank.

B. A registered professional engineer retained by the owner of the lot shall certify to the Village that the construction of the proposed building and structure(s) will be safe. The engineer shall have recognized experience and expertise in geotechnical investigations, soil mechanics, and structural and coastal engineering. Specifically, he shall certify that:

(1) The design of any building or structure(s), the method of constructing such building or structure(s), and the materials used therefor are structurally adequate and will protect the public health and safety.

(2) The proposed building and structure(s) will not in any way adversely affect the structural integrity or safety of any building or structure(s) located on adjoining or adjacent sites.

(3) The proposed building and structure(s) will not adversely disturb ravine or bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession, assuring the continued integrity of the ravine or bluff slopes involved.

(4) The drainage system will protect the downhill properties or downstream properties.

(5) There is no danger to the proposed structure or building and its occupants from slippage of the slope above and/or below the proposed structure or building.

C. The engineer shall make a technical report accompanying the certificate which shall include, at a minimum:

(1) Recommendations regarding site preparation, foundation, design, lateral earth pressure, and support of slabs on grade.

(2) The stability of the slope before, during, and after construction.

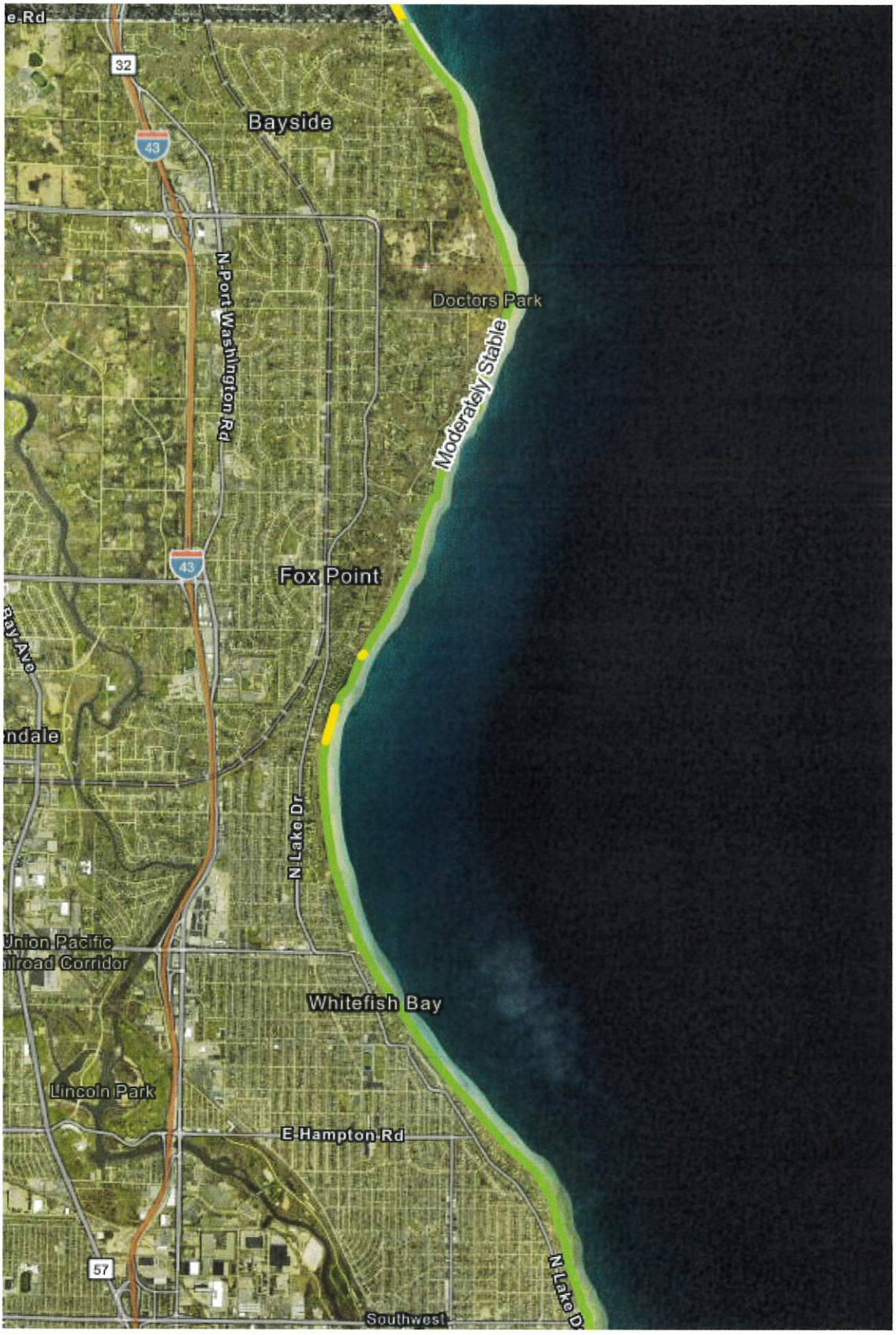
(3) The effect of the construction on the natural drainage in the area, including any measures such as "weepers" which are designed to improve natural drainage in the area.

(4) The effect of the construction on flora and fauna.

D. In addition to the standards contained in Chapter **19**, Article **II**, Building Board, of this Code, no building permit for any structure on the foot of the lake bluff or ravine shall be issued unless it has been found as a fact by the Building Board by at least a majority vote, after a view of the site of the propose structure and an examination of the application papers for a building permit, that the location of the proposed structure will, when erected, not be so at variance with the structures already constructed on the neighboring properties or in the character of the immediate neighborhood as to cause a substantial depreciation in the property values of a neighboring property or of the immediate neighborhood. The Building Board shall give notice of the meeting at which it will consider an application for approval of a building or structure. Such notice shall be given to the applicant and to the owners of properties within 500 feet of the property in question; it shall be in writing and mailed not less than seven days before the day of the meeting. Persons to whom the notice is required to be given may attend the Building Board meeting and be heard.

Attachment: Exhibit D (ORDINANCE 2025-1681 : LM Bluff Structures)

Exhibit E



Attachment: Exhibit E (ORDINANCE 2025-1681 : LM Bluff Structures)

19.03000 SHORELAND-WETLAND DISTRICT

19.03100 DESIGNATION

This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

https://dnrmaps.wi.gov/H5/?viewer=SWDV

01 LOCATING SHORELAND-WETLAND BOUNDARIES

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department of Natural Resources (DNR) to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

19.03200 PURPOSE

This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

19.03300 PERMITTED USES

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31, and 281.36, Wis. Stats., and the provisions of other applicable local, state and federal laws:

01 Activities and uses which do not require the issuance of a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:

(A) Hiking, fishing, trapping, hunting, swimming, and boating.

(B) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.

(C) The pasturing of livestock.

(D) The cultivation of agricultural crops.

(E) The practice of silviculture, including the planting, thinning, and harvesting of timber.

(F) The construction or maintenance of duck blinds.

02 Uses which do not require the issuance of a shoreland permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

(A) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.

(B) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.

(C) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system

Attachment: Exhibit F (ORDINANCE 2025-1681 : LM Bluff Structures)

provided that dredged spoil is placed on existing spoil banks where possible.

(D) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.

(E) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.

(F) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.

03 Uses which require the issuance of a shoreland permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

(A) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:

(01) The road cannot as a practical matter be located outside the wetland.

(02) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 19.03502.

(03) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.

(04) Road construction activities are carried out in the immediate area of the roadbed only.

(B) The construction or maintenance of nonresidential buildings, provided that:

(01) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district.

(02) The building cannot, as a practical matter, be located outside the wetland.

(03) Such building is not designed for human habitation and does not exceed five hundred (500) sq. ft. in floor area.

(04) Only limited filling or excavating necessary to provide structural support for the building is authorized.

(C) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:

(01) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable.

(02) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in s. 19.03303(A).

(03) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

(D) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing

Attachment: Exhibit F (ORDINANCE 2025-1681 : LM Bluff Structures)

heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

(01) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.

(02) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 19.03502.

19.03400 PROHIBITED USES

Any use not listed in ss. 19.03301, 19.03302, or 19.03303 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with s. 19.03500 of this ordinance and ch. 59.69(5)(e), Wis. Stats.

19.03500 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT

01 For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department of Natural Resources (DNR) shall be provided with the following:

(A) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within five (5) days of the filing of such petition with the zoning administrator. Such petition shall include a copy of the Wisconsin Wetland Inventory map describing any proposed rezoning of a shoreland-wetland.

(B) Written notice of the public hearing to be held on a proposed amendment at least ten (10) days prior to such hearing.

(C) A copy of the Natural Resource Committee findings and recommendations on each proposed amendment within ten (10) days after the submission of those findings and recommendations to the county board.

(D) Written notice of the county board decision on the proposed amendment within ten (10) days after it is issued.

02 A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

(A) Storm and flood water storage capacity.

(B) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.

(C) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.

(D) Shoreline protection against soil erosion.

(E) Fish spawning, breeding, nursery or feeding grounds.

(F) Wildlife habitat.

(G) Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in ch. NR 103.04, Wis. Adm. Code, which can be accessed at the following web site: http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf.

03 If the Department of Natural Resources (DNR) notifies the county zoning administrator that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in s. 19.03502 of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

Attachment: Exhibit F (ORDINANCE 2025-1681 : LM Bluff Structures)

“This amendment shall not take effect until more than thirty (30) days have elapsed after written notice of the county board approval of this amendment is mailed to the Department of Natural Resources (DNR). During that thirty (30) day period, the Department may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6), Wis. Stats., adoption procedure is completed or otherwise terminated."

Sec. 58-416. - Building and structure location.

(a) *Purpose and intent.* The purpose and intent of regulating building and structure location is as follows:

(1) To require the provision of a buffer zone between noise-intolerant land uses (e.g. residences, nursing homes, day care centers, schools, churches) and adjacent streets or highways to effectively attenuate noise and buffer such developments from the pollution and hazards attendant to vehicular traffic.

(2) To require the provision of adequate physical separation between uses to minimize conflict.

(3) To allow exposure to optimum amounts of light, air, and ventilation.

(4) To attenuate noise, odors, fumes, and dust generated by land use before they infringe upon adjacent land use.

(5) To provide aesthetic open space of sufficient size to accommodate landscaping and to soften, compliment, and enhance architectural design of buildings, parking areas, loading facilities, and utilities.

(6) To provide adequate area for snow piling.

(7) To insure adequate separation between pedestrian and vehicular circulation.

(8) To promote cluster development and other internally oriented living, shopping and working environments, and to discourage strip development.

(9) To provide adequate area to detain, retain, and facilitate surface drainage.

(10) To protect and preserve the quality and quantity of ground water resources.

(11) To prevent development which may result in unacceptable non-point source pollution.

(12) To provide diversified and balanced growth.

(b) *Base setback line.* The following base setback lines are hereby established parallel to the centerline of all public streets and highways:

(1) For all streets designated as "local streets", the base setback line shall be located 30 feet from the centerline of such street or 75 feet from the center point of a cul-de-sac unless otherwise specifically established by action of the common council.

(2) For all streets and highways, other than those designated as "local" streets, a base setback line shall be located at a distance from the centerline of such street or highway equal to one-half the width of its ultimate right-of-way as established by the common council.

(3) The width of frontage roads shall not be included in the above designated rights-of-way.

(c) *Setbacks.* Unless otherwise specified within an individual zoning district or in accordance with section 58-41, no building or structure shall be erected, constructed, structurally altered, or relocated on a lot closer to the base setback line than the minimum setback distance specified in

Attachment: Exhibit G (ORDINANCE 2025-1681 : LM Bluff Structures)

the established zoning district.

(1) *Frontage roads, service drives and parking areas setback.* Frontage roads, service drives, parking areas, etc., shall be set back a minimum of 25 feet from the adjacent base setback line.

(2) *Setback from Lake Michigan Bluff.* All permanent structures, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff. Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.

(d) *Setback exceptions.*

(1) Additions to existing buildings which lack the required setback may be allowed if either:

a. The addition is set back at a distance greater than or equal to the average of the existing building setback and the required setback; or

b. The addition is set back at a distance at least equal to the building setback and the planning commission determines that the addition will neither impede any likely public improvements nor cause any hardship, inconvenience, or diminution in value to any adjacent properties and further determines that the addition will be harmonious with neighboring properties.

(2) On corner lots, on record as of the effective date of the ordinance from which this section is derived, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet.

Attachment: Exhibit G (ORDINANCE 2025-1681 : LM Bluff Structures)

(e) *Offsets.* The proximity of any portion of a structure to the side or rear lot lines shall be regulated as follows:

(1) Except as specifically otherwise provided by ordinance, no structure shall hereinafter be erected, structurally altered, or relocated so that it is closer to any lot line than the offset distance specified by the regulations for the district in which it is located:

(2) No non-residential structure shall be erected, structurally altered, or relocated on any property so that it is closer to the lot line of a residentially zoned property than the greater of (i) the distance set forth in paragraph (1) or (ii) one times the height of the non-residential structure as deemed pursuant to section 58-418.

(3) Offset exceptions.

a. In the case of any lot of record which has a minimum average width less than that required by the district in which it is located, the offset from a side lot line may be reduced proportionally to the ratio of the actual minimum average width and the required minimum average width (i.e. actual width/required width) provided, however, that no offset shall in any case be less than 75 percent of the required offset.

b. Where a lot abuts a district boundary line, the offset from such line in the district of less restrictive use shall not be less than that required for the district of more restrictive use.

c. The required offset area on one property may be reduced if the offset area on the adjoining property is increased by deed restriction to include the required offset area plus the equivalent amount of offset area resulting from the adjacent reduction.

d. In the case of attached single-family, row, multiple-family, commercial, or industrial use structures, two or more buildings on adjoining lots may be erected with common or directly adjoining walls provided the requirements of the state industrial code relative to such construction are complied with and provided that at both ends of such row type buildings the applicable offset requirements shall be complied with.

e. Structures that are specifically Structures that are specifically excluded from offset regulations by ordinance including those structures excluded by section 58-419 are not subject to subsection (e).

f. Garages allowed as accessory uses to residences are subject to subsection (e)(1) but not subsection (e)(2) or (e)(3).

(4) Any required offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse, and shall not be used for the storage or display of equipment, products, vehicles, or any other material.

(f) *Driveway offsets.* Residential driveways shall be located no closer than three feet to a side or rear property line unless written approval is granted by the adjacent property owner.

Attachment: Exhibit G (ORDINANCE 2025-1681 : LM Bluff Structures)

(Code 1957, § 3.03(5); Ord. No. 96-878, 5-14-1996; Ord. No. 96-890, 6-25-1996; Ord. No. 2003-1065, § I, 4-8-2003; Ord. No. 2008-1238, § I, 4-8-2008; Ord. No. 2016-1488, § I(Att.), 1-10-2017)

Attachment: Exhibit G (ORDINANCE 2025-1681 : LM Bluff Structures)

Exhibit H

58-416 (c)

Setbacks. Unless otherwise specified within an individual zoning district or in accordance with section 58-41, no building or structure shall be erected, constructed, structurally altered, or relocated on a lot closer to the base setback line than the minimum setback distance specified in the established zoning district.

(1)

Frontage roads, service drives and parking areas setback. Frontage roads, service drives, parking areas, etc., shall be set back a minimum of 25 feet from the adjacent base setback line.

(2)

Setback from Lake Michigan Bluff. All permanent structures, except as listed below, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.

Structures to gain access to Lake Michigan shall be permitted subject to the following conditions:

1. The structure shall be limited to 5 feet in width and the following height restrictions shall apply:
    a. Four (4) feet six (6) inches measured vertically from the structure's walking surface to the top of the structure.
    b. Fifteen (15) feet measured vertically from the walking surface to grade.
2. A building permit from the department of community development shall be obtained.
3. A survey shall be provided with the building permit and shall include the ordinary high-water mark (OHWM).
4. Structures shall comply with required side yard offsets of the city base zoning district. Structures and any component of the structures, whether above or below grade, including but not limited to cables, anchors, supports, are not eligible for the offset exemptions of Sec. 58-416.
5. Regulations of Chapter 84 shall be met.
6. Structure shall comply with all other applicable municipal codes and state or federal regulations.
7. Property owners shall certify to the city their awareness of potential problems of lake shore erosion, including but not limited to, the possibility of adding fill of various types to stabilize the bluff area, the requirement for securing of a fill permit from the city engineering department for any such filling, the provisions of said fill permit ordinance, and the potential cost incurred. A

Attachment: Exhibit H (ORDINANCE 2025-1681 : LM Bluff Structures)

memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.

8. A registered professional engineer, board certified by the American Society of Civil Engineers, in geotechnical engineering (CPEGE), who is hired by the owner of the lot, shall certify to the City that the construction of any proposed structure located within 75 feet of the top edge of the bluff will be safe. Specifically, the professional engineer shall certify that:
    a. The design of any structure, the method of constructing such structure, and the materials used therefore are structurally adequate and will protect public health and safety.
    b. The proposed structure will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites.
    c. The proposed structure will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession on the subject site or adjoining or adjacent site.
    d. The drainage system will not adversely affect the adjacent and adjoining properties.
    e. There is no danger to the proposed structure or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.
    f. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.
    g. The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:
        i. Recommendations regarding site preparation, foundation design, lateral earth pressure and support of the structure.
        ii. The stability of the slope before, during and after construction.
        iii. The effect of the construction on natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.
9. Property owner shall maintain the structure to avoid becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the City a repair or replacement plan within 60 days of being notified of being in noncompliance.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff. Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.

Greg Golden

From: David Bialk
Sent: Wednesday, February 19, 2025 11:15 AM
To: Greg Golden
Subject: RE: Lake Michigan Bluff Text Amendment

I don't have any concerns, but if someone is injured at the bottom of the bluff, and needs to be carried up, it will take time.

Fire Chief David L Bialk
Southern Ozaukee Fire and EMS
11300 N Buntrock Ave.
Mequon, WI 53092
dbialk@sofdwi.gov
262-242-2530

Integrity • Trust • Empathy • Grit • Excellence • Stewardship

From: Greg Golden <GGolden@cityofmequonwi.gov>
Sent: Wednesday, February 19, 2025 10:58 AM
To: David Bialk <dbialk@sofdwi.gov>
Cc: Brian Sajdak <brian@wrslegal.net>; Kimberly Tollefson <KTollefson@cityofmequonwi.gov>; Cole McCraw <CMcCraw@cityofmequonwi.gov>; Chris Butschke <cbutschke@cityofmequonwi.gov>; Jac Zader <JZader@cityofmequonwi.gov>
Subject: RE: Lake Michigan Bluff Text Amendment

Morning Chief,

The Committee Of The Whole (COTW) asked staff to investigate permitting a way for homeowners who own property along Lake Michigan to have access to the lake. The text amendment is a proposal to change the language (or amend the text) of the Mequon Code of Ordinances to allow this. One of the directives of the COTW was to get input from SOFD with any concerns they might have with allowing structures to be built on the bluff to access the lake from an EMS point of view. Please let me know if you have any concerns regarding the permitting of structures on the bluff to access Lake Michigan from an EMS point of view so that I may put them in my staff report. Thanks so much.

Respectfully,

Greg Golden
Building Inspections Supervisor
City of Mequon
Master Electrician
11333 N. Cedarburg Rd. | Mequon, WI 53092
262-236-2921 | ggolden@cityofmequonwi.gov
Central Scheduling: (262)236-2930

Attachment: Exhibit I (ORDINANCE 2025-1681 : LM Bluff Structures)

Greg Golden

From: Mark Riley
Sent: Wednesday, February 19, 2025 2:03 PM
To: Greg Golden
Subject: RE: Lake Michigan Bluff Text Amendment

Thanks Greg,

I do not see an issue with the regulations. Thanks for including us.

Mark Riley
Police Chief
Mequon Police Department
11300 N. Buntrock Ave. | Mequon, WI 53092
262-242-3500 | mriley@ci.mequon.wi.us
City Website | Staff Directory

From: Greg Golden <GGolden@cityofmequonwi.gov>
Sent: Wednesday, February 19, 2025 1:24 PM
To: Mark Riley <MRiley@cityofmequonwi.gov>
Subject: FW: Lake Michigan Bluff Text Amendment

Good Afternoon, Chief,

I had sent the below email out to several groups among the City and when corresponding with the Fire Chief, I realized I probably should have included you in the email chain. I apologize for that. Please take a few moments to read and let me know if you have any concerns from a policing standpoint that I should include in my staff report.

Thanks!

Greg Golden
Building Inspections Supervisor
City of Mequon
Master Electrician
11333 N. Cedarburg Rd. | Mequon, WI 53092
262-236-2921 | ggolden@cityofmequonwi.gov
Central Scheduling: (262)236-2930

Please Note: The City of Mequon is transitioning its website and email addresses to cityofmequonwi.gov. Emails sent to/from the City's prior ci.mequon.wi.us addresses will forward to the new cityofmequonwi.gov domain through January 31, 2026. Please update your records accordingly.

From: Greg Golden
Sent: Tuesday, February 18, 2025 2:30 PM
To: Brian Sajdak <brian@wrslegal.net>; David Bialk <dbialk@sofdwi.gov>; Cole McCraw

Attachment: Exhibit I (ORDINANCE 2025-1681 : LM Bluff Structures)

Greg Golden

From: Cole McCraw
Sent: Thursday, March 6, 2025 2:23 PM
To: Greg Golden
Subject: RE: Lake Michigan Bluff Text Amendment

Greg,

I don't have any comments on the proposed changes.

Thanks,
Cole

Cole McCraw, PE
Assistant City Engineer
City of Mequon
11333 N. Cedarburg Rd. | Mequon, WI 53092
262-236-2957 | cmccraw@cityofmequonwi.gov
City Website | Facebook

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From: Greg Golden <GGolden@cityofmequonwi.gov>
Sent: Wednesday, March 5, 2025 8:07 AM
To: Cole McCraw <CMcCraw@cityofmequonwi.gov>
Subject: Lake Michigan Bluff Text Amendment

Cole, welcome back. Please have a look at this and let me know if engineering has any issues. Your response will be added as an attachment to the memo going to PC on the 17th. Please have a response to me by tomorrow, 3-6-25 (my memo is due next Tuesday). This is a little different than the draft I sent you before you left.

Thanks

Greg Golden
Building Inspections Supervisor
City of Mequon
Master Electrician
11333 N. Cedarburg Rd. | Mequon, WI 53092
262-236-2921 | ggolden@cityofmequonwi.gov
Central Scheduling: (262)236-2930

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Attachment: Exhibit I (ORDINANCE 2025-1681 : LM Bluff Structures)

Private Office:
Wesolowski, Reidenbach & Sajdak, S.C.
11402 W. Church St.
Franklin, WI 53132
(414) 529-8900

www.ci.mequon.wi.us

Office of the City Attorney

M E M O R A N D U M

TO: Planning Commission

FROM: Brian C. Sajdak, City Attorney

DATE: April 15, 2025

RE: City Liability for Issuing Building Permits

Attachment: Exhibit J (ORDINANCE 2025-1681 : LM Bluff Structures)

Background

As part of the consideration of the code amendment to allow certain structures on the Lake Michigan bluff, a question was raised as to whether the City would have any liability for any damage caused by the structures placed on the bluff under this code amendment. In my opinion, there would be no liability in this circumstance.

Discussion

In Wisconsin, municipal liability is addressed in section 893.80 of the Statutes:

> No suit may be brought against any . . . political corporation, governmental subdivision or any agency thereof for the intentional torts of its officers, officials, agents or employees nor may any suit be brought against such corporation, subdivision or agency . . . or against its officers, officials, agents or employees for acts done in the exercise of legislative, quasi-legislative, judicial or quasi-judicial functions.

Wis. Stat. § 893.80(4). The phrase "legislative, quasi-legislative, judicial, or quasi-judicial functions" "have been collectively interpreted to include any act that involves the exercise of discretion and judgment." Lodl v. Progressive N. Ins. Co., 2002 WI 71, ¶ 21, 253 Wis.2d 323, 646 N.W.2d 314. Thus, the statute provides immunity from liability for those acts which are involve the exercise of discretion. "[T]he purpose of this discretionary immunity was to insulate legislative policy decisions from judicial examination. We reasoned that the tort process was an "inadequate crucible" for testing the merits of choices made in the political arena." Est. of Lyons v. CNA Ins. Companies, 207 Wis. 2d 446, 453, 558 N.W.2d 658, 661 (Ct. App. 1996)(quoting Gordon v. Milwaukee County, 125 Wis.2d 62, 65–66, 370 N.W.2d 803, 805 (Ct.App.1985)).

In this case, the decision to allow for structures on the Lake Michigan bluff is a legislative decision immune from tort liability. "Both the power to zone and the power to veto a zoning change represent legislative functions." Willow Creek Ranch, L.L.C. v. Town of Shelby, 2000 WI 56, ¶ 41, 235 Wis. 2d 409, 431, 611 N.W.2d 693, 703. See, also, Schmeling v. Phelps, 212 Wis. 2d 898, 911-12, 569 N.W.2d 784 (Ct. App. 1997)("Zoning actions, however, because they affect the *property rights of specific individuals*, have traditionally been treated differently than general municipal legislation under both statute and case law."(emphasis added)); Dyersville Ready Mix

Inc. D/B/A BARD Materials v. Iowa Cnty. Bd. of Supervisors, *et al.*, No. 2024AP1091, 2025 WL 1078289, at ¶¶ 57–59 (Wis. Ct. App. Apr. 10, 2025)(Citing Schmeling in finding a difference between judicial review of zoning actions as applied to the approval/denial for specific property requests versus general legislative actions). As the Supreme Court noted in Willow Creek Ranch:

> Decisions to enforce a zoning ordinance and to veto zoning changes represent legislative acts. Quinn v. Town of Dodgeville, 122 Wis.2d 570, 578, 364 N.W.2d 149 (1985). Thus, they are discretionary decisions subject to the immunity provisions. Beres v. City of New Berlin, 34 Wis.2d 229, 232, 148 N.W.2d 653 (1967). . . . Willow Creek concedes that the decision to enact a zoning ordinance represents a discretionary act.

Willow Creek Ranch at ¶ 28. The Court continued:

> Judicial review of legislative functions is limited to cases in which the authority acted in excess of its power or under error of law. Buhler v. Racine County, 33 Wis.2d 137, 146, 146 N.W.2d 403 (1966). Although this court may debate the wisdom or the desirability of a particular zoning decision, we are constrained from substituting our judgment for that of the zoning authority. Bessent, 27 Wis.2d at 546, 135 N.W.2d 317. This rule applies not only to decisions as to the necessity of zoning but also to decisions as to the determination of whether a change in circumstances justifies rezoning. Buhler, 33 Wis.2d at 147, 146 N.W.2d 403.

Willow Creek Ranch at ¶ 41. Thus, a municipality is immune from liability for legislatively enacting a zoning ordinance, such as the ordinance now under consideration to allow structures on the bluff.

This conclusion is further supported by the general rules related to building permits. “Generally, the grant or refusal of building permits is considered a discretionary or a governmental function for which a municipality is traditionally held not liable for damages.” Nature and purpose—Municipal immunity, 9A McQuillin Mun. Corp. § 26:218 (3d ed.). “The issuance of a building permit is not an official action by which a local government implicitly approves a builder's plans to erect a structure of the type and at the place approved.” Compliance with requirements, 9A McQuillin Mun. Corp. § 26:227 (3d ed.). “The issuance of a building permit is not an official action by which a local government implicitly approves a builder's plans to erect a structure of the type and at the place approved. Building permits and building code inspections only authorize construction to proceed. They do not guarantee that all provisions of all applicable codes have been complied with.” Nature and purpose—Municipal immunity, 9A McQuillin Mun. Corp. § 26:218 (3d ed.). Thus, there is in general no liability simply by the issuance of a building permit.

Attachment: Exhibit J (ORDINANCE 2025-1681 : LM Bluff Structures)

Exhibit K

58-416 (c)

Setbacks. Unless otherwise specified within an individual zoning district or in accordance with section 58-41, no building or structure shall be erected, constructed, structurally altered, or relocated on a lot closer to the base setback line than the minimum setback distance specified in the established zoning district.

(1)

Frontage roads, service drives and parking areas setback. Frontage roads, service drives, parking areas, etc., shall be set back a minimum of 25 feet from the adjacent base setback line.

(2)

Setback from Lake Michigan Bluff. All permanent structures, except as listed below, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.

Structures to gain access to Lake Michigan shall be permitted subject to the following conditions:

1. The structure shall be limited to 5 feet in width and the following height restrictions shall apply:
    a. Four (4) feet six (6) inches measured vertically from the structure's walking surface to the top of the structure.
    b. Fifteen (15) feet measured vertically from the walking surface to grade.
2. A building permit from the department of community development shall be obtained.
3. A survey shall be provided with the building permit and shall include the ordinary high-water mark (OHWM).
4. Structures shall comply with required side yard offsets of the city base zoning district. Structures and any component of the structures, whether above or below grade, including but not limited to cables, anchors, supports, are not eligible for the offset exemptions of Sec. 58-416.
5. Regulations of Chapter 84 shall be met.
6. Structure shall comply with all other applicable municipal codes and state or federal regulations.
7. Property owners shall certify to the city their awareness of potential problems of lake shore erosion, including but not limited to, the possibility of adding fill of various types to stabilize

Attachment: Exhibit K (ORDINANCE 2025-1681 : LM Bluff Structures)

the bluff area, the requirement for securing of a fill permit from the city engineering department for any such filling, the provisions of said fill permit ordinance, and the potential cost incurred. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.

8. A registered professional engineer, board certified by the American Society of Civil Engineers, in geotechnical engineering (CPEGE), who is hired by the owner of the lot, shall certify to the City that the construction of any proposed structure located within 75 feet of the top edge of the bluff will be safe. Specifically, the professional engineer shall certify that:
    a. The design of any structure, the method of constructing such structure, and the materials used therefore are structurally adequate and will protect public health and safety.
    b. The proposed structure will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites.
    c. The proposed structure will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession on the subject site or adjoining or adjacent site.
    d. The drainage system will not adversely affect the adjacent and adjoining properties.
    e. There is no danger to the proposed structure or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.
    f. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.
    g. The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:
        i. Recommendations regarding site preparation, foundation design, lateral earth pressure and support of the structure.
        ii. The stability of the slope before, during and after construction.
        iii. The effect of the construction on natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.
9. Property owner shall maintain the structure to avoid becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the City a repair or replacement plan within 60 days of being notified of being in noncompliance.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff. Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its

Attachment: Exhibit K (ORDINANCE 2025-1681 : LM Bluff Structures)

agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.

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11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone: 262-236-2902
Fax: 262-242-9655
www.cityofmequonwi.gov
Office of Community Development

TO: **Common Council**
FROM: **Natalie Redding, City Planner**
DATE: **May 13, 2025**
SUBJECT: **ORDINANCE 2025-1682 An Ordinance Amending the Following within Chapter 58 of the Mequon Municipal Code, in Connection with Planned Improvements for the Property Located at 10806 West Freistadt Road: A) The City's Land Use Plan Map from Neighborhood Commercial to Residential 1-1.5 Acres; and B) the City's Zoning Map from B-1 (Neighborhood Commercial) to R-4 (Residential 3/4 Acre)**

Background

The owner, Kenton Jacek, is requesting a rezoning approval and a land use plan amendment for the property located at 10806 W Freistadt Road. The applicant is seeking to rezone the parcel from B-1 (Neighborhood Commercial) to R-4 (Residential 3/4 Acre) and to amend the City's Land Use Plan from Neighborhood Commercial to Residential 1-1.5 acres. The site currently contains a single-family home that was constructed in 1860. The applicant would like to make improvements to the home but is limited to 50% of its value because the use is non-conforming.

Analysis

The parcel has a total acreage of 0.45, a lot width of roughly 113 feet and a lot length of roughly 175 feet. The existing house is setback 50 feet from Freistadt Road and is slightly closer to the side lot lines than the B-1 and R-4 offsets require. The parcel does not meet the standards of its current B-1 zoning designation. Both the use and the lot are nonconforming. The following chart conveys the rezoning of the parcel to residential would bring the lot slightly closer into compliance, and would allow the current and continuation of residential use to conform with the proposed zoning district.

	B-1 District Standard	**R-4 District Standard**	**Existing Conditions**
Minimum Lot Size	1.5 acre minimum	0.75 acre minimum	0.45 acres
Minimum Average Lot Width & Length	150 feet	130 feet	113 feet width, 175 feet length
Setback from Local Streets	60 feet	50 feet	50 feet
Minimum Building Offset	20 feet	20 feet	19 feet from west property line, 14 feet

			from east, 60 feet from north

Fiscal Impact
The proposed rezoning and land use plan map amendment are fiscally neutral.

Recommendation
The Planning Commission recommended approval of the proposed rezoning and land use plan map amendment by a vote of 8-0 on April 21, 2025.

Attachments:
Land Use Plan Map (PDF)
Zoning Map (PDF)
Property Survey (PDF)
Project Narrative (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2025-1682

An Ordinance Amending the Following within Chapter 58 of the Mequon Municipal Code, in Connection with Planned Improvements for the Property Located at 10806 West Freistadt Road: A) The City's Land Use Plan Map from Neighborhood Commercial to Residential 1-1.5 Acres; and B) the City's Zoning Map from B-1 (Neighborhood Commercial) to R-4 (Residential 3/4 Acre)

RECITALS

A. Pursuant to Section 62.23 of the Wisconsin Statues, the City of Mequon is authorized to prepare and adopt a comprehensive plan, or amendment thereof, and to establish zoning districts based upon such comprehensive plan.

B. The owner of the property located at 10806 West Freistadt Road has filed an application to rezone the property from its current zoning of B-1 (Neighborhood Commercial) to R-4 (Single-Family ¾ Acre) for the full parcel.

C. The Planning Commission, by majority vote, adopted a recommendation to approve the rezoning request on the 21st day of April 2025.

D. The Common Council held a public hearing on the proposed changes to the City's Comprehensive Land Use Plan Map and the City's Zoning Map on June 10, 2025.

E. Based upon the Planning Commission's recommendation, the input received at the public hearing and the materials contained within the agenda packet, the Common Council has determined that amendments to the City's Zoning Map and Comprehensive Land Use Plan Map within Chapter 58 of the Mequon Municipal Code, are appropriate.

F. The appropriate zoning of lands within the City furthers the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

1. The City of Mequon Comprehensive Land Use Plan Map, attached hereto as Exhibit A, is hereby amended to designate the entire property as "Residential 1 - 1.5 Acres".

2. The City of Mequon Zoning Map, attached hereto as Exhibit B, is hereby amended to change the zoning classification for the entire property to R-4 (Residential 3/4 Acre).

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All other ordinances or parts of ordinances contravening the terms of this ordinance are hereby and to that extent repealed.

SECTION IV

This ordinance shall take effect and be in full force upon its passage and the day after its publication.

_____
Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

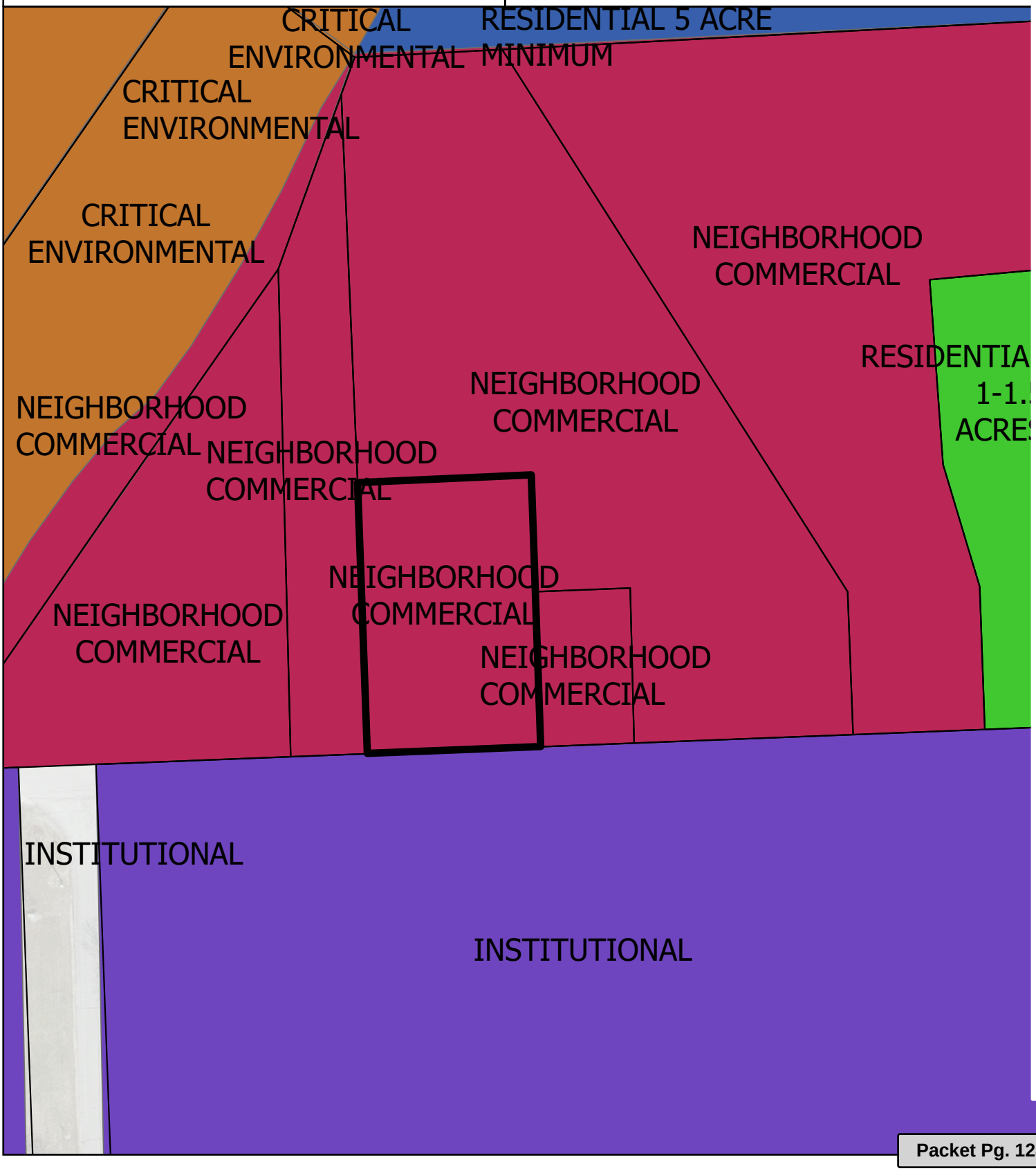
I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____
Caroline Fochs, City Clerk

Published: _____

JACEK LAND USE PLAN AMENDMENT (EXHIBIT A)

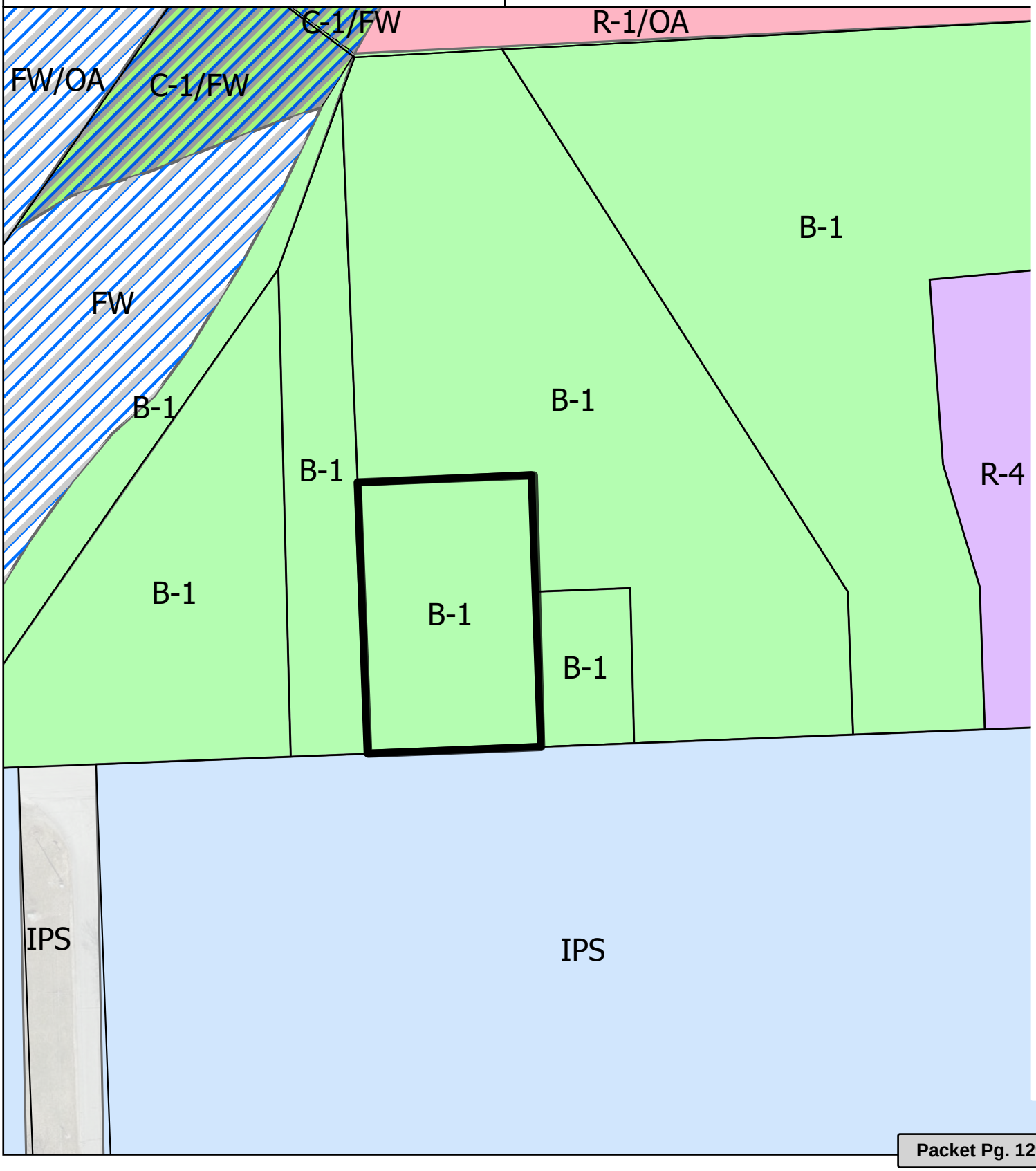
AC	Arrival Corridor	IPS	Institutional & Public Service
A-1	Agricultural Preserve	NC	Neighborhood Commercial
A-2	General Agricultural	OA	Agricultural Overlay
B-1	Neighborhood Business	PUD	Planned Unit Development Overlay
B-2	Community Business	P-1	Park & Recreation
B-3	Office & Service Business	R-1	Single-Family Residential (5 Ac. Min.)
B-4	Business Park	R-1B	Single-Family Residential (2.5 Ac. Min.)
B-5	Light Industrial	R-2	Single-Family Residential (2 Ac. Min.)
B-6	Rural Industrial	R-2B	Single-Family Residential (1.5 Ac. Min.)
B-7	Rural Business	R-3	Single-Family Residential (1 Ac. Min.)
C-1	Shoreland/Wetland Conservancy	R-4	Single-Family Residential (3/4 Ac. Min.)
C-2	General Conservancy	R-5	Single-Family Residential (1/2 Ac. Min.)
CGO	Central Growth Overlay	R-6	Single-Family Residential (4 DU/Ac.)
FFO	Flood Fringe Overlay	RM	Multi-Family Residential
FW	Floodway	TC	Town Center
IPS	Institutional & Public Service	TDR	Transfer of Development Rights



Attachment: Land Use Plan Map (ORDINANCE 2025-1682 : Rezoning Jacek 10806 W Freistadt Rd)

JACEK REZONING (EXHIBIT B)

AC	Arrival Corridor	IPS	Institutional & Public Service
A-1	Agricultural Preserve	NC	Neighborhood Commercial
A-2	General Agricultural	OA	Agricultural Overlay
B-1	Neighborhood Business	PUD	Planned Unit Development Overlay
B-2	Community Business	P-1	Park & Recreation
B-3	Office & Service Business	R-1	Single-Family Residential (5 Ac. Min.)
B-4	Business Park	R-1B	Single-Family Residential (2.5 Ac. Min.)
B-5	Light Industrial	R-2	Single-Family Residential (2 Ac. Min.)
B-6	Rural Industrial	R-2B	Single-Family Residential (1.5 Ac. Min.)
B-7	Rural Business	R-3	Single-Family Residential (1 Ac. Min.)
C-1	Shoreland/Wetland Conservancy	R-4	Single-Family Residential (3/4 Ac. Min.)
C-2	General Conservancy	R-5	Single-Family Residential (1/2 Ac. Min.)
CGO	Central Growth Overlay	R-6	Single-Family Residential (4 DU/Ac.)
FFO	Flood Fringe Overlay	RM	Multi-Family Residential
FW	Floodway	TC	Town Center
IPS	Institutional & Public Service	TDR	Transfer of Development Rights



Attachment: Zoning Map (ORDINANCE 2025-1682 : Rezoning Jacek 10806 W Freistadt Rd)

PLAT OF SURVEY

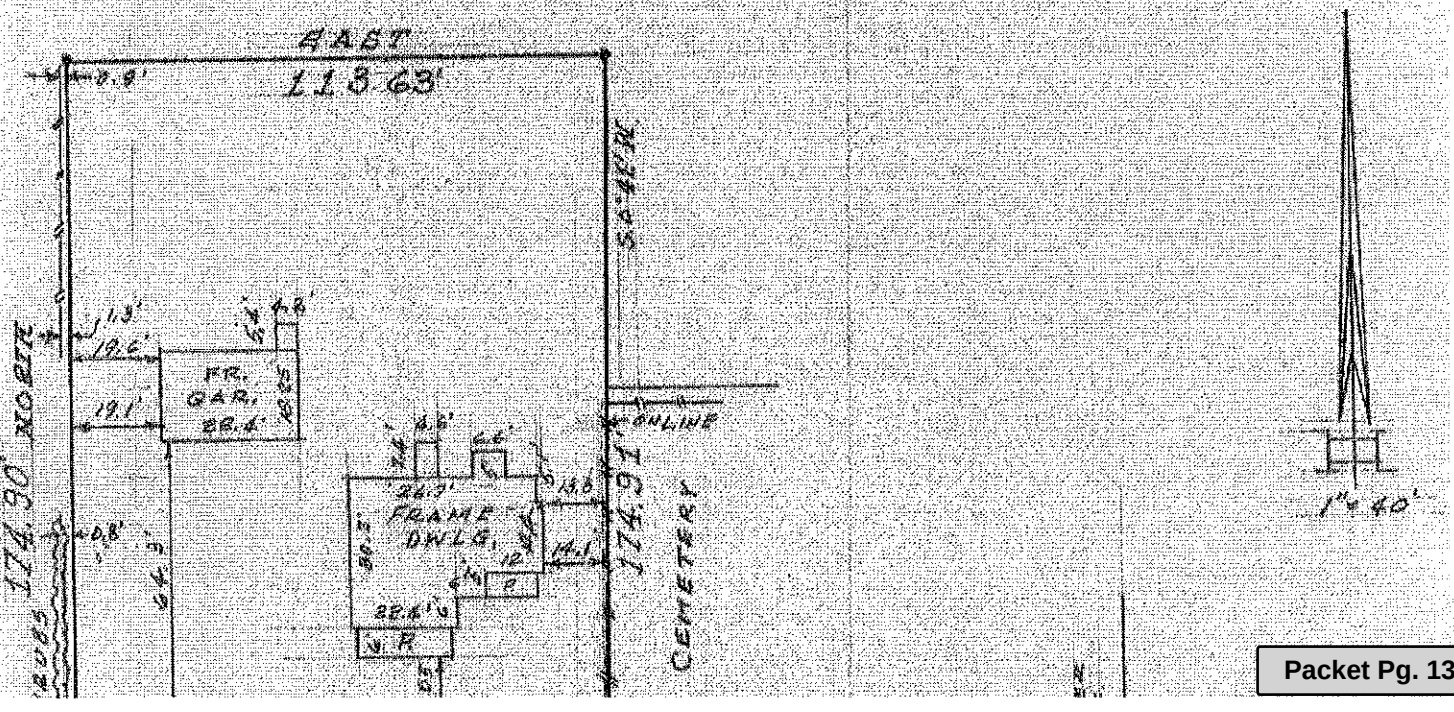
BADGER SURVEYING CO., INC.

7970 NORTH 47TH ST. BROWN DEER, WISCONSIN 53223
PHONE 354-9080

CLARENCE H. PIEPENBURG, PRESIDENT
REGISTERED LAND SURVEYOR

PROPERTY AT _____ OWNE

LEGAL DESCRIPTION — That part of the South East 1/4 of Section 18, Township North, Range 21 East, in the City of Mequon, Ozaukee County, Wisconsin, boun and described as follows: Commencing at the southeast corner of said 1/4 Section; thence West along the south line of said 1/4 Section 374.88 feet to the point of beginning of the land to be described; thence continuing West a the south line of said 1/4 Section 111.54 feet to a point; thence North on a line at right angles to the South line of said 1/4 Section 174.90 feet to a point; thence East on a line parallel to the south line of said 1/4 Section 113.63 feet to a point; thence S.0° 41'W. along a fence line and its norther and southerly extensions 174.91 feet to the point of beginning, containing 0.452 acres of land, and reserving the south 33.00 feet for public road purposes.



Attachment: Property Survey (ORDINANCE 2025-1682 : Rezoning Jacek 10806 W Freistadt Rd)

Project Description and Business Operations:
Our land is currently zoned as B-1 (Business), however, it is being used as a residential property and has been used as such for several years. The previous owners, Diana and Neal Boehlke, also used the home as a residential property in the late 1980s until I bought the home in 2018. Since purchasing the home, we have been taxed as a residential property. We have also not operated a business out of our home.

I am requesting to have it rezoned as residential so my wife and I can make updates to the property. At the present time, we would like to add an additional bathroom and finish off an unfinished space on the second floor so it becomes a legal third bedroom. We also plan to make necessary updates to the electrical and plumbing systems, as well as add fire blocker, to bring the home up to code and make it safer for our family.

The proposed changes will not include any changes to the appearance of the front of our home. Depending on build code, we may be required to add an additional window in the third bedroom so it has enough light to square footage, which would slightly alter the appearance of the back of our home. This would not impact any of the businesses or homes around us. We do not plan to make any updates to the landscaping, garage, or other areas of the home.

Basic for Request:
We are requesting this rezoning be granted for reasons related to public safety, public interest, and the general welfare of our family.

1. As I mentioned above, the house has been used and taxed as a residential property for several years. My wife and I would like to make the proposed updates to improve the current floor plan of the house to make it more livable and safe for our family. (i.e add fire blocker, update the electrical, etc).
2. This rezoning will also help us secure the bank funding we need to make the updates. As it stands, the appraisal for the bank cannot be completed because the parcel is zoned as business. Two appraisers have refused to complete the appraisal as our home is set up/being used as a residential property. This is preventing us from securing funding to make our home safer.
3. We also believe that rezoning the property would allow us to financially contribute to our community. We have chosen to use a local bank for funding and a local contractor for our renovation. We appreciate the opportunity to use this project to support local businesses.
4. Rezoning our property would not be a detriment to the businesses around us. We do not wish to open a business on our property and the proposed updates will not change the flow of traffic, appearance of our home, increase the noise level, etc.

Overall, we do not wish to leave Mequon as we value the community and town. Allowing us to rezone our property to a residential property would allow us to improve the quality of our home and continue to raise our daughter in a community we love.

Attachment: Project Narrative (ORDINANCE 2025-1682 : Rezoning Jacek 10806 W Freistadt Rd)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-242-3100
Fax: 262-242-9655
www.cityofmequonwi.gov
Office of City Attorney

TO: **Common Council**
FROM: **Brian Sajdak, City Attorney**
DATE: **May 13, 2025**
SUBJECT: **RESOLUTION 4208 A Resolution Approving an Agreement for Legal Services with Stafford Rosenbaum LLP of Madison, Wisconsin for the Period June 1, 2025 - December 31, 2025**

Background

Section 62.09 of the Wisconsin Statutes creates the office of city attorney for all Wisconsin cities. Brian C. Sajdak, as a member of Wesolowski, Reidenbach & Sajdak, S.C., has served as Mequon's City Attorney since 2014. As part of the City's efforts to periodically review its outside professional services, the City conducted an RFP process in 2022 which resulted in the continued engagement of Mr. Sajdak under a three-year agreement, which expires at the end of this year.

Recently, City Attorney Sajdak announced that he was moving his legal practice to Stafford Rosenbaum LLP effective June 1, 2025. The resolution before the Council transfers the existing engagement from Mr. Sajdak's prior firm to his new firm.

Analysis

Mr. Sajdak will be moving to Stafford Rosenbaum, one of the preeminent full-service law firms in Wisconsin, with roots tracing back to 1879. Headquartered in Madison, the firm expanded to the Milwaukee market in 2007. Boasting twenty practice areas, Stafford provides legal counsel to well over fifty local governmental entities in areas that include government and administration, real estate (including land use, zoning, and development), environmental, public utilities, public construction, litigation, and labor/employment legal matters. All told, this move will provide not only greater bandwidth to handle the same legal matters City Attorney Sajdak is handling for the City, but it will also provide legal support in those areas where there might otherwise be the need to refer to outside counsel.

Notwithstanding the level of service Stafford will provide, their hourly rates (as reflected in the attached agreement) are highly competitive with other firms who specialize in local government representation. In a comparison of all of the cities and villages in five county Milwaukee-Metro area (Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties) conducted last summer, rates ranged from $180/hour to $345/hour, with an average around $225/hour. Additionally, aside from the Wesolowski firm, there are only five other firms who have some fixed-rate component to their fee, although most of them also have municipal clients who are on a traditional hourly-rate agreement as well. More recently, the Villages of Germantown and Newburg each completed an RFP process within the last few months. Proposals received by both communities included a range of rates depending on the nature of the work and who was

completing it, including general legal rates of $225/hour to $264/hour and specialized rates such as development/tax increment rates as high as $366/hour.

To date, the Council has not had any discussion related to the future of the existing legal services engagement (i.e., whether the Council intends to simply renew as was done in 2017, or if there is a desire to do a new RFP like 2022). The current engagement agreement provides for a flat monthly fee plus an hourly rate for "non-standard" services. Historically, there have been few instances where "non-standard" services were utilized. It also provides for a mutual 60-day termination provision. Recognizing these factors, together with the lack of staff remaining at the Wesolowski firm to handle Mequon work, Stafford is committed to easing the transition. Operating under the assumption that the Council's desire would be to renew at the end of the year instead of an RFP, the proposed engagement agreement carries through the flat-rate component of the existing agreement through the end of the year. However, the hourly rates utilized for "non-standard" services would reflect the current Stafford rates (as opposed to the $180 utilized in the current agreement). Without the change to the "non-standard" rates, it is likely that the 60-day termination clause would be exercised. Similarly, the City Attorney and his new firm would request that if the decision will be to conduct an RFP, such decision should be made sooner as opposed to later.

Fiscal Impact

Given the historical limited use of "non-standard" services, there is no immediate fiscal impact to the change. Long term, the rates at Stafford will reflect an increase in overall cost in the legal services budget. On average, the City Attorney has billed 58.6 hours of general legal work a month over the last few years, a number that has remained largely consistent. The current flat rate equates to roughly $120 per hour, which was the firm's current municipal rate in 2022. That rate is now $200 per hour, so an increase starting in 2026 would have been anticipated without the move. Stafford's current general municipal legal services rates ($245 for partners and $210 for associates) will reflect a slightly larger increase than anticipated, although by leveraging associate work, that increase can be mitigated. Additionally, by charging on an hourly basis, it will be easier for the City to pass on costs to developers as provided for in Section 58-44(b) of the Mequon Municipal Code, which will also help mitigate the overall impact on the General Fund budget.

Recommendation

A recommendation is forthcoming from the Finance-Personnel Committee on May 13, 2025.

Attachments:
Mequon Agreement for Legal Services (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 4208

A Resolution Approving an Agreement for Legal Services with Stafford Rosenbaum LLP of Madison, Wisconsin for the Period June 1, 2025 - December 31, 2025

RECITALS

A. Wis. Stat. § 62.09 and Section 2-63(b) of the Mequon Municipal Code calls for the appointment of a City Attorney.

B. Presently, Brian C. Sajdak of Wesolowski, Reidenbach & Sajdak, S.C. serves as the appointed City Attorney under a three-year engagement which was approved in 2022 following a periodic review of the City's legal services.

C. City Attorney Sajdak has announced that he will be moving his practice to Stafford Rosenbaum LLP effective June 1, 2025.

D. The Common Council desires to continue to retain the services of Mr. Sajdak at his new firm.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin that:

1. The Agreement for Legal Services with Stafford Rosenbaum LLP, of Madison, Wisconsin, in the form attached hereto as Exhibit A, is approved subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.

2. The Mayor and the City Clerk are authorized and directed to execute and deliver the same.

_____
Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____
Caroline Fochs, City Clerk

AGREEMENT FOR LEGAL SERVICES
JUNE 1, 2025 - DECEMBER 31, 2025

It is hereby agreed by and between the City of Mequon, Wisconsin, hereinafter referred to as the "City," and the law firm of Stafford Rosenbaum LLP, hereinafter referred to as "City Attorney," as follows:

1. *Term of Agreement.* The term of this Agreement shall commence June 1, 2025 and shall terminate December 31, 2025, subject, however, to the termination provisions of paragraph 5.

2. *Duties and Responsibilities.* Pursuant to Wis. Stat. § 62.09 and § 2-183 of the Mequon Municipal Code, the City hereby retains the City Attorney, and specifically appoints Brian C. Sajdak to hold the office of city attorney, to provide legal advice and representation on contractual, statutory, regulatory, and any other legal matters related to the operation of the City. The City reserves the right to retain, in its discretion, other legal counsel for litigation and other specialized legal matters and City Attorney will offer recommendations concerning the selection of such outside legal counsel.

3. *Compensation.* The City shall pay for legal services as follows:

   A. For routine legal services, as described on the attached Exhibit A, payment shall be in the form of a fixed retainer fee of $7,350 per month.

   B. For non-routine legal services, as described on the attached Exhibit A, on an hourly basis as provided below. City Attorney will notify the City prior to commencing work that is covered by these rates.

Type of Services	Description of Services	Hourly Rates	
Non-Routine Legal Services	See attached Exhibit A.	Partners Associates Paralegals	$320 $260 $155
Specialized Non-Routine Legal Services, including: Litigation, Environmental and Labor and Employment Services	Rates charged for a particular matter will be *determined on a case-by-case basis.*		

   C. Attorney and Client understand and agree that Client utilizes another law firm for labor-related legal services and for code enforcement and municipal prosecution legal services. Attorney shall not have responsibility to provide these services. To the extent that Client requests Attorney to handle or assist with these matters, such work shall constitute non-routine legal services.

Attachment: Mequon Agreement for Legal Services (RESOLUTION 4208 : Engagement of Stafford Rosenbaum)

D. The City shall reimburse the City Attorney for time spent traveling on non-routine City-related business at the hourly rates set forth in Section B above.

E. The City shall reimburse the City Attorney for all expenses the City Attorney incurs in connection with services provided to the City. City Attorney shall seek the City's prior written or verbal approval of expenses expected to exceed $100.

F. By the 10th day of each month, City Attorney should submit an itemized statement to the City that shows the total time worked and the nature of the work performed and the amount due the City Attorney. All City Attorney services will be billed in one-tenth (1/10) hour increments, with a minimum charge of one-tenth hour for telephone calls, correspondence, and conferences. The City shall in most circumstances, pay any amounts due by the end of the month in which such itemized statement is received, but in no event shall payment be made more than 30 days after receipt of such an itemized statement.

4. Reporting and Review. Pursuant to section 2-183 of the Municipal Code:

A. Reports. By the 10th day of each month, City Attorney shall provide written monthly reports report to the city administrator, mayor, and common council detailing the status of all pending and threatened litigation, other than municipal ordinance enforcement prosecutions, in which the city is involved, all outstanding legal opinion requests and all other long-term projects the city attorney is performing.

B. Review. City shall review the performance of the city attorney and provide feedback to the city attorney at least annually. As part of the review process, the city attorney shall prepare and submit an annual work plan.

5. *Conflict of Interest.* The City Attorney will notify the City of any real or potential conflict of interest regarding the City Attorney's representation of the City. The City Attorney may decline or withdraw from representation of the City in a matter as a result of any real or potential conflict of interest.

6. *Limited Liability Law.* City Attorney is registered as a limited liability partnership with the Wisconsin Department of Financial Institutions. In order to operate as a limited liability entity, City Attorney is required by Wisconsin Supreme Court Rule to file an annual registration with the State Bar of Wisconsin, maintain specified minimum levels of insurance and include an appropriate limited liability designation in its name (which is done through the use of "LLP"). City Attorney is also required to explain to the City the significance that operating as a limited liability entity has on City Attorney's responsibility for acts and omissions. As a limited liability partnership, each attorney who will render services to the City may be liable for his or her acts and omissions, as may each attorney who actually supervises and controls that attorney. The firm as an entity may also be liable for the acts and omissions of its attorneys. However, individual attorneys in the firm who have no involvement with a matter are not subject to unlimited personal liability for that matter.

7. *Termination.* Either party, upon written notice to the other, may terminate this Agreement without cause upon the expiration of 60 days from the delivery of such

Attachment: Mequon Agreement for Legal Services (RESOLUTION 4208 : Engagement of Stafford Rosenbaum)

written notice to the other party. In the event the City Attorney is unable to represent the City in any matter as a result of a conflict of interest, the City may terminate this Agreement immediately upon delivery of written notice of termination to the City Attorney. In the event of termination, the City Attorney will be compensated for services rendered and expenses incurred prior to such termination in accordance with the terms set forth above. Wisconsin's Rules of Professional Conduct for Attorneys shall govern any termination of this Agreement.

8. *Return of City Records.* The City Attorney shall return to the City all City Records and files upon termination or expiration of this Agreement.

9. *Non-Assignment.* The City Attorney's rights and obligations under this Agreement are not assignable without the City's prior written consent.

10. *Modification of Agreement.* No modification of this Agreement will be valid unless it is in writing and is duly executed by both parties. The parties further agree that the provisions of this paragraph may not be waived, except as specifically herein set forth.

CITY OF MEQUON

Date _____ _____
Mayor Andrew Nerbun

Date _____ _____
Caroline Fochs, City Clerk

STAFFORD ROSENBAUM LLP

Date _____ _____
, Partner

Attachment: A — Routine and Non-Routine Legal Services

Attachment: Mequon Agreement for Legal Services (RESOLUTION 4208 : Engagement of Stafford Rosenbaum)

ATTACHMENT "A"
Routine and Non-Routine Legal Services

Routine Legal Services shall include:

i. Attendance all at regular meetings of the Common Council, standing committees of the Council, Ethics Board, Board of Review and the Board of Appeals, and such special meetings of these bodies as requested.
ii. Telephone consultation, emails or videoconferences with City officials and City staff.
iii. Review of agendas and hearing notices as requested.
iv. Review of staff reports, resolutions, ordinances and other materials submitted with Common Council meeting packets.
v. Review and direct processing of all claims received by the City.
vi. Review administrative policies and procedures.
vii. Review and approve bidding documents and requests for proposals for City projects.
viii. Review and approve destruction of documents per records retention policy.
ix. Review public records requests referred by records custodians. Review responsive documents when a determination as to disclosure must be made.
x. Review all contracts with third-party providers and other agencies, upon request.
xi. Draft resolutions and ordinances of a routine nature, upon request.
xii. Draft correspondence and legal opinions regarding the above matters, upon request.
xiii. Render general oral and written legal advice to authorized City officials and staff.
xiv. Provide information regarding legislation and court decisions having a significant impact on the City, or its officials, staff, or operations.
xv. Provide availability up to 8 hours per week at City Hall to provide legal services, on days and times to be mutually agreed upon.
xvi. Conduct up to two (2), two-hour workshops for City officials, staff, or employees on municipal law-related topics of general interest.
xvii. Preparation of responses to annual audit requests.

Non-Routine Legal Services shall include:

i. Attendance at meetings when requested by the City, other than those meetings specified as included in Routine Legal Services.
ii. Representation of the City and/or its elected officials, appointed officers and agents in civil litigation brought by or against the City in circuit court or Wisconsin appellate courts.
iii. Provide availability at City Hall for legal services, on days and times beyond those included in Routine Services.
iv. Negotiations, drafting agreements, and other services rendered with respect to land use development proposals and projects.
v. Other legal services provided to the City which have no routine equivalent and are often paid for by another source including work which constitutes a project cost of a tax increment district, or work related to the issuance of industrial revenue bonds.
vi. Other legal services not specified as included in Routine Legal Services above.

Attachment: Mequon Agreement for Legal Services (RESOLUTION 4208 : Engagement of Stafford Rosenbaum)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2913
Fax: 262-242-9655
www.cityofmequonwi.gov
Office of Public Works

TO: **Common Council**
FROM: **Kristen Lundeen, Director of Public Works/City Engineer**
DATE: **May 13, 2025**
SUBJECT: **RESOLUTION 4209 A Resolution Ratifying Two Change Orders to a Contract with Seltzer-Ornst Construction of Milwaukee, Wisconsin in the Amount of $31,786, in Connection with the Replacement of Various HVAC Units and Other Upgrades within the Council Chambers at City Hall**

Background

On December 14, 2024, the Common Council approved a contract to Seltzer-Ornst for the City Hall HVAC project. The authorized contract value at the time of award was $959,033 with an approximate $16,000 contingency for a not-to-exceed contract amount of $975,000.

Within the first two weeks of the project, asbestos was identified in the ceiling of Common Council Chambers, resulting in two change order requests totaling $31,786 and exceeding the authorized contract amount. This agenda item requests Common Council ratification of that authorization.

Analysis

The design contract was based upon asbestos abatement information from a 1996/1997 project. During recent removal of portions of the current ceiling, the contractor found potential signs of asbestos, and that portion of the project was paused while testing was conducted for confirmation.

While testing confirmed that abatement completed in 1996/1997 removed asbestos identified in the acoustic tiles and that there is no asbestos in the layers of current ceiling material, glue pucks attached to the original acoustic tiles remained in place and were encapsulated by the current ceiling. Given that work for the City Hall HVAC project will penetrate the ceiling, the glue pucks require abatement in order to move forward.

The prime contractor, Seltzer-Ornst contacted three asbestos abatement contractors for pricing and schedule. Seltzer-Ornst was able to identify a subcontractor that could perform the work, but the authorization and abatement work required immediate authorization. Waiting for the May Common Council meeting would eliminate several subcontractor options due to scheduling conflicts, and result in an additional $75,000 for an available abatement subcontractor.

Given both the time and cost implications, City staff authorized the two proposed change orders.

Fiscal Impact

Change Order #2 (Change Order #1 was non-monetary) is for the abatement and totals

$24,998.93, including a $8,775 deduct from the painting contractor for work that will be included in the abatement process. Change Order #3 is the supplemental work required to patch the ceiling prior to resuming the standard contract work and totals $6,786.90.

The resolution for contract award was in an amount not-to-exceed $975,000, which included a contingency of $16,000. The original contract amount is $959,033 and with both change orders would increase the contract to $990,818.83, exceeding the current authorization by $15,818.83.

Given that the majority of this project is being financed through proceeds resulting from a general obligation notes sale finalized earlier this year, it is anticipated that identified salary savings from the Building Division's annual operating budget will be utilized to offset this cost overrun. To the extent that excess funds are not otherwise available when the project is closed out later this year, funds from the City's Capital Projects Fund will be earmarked to counterbalance the overage.

Recommendation

A recommendation from the Public Works Committee is forthcoming on May 13, 2025.

Attachments:
City Hall HVAC Change Order #2 (PDF)
City Hall HVAC Change Order #3 (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 4209

A Resolution Ratifying Two Change Orders to a Contract with Seltzer-Ornst Construction of Milwaukee, Wisconsin in the Amount of $31,786, in Connection with the Replacement of Various HVAC Units and Other Upgrades within the Council Chambers at City Hall

RECITALS

A. During the City Hall Common Council Chambers HVAC Repair and Renovation Project ("Project"), the contractor identified asbestos not previously abated in glue pucks for the acoustic ceiling tiles.

B. Abatement is required due to work penetrating the ceiling in the Common Council Chambers.

C. The asbestos abatement, in combination with previously authorized expenditures, will exceed the not-to-exceed contract authorization of $975,000 with Seltzer-Ornst Construction.

D. The Buildings Division's annual operating budget and/or the City's Capital Projects Fund have sufficient funds for the asbestos abatement, as well as all previously authorized or planned expenditures in connection with this Project.

E. The Public Works Committee, on May 13, 2025, approved a recommendation in favor of ratifying Project Change Orders #2 and #3 in the aggregate amount of $31,786, as previously approved by City staff.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin that the two change orders, as attached hereto and in the aggregate amount of $31,786, are hereby ratified.

_____
Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____
Caroline Fochs, City Clerk

SELZER-ORNST
CONSTRUCTION COMPANY LLC

PCO #002

Selzer-Ornst Co
6222 W State St
Milwaukee, Wisconsin 53213
Phone: (414) 258-9900
Fax: (414) 258-3693

Project: 25-010 - City of Mequon HVAC Upgrades
11333 N Cedarburg Rd
Mequon, Wisconsin 53092

Prime Contract Potential Change Order #002: Abate Existing Common Council Chamber Ceiling

TO:	City of Mequon 11333 N. Cedarburg Road 60W Mequon, Wisconsin 53092-1930	**FROM:**	Selzer-Ornst Construction 6222 W State St Milwaukee, Wisconsin 53213
PCO NUMBER/REVISION:	002 / 0	**CONTRACT:**	1 - City of Mequon HVAC Upgrades
REQUEST RECEIVED FROM:		**CREATED BY:**	Kari Lilly **(Selzer-Ornst Construction)**
STATUS:	Pending - In Review	**CREATED DATE:**	4/28/2025
REFERENCE:		**PRIME CONTRACT CHANGE ORDER:**	None
FIELD CHANGE:	No		
LOCATION:		**ACCOUNTING METHOD:**	Amount Based
SCHEDULE IMPACT:		**PAID IN FULL:**	No
EXECUTED:	No	**SIGNED CHANGE ORDER RECEIVED DATE:**	
		TOTAL AMOUNT:	$24,998.93

POTENTIAL CHANGE ORDER TITLE: Abate Existing Common Council Chamber Ceiling

CHANGE REASON: Added Scope

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*
CE #002 - Abate the existing common council chamber ceiling
(Add) Abate the existing common council chamber ceiling (including the popcorn texture removal.
(Deduct) Popcorn ceiling removal from painting subcontractor.

ATTACHMENTS:

#	Budget Code	Description	Amount
1	1-180.SUB Safety & Environmental.Subcontractor	(Add) Abate the existing common council chamber ceiling (including the popcorn texture removal.	$29,960.00
2	9-900.SUB Painting	(Deduct) Popcorn ceiling removal from painting subcontractor.	$(8,775.00)
		Subtotal:	**$21,185.00**
		General Conditions (≈ 9.91%):	$2,100.00
		General Liability (≈ 0.7%):	$164.00
		Bonds (≈ 1.92%):	$449.98
		Selzer-Ornst Fee (≈ 4.6%):	$1,099.95
		Grand Total:	**$24,998.93**

Sarah Phillips (Strang Architecture)
W238 N1610 Busse Rd
Waukesha, Wisconsin 53188

4/29/25
SIGNATURE DATE

City of Mequon
11333 N. Cedarburg Road 60W
Mequon, Wisconsin 53092-1930

4/29/25
SIGNATURE DATE

Selzer-Ornst Construction
6222 W State St
Milwaukee, Wisconsin 53213

SIGNATURE DATE

Attachment: City Hall HVAC Change Order #2 (RESOLUTION 4209 : Ratify Increase in City Hall HVAC Contract)

SELZER-ORNST
CONSTRUCTION COMPANY LLC

PCO #003

Selzer-Ornst Co
6222 W State St
Milwaukee, Wisconsin 53213
Phone: (414) 258-9900
Fax: (414) 258-3693

Project: 25-010 - City of Mequon HVAC Upgrades
11333 N Cedarburg Rd
Mequon, Wisconsin 53092

Prime Contract Potential Change Order #003: Light Splatter Ceiling

TO:	City of Mequon 11333 N. Cedarburg Road 60W Mequon, Wisconsin 53092-1930	**FROM:**	Selzer-Ornst Construction 6222 W State St Milwaukee, Wisconsin 53213
PCO NUMBER/REVISION:	003 / 0	**CONTRACT:**	1 - City of Mequon HVAC Upgrades
REQUEST RECEIVED FROM:		**CREATED BY:**	Kari Lilly **(Selzer-Ornst Construction)**
STATUS:	Pending - In Review	**CREATED DATE:**	4/28/2025
REFERENCE:		**PRIME CONTRACT CHANGE ORDER:**	None
FIELD CHANGE:	No		
LOCATION:		**ACCOUNTING METHOD:**	Amount Based
SCHEDULE IMPACT:		**PAID IN FULL:**	No
EXECUTED:	No	**SIGNED CHANGE ORDER RECEIVED DATE:**	
		TOTAL AMOUNT:	$6,786.90

POTENTIAL CHANGE ORDER TITLE: Light Splatter Ceiling

CHANGE REASON: Added Scope

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*
CE #003 - Light Splatter Ceiling Texture & Patching
Apply a light splatter coat of texture to the ceiling prior to painting once abatement is complete.
Allowance for ceiling patching

ATTACHMENTS:

#	Budget Code	Description	Amount
1	9-900.SUB Painting	Apply a light splatter coat of texture to the ceiling	$3,218.00
2	9-320.SUB Drywall	Drywall Patching Allowance	$2,500.00
		Subtotal:	**$5,718.00**
		General Conditions (10.00%):	$571.80
		General Liability (0.75%):	$47.17
		Bonds (2.00%):	$126.74
		Selzer-Ornst Fee (5.00%):	$323.19
		Grand Total:	**$6,786.90**

Sarah Phillips (Strang Architecture)
W238 N1610 Busse Rd
Waukesha, Wisconsin 53188

4/29/25
SIGNATURE **DATE**

City of Mequon
11333 N. Cedarburg Road 60W
Mequon, Wisconsin 53092-1930

4/29/25
SIGNATURE **DATE**

Selzer-Ornst Construction
6222 W State St
Milwaukee, Wisconsin 53213

SIGNATURE **DATE**

Attachment: City Hall HVAC Change Order #3 (RESOLUTION 4209 : Ratify Increase in City Hall HVAC Contract)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-242-3100
Fax: 262-242-9655
www.cityofmequonwi.gov
Office of City Attorney

TO: **Common Council**
FROM: **Brian Sajdak, City Attorney**
DATE: **May 13, 2025**
SUBJECT: **RESOLUTION 4210 A Resolution Granting a Temporary Limited Easement at the Northeast Corner of Mequon Road and Robin Lane to the Wisconsin Department of Transportation**

Background

The City owns a parcel of land located on the east side of Robin Lane between Mequon Road and Glenbrook Lane, which is identified by Tax Key No. 15-091-11-04-000. As part of an upcoming project to improve Mequon Road (State Highway 167), the Wisconsin Department of Transportation (WisDOT) will be improving the sidewalk and existing wheelchair ramp at the intersection of Mequon Road and Robin Lane. This reconstruction will result in the need to disturb a small area (97 sq. ft.) of the City's land in this location. Accordingly, WisDOT has requested a Temporary Limited Easement (TLE) from the City to allow it to disturb and restore the land during and after construction.

Analysis

The proposed easement will allow WisDOT to improve the sidewalk and existing wheelchair ramp at the intersection of Mequon Road and Robin Lane. Given the small size of the impacted area and the fact that this is only a temporary easement, WisDOT exercised is authority under the statutes to forego a full appraisal given the anticipated nominal value of the land. WisDOT policy is that any acquisition amounts below $500 are rounded to $500, so the City has been offered $500 for the easement. This amount is similar to, and consistent with, the value of the permanent easements WisDOT is acquiring on Wauwatosa Road.

Fiscal Impact

As noted above, the acquisition will result in a payment of $500 to the City. There are no additional continuing costs that result from the acquisition.

Recommendation

A recommendation is forthcoming from the Public Works Committee on May 13, 2025.

Attachments:
Parcel 19 Easement (PDF)
Curb Ramps Design (PDF)
Image of impacted area (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 4210

A Resolution Granting a Temporary Limited Easement at the Northeast Corner of Mequon Road and Robin Lane to the Wisconsin Department of Transportation

RECITALS

A. The City owns a parcel of land located on the east side of Robin Lane between Mequon Road and Glenbrook Lane, which is identified by Tax Key No. 15-091-11-04-000.

B. As part of an upcoming project to improve Mequon Road (State Highway 167), the Wisconsin Department of Transportation (WisDOT) will be improving the sidewalk and existing wheelchair ramp at the intersection of Mequon Road and Robin Lane.

C. As part of the reconstruction, WisDOT will need to disturb a small area (97 square feet) of the City's land in this location, and has requested a Temporary Limited Easement (TLE) from the City to allow it to disturb and repair the land during and after construction.

D. City staff has reviewed the proposed easement and has no objections to its location or extent.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin that:

1. The TLE as described above, and in the form as attached, is approved subject to any technical or legal changes deemed necessary and appropriate by the City Attorney.

2. The Mayor and the City Clerk are authorized and directed to execute and deliver the same, and any other documents necessary to accomplish the granting of the easement as may be approved by the City Attorney.

_____
Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____
Caroline Fochs, City Clerk

NOMINAL PAYMENT PARCEL - WAIVER OF APPRAISAL RECOMMENDATION AND APPROVAL

Wisconsin Department of Transportation

RE1897 01/2023 Ch. 32 Wis. Stats.

Owner name(s)	Area and interest required
CITY OF MEQUON	97.00 sq. ft. of Temporary Limited Easement (TLE)

Allocation

Allocation	Description	Size	Unit	Per Unit	Value ($)
Temporary Limited Easement (TLE)	$3 a sq ft 10% return for 3 years	97.00	Sq Ft	$0.91	$88.00
Other	round up to state minimum offer				$412.00

Total Allocation

Rounded To $500.00

The undersigned owner(s), having been fully informed of the right to have the property appraised, and to receive just compensation based upon an appraisal, have decided to waive the right to an appraisal and agree to accept settlement in the above-stated amount as full payment for the parcel stated, subject to approval by Wisconsin Department of Transportation.

The undersigned owner(s) further states that they waived the right to an appraisal without undue influences or coercive action of any nature.

It is intended that the instrument of conveyance will be executed upon presentation by Wisconsin Department of Transportation agents or representatives.

X

Owner Signature Date

CITY OF MEQUON

X

Owner Signature Date

Approved for Wisconsin Department of Transportation

For Office Use Only

Agency Approval Date

Wisconsin Department of Transportation Signature

Date

This instrument was drafted by
Wisconsin Department of Transportation

Project ID
2270-06-20

Parcel No
19

Attachment: Parcel 19 Easement (RESOLUTION 4210 : Granting WisDOT Mequon Road Temp Easement)

STATEMENT TO CONSTRUCTION ENGINEER

RE1528 01/2023 s. 84.09 Wis. Stats.

Wisconsin Department of Transportation

Copies to: project engineer and owner

Owner Name(s)	Property Address	Area code - phone
CITY OF MEQUON	Vacant land along Robin lane Mequon, WI 53092	Home: Cell:
	Mailing Address 11333 N CEDARBURG RD, , Mequon, WI 53092	Work: Email:
Tenant, if any	Property Address Vacant land along Robin lane Mequon, WI 53092	Area code - phone Home: Cell:
	Mailing Address	Work: Email:

Commitments made (fences, driveways, trees, drainage or other items):

Other matters of interest and owner concerns:

Property Owner Signature Date

Property Owner Signature Date

Negotiator Signature Date

Bradley Koenig

Print Negotiator Name

Commitments Approved:

Approving Authority Signature and Title Date

Print Approving Authority Name

Project ID	County	Parcel No.
2270-06-20	Ozaukee	19

Attachment: Parcel 19 Easement (RESOLUTION 4210 : Granting WisDOT Mequon Road Temp Easement)

TEMPORARY LIMITED EASEMENT

Wisconsin Department of Transportation
Exempt from fee: s. 77.25(2r) Wis. Stats.
Exempt from filing transfer form [s. 77.21(1), 77.22(1) Wis. Stats.]
RE1577 01/2023

THIS EASEMENT, made by **City of Mequon** GRANTOR, conveys a temporary limited easement as described below to the **Wisconsin Department of Transportation**, GRANTEE, for the sum of **Five Hundred and 00/100 Dollars** ($**500.00**) for the purpose of **slopes and grading**.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s. 32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest of record in the property:

LEGAL DESCRIPTION IS ATTACHED AND MADE A PART OF THIS DOCUMENT BY REFERENCE.

This space is reserved for recording data

Return to
Wisconsin Department of Transportation
WisDOT SE Region 141 NW Barstow Street
Waukesha, WI 53187-0798

Parcel Identification Number/Tax Key Number
15-091-1104-000

Signature Date

CITY OF MEQUON
Print Name

Signature Date

Print Name

Signature Date

Print Name

Signature Date

Print Name

Date

State of)
) ss.
_____ County)

On the above date, this instrument was acknowledged before me by the named person(s).

The signer was: ____ Physically in my presence. **OR** ____ In my presence involving the use of communication technology.

Signature, Notary Public, State of

Print or Type Name, Notary Public, State of

Date Commission Expires

Project ID	This instrument was drafted by	Parcel No.
2270-06-20	Wisconsin Department of Transportation	19

Attachment: Parcel 19 Easement (RESOLUTION 4210 : Granting WisDOT Mequon Road Temp Easement)

LEGAL DESCRIPTION

A **Temporary Limited Easement** (TLE) is a right for grading, including the right to operate necessary equipment thereon, the right of ingress and egress, as long as required for such public purpose, including the right to preserve, protect, remove, or plant thereon any vegetation the highway authorities may deem desirable. All TLEs expire at the completion of the construction project for which this instrument is given.

A parcel of land located in Lot 4 Block 11 of Ozaukee Country Club Estates No. 2, Doc. 167446, in the Southwest 1/4 of the Southwest 1/4 of Section 19, Township 9 North, Range 22 East, City of Mequon, Ozaukee County, Wisconsin, more fully described as follows:

Beginning at the Southwest corner of said Lot 4; thence along an arc to the right, being the west line of said Lot 4, having a radius of 290.00 feet and an arc length of 5.26 feet; thence South 85°12’59” East, 18.53 feet; thence South 04°47’05” West, 5.25 feet to a point on the south line of said Lot 4; thence North 85°13’01” West along the south line of said Lot 4, 18.65 feet to the point of beginning.

Said parcel contains **97 square feet** of easement, more or less.

Attachment: Parcel 19 Easement (RESOLUTION 4210 : Granting WisDOT Mequon Road Temp Easement)

PROJECT NO: 2270-06-00 & 2697-00-77	HWY: STH 57/167	COUNTY: OZAUKEE	CURB RAMP DETAILS	SHEET 54 E

FILE NAME : N:\PDS\C3D\22700600\SHEETSPLAN\021301-CR.DWG
LAYOUT NAME - 13
PLOT DATE : 8/23/2022 11:58 AM
PLOT BY : SMITH, PATRICK
PLOT NAME :
PLOT SCALE : 1 IN:20 FT
ISDOT/CADDS SHEET 42

Attachment: Curb Ramps Design (RESOLUTION 4210 : Granting WisDOT Mequon Road Temp Easement)

Attachment: Image of impacted area (RESOLUTION 4210 : Granting WisDOT Mequon Road Temp

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-242-3100
Fax: 262-242-9655
www.cityofmequonwi.gov
Office of City Attorney

TO: **Common Council**
FROM: **Brian Sajdak, City Attorney**
DATE: **May 13, 2025**
SUBJECT: **RESOLUTION 4211 A Resolution Granting Two Permanent Limited Easements at the Trinity Creek Crossing of Wauwatosa Road (Approximately 410 Feet North of County Line Road) to the Wisconsin Department of Transportation**

Background

As part of an upcoming project to reconstruct Wauwatosa Road (State Highway 181), the Wisconsin Department of Transportation (WisDOT) will be replacing the existing under-road culvert for Trinity Creek, which is located on Wauwatosa Road approximately 410 feet north of the center line of County Line Road. To complete the replacement of the culvert, WisDOT will need to disturb an area of the City's lands on both sides of Wauwatosa Road in this location and has requested a Permanent Limited Easement (PLE) from the City to allow it to install the replacement culvert and to maintain it in the future. Specifically, WisDOT will need an easement on two parcels owned by the City: the land located at 8200 W. County Line Road (Tax Key No. 14-03-30-200-500), which constitutes a portion of the Mequon Nature Preserve (the "MNP Parcel"), and the land located to the east across Wauwatosa Road from the MNP Parcel, which is identified by Tax Key No. 14-03-41-100-100.

Analysis

The proposed easement will allow WisDOT to reconstruct and maintain the culvert in this location. As part of the process, WisDOT obtained an appraisal for both parcels, copies of which are on file in the City Attorney's Office. In the case of the MNP Parcel, the easement area consists of 600 square feet and the value calculated by the appraiser for this easement was $300. For the second parcel, the easement area consists of 260 square feet and the value calculated by the appraiser for this easement was $100. In both cases, WisDOT policy is that any amounts below $500 are rounded to $500, so the City has been offered $500 for each easement ($1,000 in total).

The relatively low value here is the result of the small amount of area impacted by the easement, that the area is largely within floodplain or other greenspace, and that the acquisition is only an easement (not a full fee-simple acquisition).

Fiscal Impact

As noted above, the acquisition will result in a payment of $1,000 to the City. There are no additional continuing costs that result from the acquisition.

Recommendation

A recommendation is forthcoming from the Public Works Committee on May 13, 2025.

Attachments:
Parcel 1 Easement (PDF)
Parcel 3 Easement (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 4211

A Resolution Granting Two Permanent Limited Easements at the Trinity Creek Crossing of Wauwatosa Road (Approximately 410 Feet North of County Line Road) to the Wisconsin Department of Transportation

RECITALS

A. The City owns the land located at 8200 W. County Line Road (Tax Key No. 14-03-30-200-500), which constitutes a portion of the Mequon Nature Preserve (the "MNP Parcel").

B. The City also owns land located to the east across Wauwatosa Road from the MNP Parcel, which is identified by Tax Key No. 14-03-41-100-100.

C. As part of an upcoming project to reconstruct Wauwatosa Road (State Highway 181), the Wisconsin Department of Transportation (WisDOT) will be replacing the existing under-road culvert for the Trinity Creek, which is located on Wauwatosa Road approximately 410 feet north of the center line of County Line Road.

D. As part of the replacement of the culvert, WisDOT will need to disturb an area of the City's lands on both sides of Wauwatosa Road in this location and has requested two Permanent Limited Easements (PLEs) from the City to allow it to install the replacement culvert and to maintain it in the future.

E. City staff has reviewed the two proposed easements and has no objections to their location or extent.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin that:

1. The PLEs as described above, and in the form as attached, are approved subject to any technical or legal changes deemed necessary and appropriate by the City Attorney.

2. The Mayor and the City Clerk are authorized and directed to execute and deliver the same, and any other documents necessary to accomplish the granting of the easement as may be approved by the City Attorney.

_____
Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____

Caroline Fochs, City Clerk

STATEMENT TO CONSTRUCTION ENGINEER

RE1528 01/2023 s. 84.09 Wis. Stats.

Wisconsin Department of Transportation

Copies to: project engineer and owner

Owner Name(s)	Property Address	Area code - phone
City of Mequon	Land along N. Wauwatosa Rd. Mequon, WI 53097 Mailing Address 11333 N Cedarburg Rd, Mequon, WI 53092	Home: Cell: Work: Email:
Tenant, if any	Property Address Land along N. Wauwatosa Rd. Mequon, WI 53097 Mailing Address	Area code - phone Home: Cell: Work: Email:

Commitments made (fences, driveways, trees, drainage or other items):

No commitments, any grass will be replaced in kind

Other matters of interest and owner concerns:

Property Owner Signature Date

Property Owner Signature Date

Negotiator Signature Date

Bradley Koenig

Print Negotiator Name

Commitments Approved:

Approving Authority Signature and Title Date

Print Approving Authority Name

Project ID	County	Parcel No.
2729-07-20	Ozaukee	1

Attachment: Parcel 1 Easement (RESOLUTION 4211 : Granting WisDOT Wawatosa Road Easements)

PERMANENT LIMITED EASEMENT

Wisconsin Department of Transportation
Exempt from fee: s.77.25(2r) Wis. Stats.
Exempt from filing transfer form [s. 77.21(1), 77.22(1) Wis. Stats.]
RE1552 01/2023 Ch. 84 Wis. Stats.

THIS EASEMENT, made by **The City of Mequon, a Wisconsin municipal corporation** GRANTOR, conveys a permanent limited easement as described below to the **Wisconsin Department of Transportation**, GRANTEE, for the sum of **Five Hundred Dollars** ($ **500.00**) for the purpose of to construct and maintain a drainage structure.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest of record in the property:

LEGAL DESCRIPTION IS ATTACHED AND MADE A PART OF THIS DOCUMENT BY REFERENCE.

This space is reserved for recording data

Return to
Wisconsin Department of Transportation
WisDOT SE Region 141 NW Barstow Street
Waukesha, WI 53187-0798

Parcel Identification Number/Tax Key Number
14-033-16-002

Signature Date

City of Mequon
Print Name

Signature Date

Print Name

Signature Date

Print Name

Signature Date

Print Name

Signature Date

Print Name

Date

State of
)
) ss.
_____County)

On the above date, this instrument was acknowledged before me by the named person(s).

The signer was: ____ Physically in my presence. **OR** ____ In my presence involving the use of communication technology.

Signature, Notary Public,

Print Name, Notary Public, State of

Date Commission Expires

Project ID
2729-07-20

This instrument was drafted by
Wisconsin Department of Transportation

Parcel No.

Attachment: Parcel 1 Easement (RESOLUTION 4211 : Granting WisDOT Wawatosa Road Easements)

LEGAL DESCRIPTION

A **Permanent Limited Easement** for a right to construct and maintain a drainage structure, including the right to operate necessary equipment thereon and the right of ingress and egress, as long as required for such public purpose, including the right to preserve, protect, remove, or plant thereon any vegetation that the highway authorities may deem desireable, but without prejudice to the owner's rights to make or construct improvements on said lands or to flatten the slopes, providing said activities will not impair or otherwise adversely affect the highway facilities.

That part of Parcel 1, Certified Survey Map No. 2224, recorded in the office of the Register of Deeds for Ozaukee County, Wisconsin on November 14, 1990, in Volume 16 of Certified Survey Maps, Page 273, as Document No. 437287, being a division of Lot 1 Certified Survey Map recorded in Volume 1 of Certified Survey Maps on page 377 as Document No. 219874 and part of the South 40 acres of the East 120 acres of the Southeast 1/4 of Section 33, Township 9 North, Range 21 East, in the City of Mequon, Ozaukee County, Wisconsin, described as follows:

Commencing at the Southeast corner of the Southeast 1/4 of said section 33, thence North 00°23'05" East along the east line of said Section 33, 395.04 feet; thence North 89°36'55" West 70.00 feet to the west right of way line of N. Wauwatosa Road and the place of beginning of the lands to be described; thence continue North 89°36'55" West 15.00 feet, thence North 00°23'05" East and parallel to the west line of said Section 40.00 feet; thence South 89°36'55" East 15.00 feet to the west right of way line of said N. Wauwatosa Road; thence South 00°23'05" West along said west right of way line, 40.00 feet to the place of beginning.

This parcel contains **600 SF**, more or less.

Attachment: Parcel 1 Easement (RESOLUTION 4211 : Granting WisDOT Wawatosa Road Easements)

STATEMENT TO CONSTRUCTION ENGINEER

RE1528 01/2023 s. 84.09 Wis. Stats.

Wisconsin Department of Transportation

Copies to: project engineer and owner

Owner Name(s)	Property Address	Area code - phone
City of Mequon	Lands Along Wauwatosa Rd & W. County Line Rd Mequon, WI 53097 Mailing Address 11333 N Cedarburg Rd, Mequon, WI 53092	Home: Cell: Work: Email:
Tenant, if any	Property Address Lands Along Wauwatosa Rd & W. County Line Rd Mequon, WI 53097 Mailing Address	Area code - phone Home: Cell: Work: Email:

Commitments made (fences, driveways, trees, drainage or other items):
No commitments, grass will be replaced in kind

Other matters of interest and owner concerns:

Property Owner Signature Date

Property Owner Signature Date

Negotiator Signature Date

Bradley Koenig
Print Negotiator Name

Commitments Approved:

Approving Authority Signature and Title Date

Print Approving Authority Name

Project ID	County	Parcel No.
2729-07-20	Ozaukee	3

Attachment: Parcel 3 Easement (RESOLUTION 4211 : Granting WisDOT Wawatosa Road Easements)

PERMANENT LIMITED EASEMENT

Wisconsin Department of Transportation
Exempt from fee: s.77.25(2r) Wis. Stats.
Exempt from filing transfer form [s. 77.21(1), 77.22(1) Wis. Stats.]
RE1552 01/2023 Ch. 84 Wis. Stats.

THIS EASEMENT, made by **City of Mequon** GRANTOR, conveys a permanent limited easement as described below to the **Wisconsin Department of Transportation**, GRANTEE, for the sum of **Five Hundred Dollars** ($ **500.00**) for the purpose of right to construct and maintain a drainage structure.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest of record in the property:

LEGAL DESCRIPTION IS ATTACHED AND MADE A PART OF THIS DOCUMENT BY REFERENCE.

This space is reserved for recording data

Return to
Wisconsin Department of Transportation
WisDOT SE Region 141 NW Barstow Street
Waukesha, WI 53187-0798

Parcel Identification Number/Tax Key Number
14-034-11-001-00

Signature Date

City of Mequon
Print Name

Signature Date

Print Name

Signature Date

Print Name

Signature Date

Print Name

Signature Date

Print Name

Date

State of
)
) ss.
_____County)

On the above date, this instrument was acknowledged before me by the named person(s).

The signer was: ____ Physically in my presence. **OR** ____ In my presence involving the use of communication technology.

Signature, Notary Public,

Print Name, Notary Public, State of

Date Commission Expires

Project ID
2729-07-20

This instrument was drafted by
Wisconsin Department of Transportation

Parcel No.

Attachment: Parcel 3 Easement (RESOLUTION 4211 : Granting WisDOT Wawatosa Road Easements)

LEGAL DESCRIPTION

A **Permanent Limited Easement** for a right to construct and maintain a drainage structure, including the right to operate necessary equipment thereon and the right of ingress and egress, as long as required for such public purpose, including the right to preserve, protect, remove, or plant thereon any vegetation that the highway authorities may deem desireable, but without prejudice to the owner's rights to make or construct improvements on said lands or to flatten the slopes, providing said activities will not impair or otherwise adversely affect the highway facilities.

That part of the Southwest 1/4 of the Southwest 1/4 of Section 34, Township 9 North, Range 21 East, in the City of Mequon, Ozaukee County, Wisconsin, described as follows:

Commencing at the Northwest corner of Lot 1, Certified Survey Map No. 1845, also being on the east right of way line of N Wauwatosa Road, thence North 00°23'05" East along the east right of way line of N. Wauwatosa Road, 15.00 feet; thence South 89°36'55" East 20.00 feet; thence South 00°23'05" West and parallel to said east right of way line 11.01 feet to the north line of said Lot 1; thence South 79°06'23" West along said north line of said Lot 1, 20.39 feet to the place of beginning.

This parcel contains **260 SF**, more or less.

Attachment: Parcel 3 Easement (RESOLUTION 4211 : Granting WisDOT Wawatosa Road Easements)

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2934
Fax: 262-242-9655
www.cityofmequonwi.gov
Office of Engineering

TO: **Common Council**
FROM: **Cole McCraw, Assistant City Engineer**
DATE: **May 13, 2025**
SUBJECT: **RESOLUTION 4212 A Resolution Awarding a Design Contract for the Donges Bay Road Turn Lane Improvement to Harwood Engineering Consultants Ltd., of Milwaukee, Wisconsin, in the Amount of $21,000**

Background

The streetscape plan for North Port Washington Road as part of public improvements within TID No. 4 and TID No. 5 from Zedler Lane to Mequon Road was approved by the Council May 14, 2024. In August of 2024, the design contract was approved for the streetscape work, and improvements on Donges Bay Road were discussed, including sidewalk extension and an additional right-turn lane.

The adjacent development at the northeast corner of Port Washington Road and Donges Bay Road, the Refresh Aesthetic Center, was required to dedicate right-of-way along Donges Bay Road to give the City flexibility to install improvements such as sidewalk or a right-turn lane. Planning Commission discussed these improvements at the meeting where the adjacent development was approved.

Harwood Engineering completed a preliminary design layout and a cost estimate to give staff and elected officials information on the total construction cost. The estimated construction cost is approximately $144,000 (attached). The total project cost does not include utility relocations, such as electrical and communication infrastructure. The necessity of relocating utilities will be determined during the final design phase. Typically, utility relocation does not result in a cost to the City unless the utility is required to move its facilities outside of the right-of-way or to place them underground.

Since Harwood performed the adjacent Port Washington Road streetscape design work and the preliminary design for the Donges Bay Road turn lane, this proposal was requested from Harwood as a continuation of the previously completed work. The design proposal includes adding a turn lane for westbound Donges Bay Road and extension of sidewalk from the intersection to the bridge over I-43.

Analysis

Harwood Engineering is qualified to perform the work outlined in the proposal. The proposal from the firm is attached. The submitted base fee from Harwood is $17,800. Staff also recommends adding a contingency since minor reimbursable costs are not included in the base fee, and a contingency would allow staff to authorize minor changes in scope for unexpected changes. This is consistent with past contract awards. Therefore, staff is recommending that the

resolution approve a contract amount of $21,000, which includes a contingency for additional authorized efforts.

Work on this contract can begin as soon as the contract is executed. The project is intended to be bid and constructed in 2025 in coordination with the Port Washington Road Streetscape Project, which is scheduled for construction contract award at the June meeting. If utility relocation impacts the construction timeline, construction could take place in the fall or in early 2026. Construction award after bidding must be considered by the Common Council.

Fiscal Impact

There is adequate funding available in the TID 4 and 5 account and the design is an eligible TID expenditure. The proposal is recommended for award in the amount of $21,000.

Recommendation

A recommendation is forthcoming from the Public Works Committee on May 13, 2025.

Attachments:
Preliminary Layout Exhibit (PDF)
Port Washington-Donges Bay Estimate (PDF)
Port Washington Donges Bay Intersection - Final Design Proposal (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 4212

A Resolution Awarding a Design Contract for the Donges Bay Road Turn Lane Improvement to Harwood Engineering Consultants Ltd., of Milwaukee, Wisconsin, in the Amount of $21,000

RECITALS

A. The City of Mequon Engineering Division has received a proposal from Harwood Engineering Consultants for continuing design work on the Donges Bay Road Turn Lane Improvements relating to the Port Washington Road Streetscape Project.

B. Harwood Engineering Consultants performed a preliminary design and cost estimate for the improvements, and the City recommends proceeding with final design and construction bidding for the project.

C. Staff reviewed the proposal and qualifications for the contract.

D. Staff determined that the proposal received is reasonable and that adequate funds are available to accomplish the work, and on that basis, has made a recommendation to the Public Works Committee.

E. Adequate funds for this contract are available from the TID 4 and 5.

F. To provide additional services that may result from additionally authorized efforts, the contract award amount shall be affirmed with a small contingency, for a total contract cost of $21,000.

G. Harwood Engineering Consultants may exceed $25,000 in total City contracts with this award.

H. If authorized, staff will enter into a contract with the recommended consultant.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that the above proposal, a copy of which is attached, is approved and that the proper City officials be authorized to sign the appropriate contract documents after review and approval of the same by the City Attorney.

_____
Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

_____

Caroline Fochs, City Clerk

N PORT WASHINGTON RD

DONGES BAY RD

APPROXIMATE LOCATION OF PROPOSED ADJUSTED PROPERTY LINE

APPROXIMATE LOCATION OF PROPOSED ADJUSTED PROPERTY LINE

ELECTRIC CONTROL PANEL

FIBER OPTIC VAULT

PROPOSED 30" CURB AND GUTTER

SAWCUT EXISTING ASPHALT PAVEMENT (FULL DEPTH)

EXISTING FIBER/COMMUNICATION VAULT AND ASSOCIATED LINES TO BE RELOCATED (BY OTHERS)

PROPOSED 8" PAINTED EPOXY LINE

EXISTING POWER POLE TO BE RELOCATED (BY OTHERS)

EXISTING STORM STRUCTURE AND 15" SEWER TO BE REMOVED AND RELOCATED TO NEW CURB LINE

PROPOSED CROSSWALK AS PART OF STREET-SCAPE PROJECT

EXISTING SIGNAL VAULT TO BE RELOCATED

EXISTING MAILBOX TO BE REMOVED

REMOVE EXISTING CURB AND GUTTER

PROPOSED 30" CURB AND GUTTER

REMOVE EXISTING CONCRETE PAVEMENT

PROPOSED ASPHALT PAVEMENT

REMOVE EXISTING CURB AND GUTTER

EXISTING SIGNAL TO BE RELOCATED

PROPOSED ASPHALT PAVEMENT

PROPOSED PAINTED TURN ARROWS

SAWCUT EXISTING ASPHALT PAVEMENT (FULL DEPTH)

PROPOSED CROSSWALK AS PART OF STREET-SCAPE PROJECT

PROPOSED 18" PAINTED EPOXY LINE

EXISTING STORM STRUCTURE AND 12" SEWER TO BE REMOVED AND RELOCATED TO NEW CURB LINE

PROPOSED TWO 4" PAINTED EPOXY LINES. MATCH INTO EXISTING LINES TO THE EAST

Attachment: Preliminary Layout Exhibit (RESOLUTION 4212 : Donges Bay Road Turn Lane Improvement Design Award)

HARWOOD
255 N 21st Street, Milwaukee, WI 53233 | 414-475-5554

City of Mequon

Donges Bay and Port Road Cost Estimate

04/17/2025

North

Scale: 1"=10'

Probable Opiton of Cost

#	BID ITEMS	UNIT	UNIT PRICE	Estimated Quantity	Amount	
1	Inlet Protection Type B	EA	$ 65.00	3	$ 195.00	
2	Asphalt Pavement Removal	SY	$ 7.00	1251	$ 8,757.00	
3	Curb and Gutter Removal	LF	$ 5.00	205	$ 1,025.00	
4	Concrete Sidewalk Removal	SY	$ 12.00	300	$ 3,600.00	
5	Remove Storm Sewer	LF	$ 25.00	53	$ 1,325.00	
6	Remove Storm Structures	EA	$ 500.00	2	$ 1,000.00	
7	Move existing Power Pole and wires (by others)	EA	$ -		$ -	No cost to City if moved out of roadway. Potential cost of over $100,000 if moved underground
8	Sawcut Asphalt	LF	$ 5.00	235	$ 1,175.00	
9	Inlets 4' dia	EA	$ 5,000.00	2	$ 10,000.00	
10	12" RCP Storm Sewer	LF	$ 90.00	48	$ 4,320.00	
11	15" RCP Storm Sewer	LF	$ 100.00	8	$ 800.00	
12	30" Curb and Gutter	LF	$ 30.00	165	$ 4,950.00	
13	HMA Pavement 3 MT 58-28 S	TON	$ 60.00	214	$ 12,840.00	
14	HMA Pavement 5 MT 58-28 S	TON	$ 65.00	166	$ 10,790.00	
15	CONCRETE SIDEWALK 4 INCH	SF	$ 7.00	2750	$ 19,250.00	
16	1 1/4" Base Course	TON	$ 25.00	1070	$ 26,750.00	
17	Cut/Fill for sidewalk	CY	$ 15.06	119	$ 1,792.14	
18	Marking Line Epoxy 4-Inch	LF	$ 1.00	130	$ 130.00	
19	Marking Line Epoxy 8-Inch	LF	$ 2.00	56	$ 112.00	
20	Marking Arrow Epoxy	EA	$ 225.00	2	$ 450.00	
21	Marking Stop Line Epoxy 18-Inch	LF	$ 15.00	26	$ 390.00	
22	Move Signal Lights	EA	$ 10,000.00	1	$ 10,000.00	
				Sum	**$ 119,651.14**	
			20% Contingency		**$ 23,930.23**	
				Total	**$ 143,581.37**	

Attachment: Port Washington-Donges Bay Estimate (RESOLUTION 4212 : Donges Bay Road Turn Lane Improvement Design Award)

HARWOOD

civil | landscape architecture | structural | mechanical | electrical | plumbing/fire protection | lighting design | telecommunications | security

May 5, 2025

Cole McCraw
City of Mequon
11333 N. Cedarburg Road
Mequon, WI 53092

RE: CITY OF MEQUON, PORT WASHINGTON ROAD AND DONGES BAY ROAD INTERSECTION FINAL DESIGN PROPOSAL

Hello Cole:

Harwood Engineering Consultants, Ltd. (Harwood) is pleased to submit our proposal for Professional Engineering Consulting Services for the above-referenced project. We are very interested in working with you on this project and have provided our terms and fixed fees for your consideration.

Project Understanding

Our fees are based on the following project understanding.

- Scope is based on the preliminary design previously completed.
- Scope also includes sidewalk extension on the north side of Donges Bay Road to the bridge over USH 43.
- Assumes project will be bid as a lump sum contract. Scope does not include measurement or verification of quantities.
- Scope does not include asbuilt plans.
- Port Washington Road is controlled by the County. Coordination with the County will be required. Harwood will assist the City in that coordination.
- Utility re-locations will likely be required to install the turn lane. The scope includes coordination with WE-Energies on re-location of the utility pole.
- Scope does not include a traffic study.
- Scope includes re-location of a traffic signal but does not include any alterations to the timing or operations of the signals.
- ROW is being dedicated as a part of the development of the adjacent lot. Scope does not include any ROW acquisitions.
- A separate const for construction admin is provided.

Attachment: Port Washington Donges Bay Intersection - Final Design Proposal (RESOLUTION 4212 : Donges Bay Road Turn Lane

May 5, 2025

Port Washington Road Donges Bay Turn Lane
City of Mequon

Base Engineering Fees

Our Base Engineering Fees for this project (excluding LEED and Commissioning Services) are as follows:

Discipline	Fee
Civil – Final Design	$11,800
Civil – Construction admin	$6,000

Assumptions/Conditions

CIVIL

Civil Design Services Included – Final Design

- Final turn lane and sidewalk design
- Preparation of bidding documents
- Responses to questions during bidding
- Bid review with the City and recommendations
- Meeting with the County to review design (includes one meeting)

Civil Design Services Included – Construction Admin

- Attendance at weekly construction meetings. Assumes two-month construction duration (8 meetings)
- Review of pay apps
- Coordination during construction.

Reimbursable Expenses

Reimbursable Expenses are in addition to Compensation for Basic and Additional Services and include actual expenditures made by Harwood, its employees, and/or Professional Consultants in the interest of the Project and subject to prior written consent of the Owner. Reimbursable Expenses shall be paid by consultant who is to be reimbursed by Owner at cost x 1.0 and shall include the following:

a. Expense of reproducing and shipping of Drawings.
b. Travel expenses including mileage, etc.

Attachment: Port Washington Donges Bay Intersection - Final Design Proposal (RESOLUTION 4212 : Donges Bay Road Turn Lane

May 5, 2025

Port Washington Road Donges Bay Turn Lane
City of Mequon

Terms and Conditions

This proposal is based on the terms and conditions of the Standard Form of Agreement Between Owner and Architect, AIA B101 Latest Edition, except as modified by this proposal. In providing services under this Agreement, the Consultants (Harwood) shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time in the same or similar locality. The Consultant (Harwood) makes no warranty, express or implied, as to its professional services rendered under this Agreement.

If this proposal meets with your approval, Harwood requests a signed proposal and/or a contract to proceed on this project. Authorization to begin may be indicated by signing this proposal in the space provided below or attach and reference this letter to the AIA Standard Form Contract. Unless a written confirmation is received, verbal authorization to proceed shall be deemed to be acceptance of this proposal. This proposal remains in effect for a period of not more than (6) six months from the date of this letter.

Harwood reserves the right to delay or stop work for this project until the Owner/Architect and Architect/Engineer contracts have been signed and executed or if the Architect's Client fails to make payments to the Architect in a timely manner.

Invoices shall be sent monthly with payment due within (60) days of receipt. We reserve the right to charge interest at the rate of 1.0 percent per month on the balance outstanding, (90) days after the date of the invoice, and shall be added and compounded monthly. We reserve the right to stop work, or withhold plans and documents from the review, signature, or distribution process, until overdue account balances are rectified. Harwood Engineering shall exercise applicable lien rights for non-payment. Client shall be responsible for any legal expenses incurred.

If costs associated with this project to meet the Owner's expectations exceed the established budget, Harwood will be reimbursed to modify documents necessary to bring this project within the initial budget.

In the advent the scope of the project is altered, Harwood Engineering Consultants, Ltd. (Harwood) reserves the right to negotiate appropriate compensation for engineering such changes.

Should the project be delayed or cancelled, or if Harwood's contract is terminated, an invoice proportional to the amount of work completed up to the time of the project delay, cancellation or termination shall be issued and is payable upon receipt, whether the Owner has made payments or not. Termination of Harwood's contract shall be made in writing. If the project resumes after being suspended for more than three months, compensation shall be equitably adjusted for remobilization costs.

Attachment: Port Washington Donges Bay Intersection - Final Design Proposal (RESOLUTION 4212 : Donges Bay Road Turn Lane

May 5, 2025

Port Washington Road Donges Bay Turn Lane
City of Mequon

Harwood reserves the right to suspend all activity on this project until the negotiations for additional engineering services are resolved.

Conclusion

Cole, this constitutes our understanding of what is required for this project. Please call us if you have any questions or comments.

Upon your approval, we will assign a project coordinator to maintain all communications and provide you with a single point of contact concerning meeting dates, project course of action and schedule.

Harwood Engineering Consultants, Ltd. is delighted to be considered for this project. We are committed to deliver quality engineering services and team support to reach your project goals.

We thank you for this opportunity, and look forward to working with you.

Sincerely,

Harwood Engineering Consultants, Ltd.

Brad M. Seubert, PE
Vice President | Director of Civil Engineering

For: City of Mequon

Signature

Title

Date

Attachment: Port Washington Donges Bay Intersection - Final Design Proposal (RESOLUTION 4212 : Donges Bay Road Turn Lane

APPOINTEE INFORMATION SHEET

Name of Board or Commission: **Board of Appeals**

Position: **Alternate**
(Indicate Member, Trustee, Alternate, Architect, etc).

Name of Appointee: **Allison Korger**

Address: **3310 W. Colette Court, 53092**
(Include zip code)

Appointment By Mayor: **Andrew Nerbun**

By Alderman _____
(Name)

At Large Appointment: **A/L**

Aldermanic Dist. Appointment _____
(Dist. Number)

Appointee Term Length: **1-year term**

Appointee Term Expiration Date: **5/1/2026**

Comments: _____

TYPE OF APPOINTMENT

New: **X**

Reappointment: _____

If new, is this appointment filling an unexpired term? Yes: _____ No: **X**

Name of person being replaced: **Scott Reigle**

Date submitted to Council: **May 13, 2025**

Attachment: Korger_Appeals (10320 : Board of Appeals)

CITY OF MEQUON
BOARD, COMMISSION AND/OR COMMITTEE TALENT BANK APPLICATION
Please complete and return to the Administration Office, Mequon City Hall, 11333 N. Cedarburg Rd. Mequon, 53092 or email to cenea@cityofmequonwi.gov.

Name: Allison Korger

Address: 3310 W Colette Ct., Mequon, WI **ZIP Code:** 53092

Home Phone Number: N/A **Cell Phone Number:** 815-608-2897

Years of Residence in Mequon: 3.5 **Occupation:** Attorney

Can you be reached during working hours: Yes **Work Phone:** 414-287-9432

E-mail Address (es): akorger@gklaw.com; allisonkorger@gmail.com

Would you be able to attend scheduled evening meetings on a regular basis: Yes

Qualifications for Appointment:

I have a Bachelor of Science degree from UW-Whitewater majoring in public policy and administration, as well as my law degree from UW-Madison. In law school, I studied courses applicable to the appointment including real estate and administrative law.

Education, Work Experience, Civic Background:

B.S. - UW-Whitewater; Law degree - UW-Madison. I started my legal career as an associate attorney at Mayer Brown in Chicago. For the past five years, I have been an associate attorney at Godfrey & Kahn in Milwaukee.

Public Service and/or Civic Involvement:

During my husband's coaching season, I volunteer time with the Jr. Highlander's basketball program to keep score and track the foul sheet during season play and tournaments.

Attachment: AVK-talent_bank_application (10320 : Board of Appeals)

Why are you seeking appointment to this Board/Commission/Committee?

I am interested in the subject matter of the Mequon Board of Appeals and have a desire to get more involved in the community.

What is your understanding of the role and responsibility of the Board/Commission/Committee you are seeking appointment to?

The Mequon Board of Appeals is quasi-judicial and regulated by Wisconsin statutes. Its purpose is to hear appeals submitted by individuals regarding applications for variances from zoning ordinance terms.

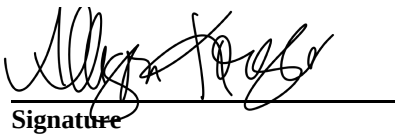
Rate the Board(s), Commission(s) and/or Committee(s) in order of preference with #1 being first choice:

_____ **Architectural Board**
1 **Board of Appeals**
_____ **Board of Police & Fire Commissioners**
_____ **Board of Review**
_____ **Economic Development Board**
_____ **Ethics Board**
_____ **Festivals Committee**
_____ **Frank L. Weyenberg Library Board of Trustee**
_____ **Hiram Schmidt Fund**
_____ **Joint Mequon-Thiensville Bike & Pedestrian Way Commission**
_____ **Landmarks Commission**
_____ **Mequon Nature Preserve Advisory Committee**
_____ **Milwaukee River Advisory Committee**
_____ **Park and Open Space Board**
_____ **Planning Commission**
_____ **Southern Ozaukee Fire Department Board**
_____ **Tree Board**

The following information will be held in confidence and is for review if considered for the Board of Police and Fire Commission. Have you ever been convicted of a criminal offense? No

Would you be willing to allow the Police Department to conduct a background investigation? Yes

I understand that the information provided to the City of Mequon contained herein becomes public upon submittal of this application.



Signature

April 27, 2025
Date

Revised: March 2025

Attachment: AVK-talent_bank_application (10320 : Board of Appeals)

ALLISON V. KORGER
3310 W. Colette Ct., Mequon, WI 53092
815-608-2897 | allisonkorger@gmail.com

EDUCATION

UNIVERSITY OF WISCONSIN LAW SCHOOL — Madison, WI
Juris Doctor — May 2018

GPA: 3.55 (Top 16%)
Honors: *Cum Laude*, Dean's Academic Achievement Award, Dean's List
Moot Court: Ruby R. Vale Corporate Law Competition
Law Journal: *Wisconsin International Law Journal*, Award for Outstanding 3L Editor
Legal Clinic: Consumer Law Litigation Clinic (Clinical Law Student) 2016-2017

UNIVERSITY OF WISCONSIN-WHITEWATER — Whitewater, WI
Bachelor of Science — May 2015

GPA: 3.55 (Top 16%)
Honors: *Magna Cum Laude*, John F. Kozlowicz Award in Legal Studies, Pi Sigma Alpha National Political Science Honors Society
Leadership: President of College of Letters and Sciences Dean's Advisory Council, President of Law Society, Grade Appeals Committee, Mock Trial

EXPERIENCE

GODFREY & KAHN, S.C. — Milwaukee, WI
Associate, Corporate Practice — August 2020-Present

- Represent public and private clients in a variety of transactions, including equity and asset acquisitions, private equity transactions, mergers, carve-outs and divestiture transactions
- Draft, review and negotiate transaction documents, including purchase agreements, merger agreements, disclosure schedules, equity documents (including shareholder agreements, operating agreements, contribution agreements and subscription agreements) and ancillary documents
- Assist clients with general corporate advising and negotiation of commercial contracts
- Member of firm's Recruiting Committee and Summer Associate Committee

MAYER BROWN LLP — Chicago, IL
Associate, Corporate & Securities Practice — October 2018-July 2020
Summer Associate — Summer 2017

- Represent public and private clients in a variety of transactions, including equity and asset acquisitions, mergers and capital markets transactions (including public and private offerings of equity and debt)
- Conduct transactional due diligence, including analyzing and drafting memoranda related to the same
- Draft corporate reporting documents and coordinate filing with the Securities and Exchange Commission, including Form 8-K, Form 10-K, Form 10-Q, Form 8-A and DEF 14A

ADDITIONAL INFORMATION

BAR ADMISSIONS: Wisconsin (2018), Illinois (2018)
AWARDS: 2022 Rising Young Lawyer, *Wisconsin Law Journal*
INTERESTS: Pinochle, baking and spending time outdoors
LANGUAGES: Conversational in Spanish and French

Attachment: AVKorger (10320 : Board of Appeals)

APPOINTEE INFORMATION SHEET

Name of Board or Commission: **Mequon Festivals Committee**

Position: **Member**
(Indicate Member, Trustee, Alternate, Architect, etc).

Name of Appointee: **Janet Wirth**

Address: **11127 N. Weston Drive 320 (53092)**
(Include zip code)

Appointment by Mayor: **X** Appointment by Alderman: _____

At Large Appointment: **X** Aldermanic Dist. Appointment _____
(Dist. Number)

Appointee Term Length: **3-year term** Appointee Term Expiration Date: **5/1/2027**

Comments: _____

TYPE OF APPOINTMENT

New: **X** Reappointment: _____

If new, is this appointment filling an unexpired term? Yes: **X** No: _____

Name of person being replaced: **Brittany Maynard**

Date submitted to Council: **May 13, 2025**

Attachment: Wirth_Festivals (10321 : Festivals Committee)

Copy to Website_____

City of Mequon
11333 N. Cedarburg Road, 63W
Mequon, Wisconsin 53092

CITY OF MEQUON
BOARD, COMMISSION AND/OR COMMITTEE TALENT BANK APPLICATION
Please complete and return to the Administration Office, Mequon City Hall
Application also available at www.ci.mequon.wi.us

Name: Janet Wirth

Address: 11127 N Weston Dr 320 **Zip Code:** 53092

Home Phone Number: 262-617-3164 **Years of Residence in Mequon:** 20+

Employer (or School): Range Line Preschool and Childcare inc

Address: 11040 N Range Line Rd 53092 **Occupation:** Busines Owner/Teacher

Can you be reached during working hours: yes **Work Phone:** 262-242-4453

E-mail Address (es): Janetfussell@hotmail.com

Would you be able to attend scheduled evening meetings on a regular basis: yes

What qualifications would contribute to your role as a Board, Commission or and/or Committee member (use additional paper if necessary):

past experience on committee familiarity and a love of Mequon, experience planning family events

Have you been active in organized community groups in the past such as homeowners associations, referenda, and/or special interest groups (use additional paper if necessary):

Mequon Festivals Committee

Periodically, the City may convene a committee on a temporary basis for a specific project. Do you possess any special skills that could be applied to a specific project (i.e. health care, benefits administration, human resources, economic development, communications, technologies):

education, fundraising, family event planning

Revised: November 2017

Attachment: Janet Wirth (10321 : Festivals Committee)

SCHOOL	# OF YEARS ATTENDED	AREAS OF STUDY	WHERE
High School	4	General	Dominican HS
College	4+	B.S. Education	St. Norbert
Post Graduate	Some 2+ year	Education	St. Norbert +
Trade/Specialty			

Rate the Board(s), Commission(s) and/or Committee(s) in order of preference -#1 being first choice:

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_____ Board of Appeals
_____ Board of Police & Fire Commissioners
_____ Board of Review
_____ Economic Development Board
_____ Ethics Board
1 Festivals Committee
_____ Frank L. Weyenberg Library Board of Trustee
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_____ Milwaukee River Advisory Committee
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_____ Tree Board

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Signature

4-24-2025
Date

Revised: November 2017

Attachment: Janet Wirth (10321 : Festivals Committee)