



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Public Hearing Date:** January 11, 2023

**Common Council Public Hearing Date:** February 1, 2023

**Item:** Subdivision Ordinance Text Amendments – Chapter 17 of the Municipal Code

Article I In General: Section 17-3

Article II Plats: Section 17-4

Article V Dedications and Reservations: Sections 17-29, 17-30, 17-31, 17-32, 17-33, 17-34, and 17-35

**Case Manager:** David Kress, Principal Planner

### **BACKGROUND AND PURPOSE**

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At the December 14, 2022 Plan Commission meeting, staff presented the proposed Subdivision Ordinance text amendments to the Commission for review and discussion. At the conclusion of the presentation, the Plan Commission directed staff to schedule an Informal Public Hearing at the January 11, 2023 Plan Commission meeting.

The Subdivision Ordinance (Chapter 17 of the Municipal Code) was last amended in 2010. Staff from multiple City departments have been working collaboratively to review and update various sections throughout this chapter. This will be an ongoing effort, and the information below/attached represents the first bundle of proposed text amendments. The primary objectives for these proposed amendments are listed below.

- Incorporate recommendations from the “Fee In Lieu of Land Dedication and Public Facility Needs Assessment” completed by Baker Tilly.  
*The Parks, Recreation, and Facilities Management Department contracted with Baker Tilly to prepare this report, which serves as the basis for the land dedication (square feet per dwelling unit) and fee in lieu of dedication (dollars per dwelling unit) numbers included in the proposed text amendments. This item was approved by Common Council on December 7, 2022.*
- Simplify and clarify expectations for the land dedication process.
- Include trails in the dedication process and aid in the implementation of the Trails Master Plan.
- Comply with applicable requirements of 2017 Wisconsin Act 243, particularly Section 236.45(6) of the Wisconsin State Statutes.

In addition to the objectives outlined above, Community and Economic Development Department staff took into account recommendations from the City of Appleton *Comprehensive Plan 2010-2030*. Listed below are related excerpts.

**OBJECTIVE 6.3 Transportation:**

Create an environment that is safe and conducive to walking and bicycling throughout the entire city.

*Policy 6.3.1 Continue to prioritize bicycle and pedestrian improvement projects that make destinations more accessible, including but not limited to greater connectivity between important destinations within the community, and to regional bicycle and pedestrian networks.*

*Policy 6.3.7 Support implementation of the City's Trail Master Plan in order to create a comprehensive network of well linked bike lanes and off-street trails.*

**OBJECTIVE 9.6 Economic Development:**

Create a vibrant environment that is conducive to attracting and retaining talented people.

*Policy 9.6.1 Continue the City's efforts to expand and improve its amenities such as trails, parks and recreation, the Fox Cities Performing Arts Center, the Appleton Public Library, Fox Cities Exhibition Center, sporting facilities, and other cultural or civic offerings.*

**OBJECTIVE 10.3 Land Use:**

Support future changes to zoning and other regulatory tools which are necessary to achieve the type of urban form and development reflective of smart growth principles, including support for "complete" neighborhoods (neighborhoods where residents can meet the majority of their daily needs on foot and by bicycle) throughout the City and in growth areas.

*Policy 10.3.5 Plan for park amenities in complete neighborhoods and integrate into existing neighborhoods.*

**OBJECTIVE 18.2 Park and Recreation:**

Continue to work with land developers and municipalities to acquire new park land through dedication or other means, as new development occurs.

*Policy 18.2.1 Continue park land and trail dedication, or fee-in-lieu-of land dedication requirements for all new residential development. Additional land should be required for new development in the north, far southeast, and southwest parts of Appleton and its future growth area.*

**OBJECTIVE 18.3 Park and Recreation:**

Develop the City's park system as an interconnected network of sites linked by greenways and trails.

*Policy 18.3.2 Implement the recommendations contained within the 2016 Appleton Trails Master Plan.*

**PROPOSED TEXT AMENDMENTS**

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Staff offers the following proposed text amendments. The text recommended to be added is underlined. The text recommended for deletion is identified by ~~strikethrough~~. Staff commentary is identified in *blue italics* to provide insight regarding that specific amendment/change.

**Sec. 17-3. General provisions.**

(d) ***Dedication and reservation of lands.*** Streets, Highways, Trails, Parks, Drainageways, Stormwater Facilities, and Floodplain. Whenever a tract of land to be divided or developed within the jurisdiction of this ordinance encompasses all or any part of a street, highway, trail, park, drainageway, stormwater facility, floodplain, or other public way which has been

designated on ~~the a duly adopted municipal or regional official map, comprehensive plan, or other plan officially adopted by is in any way determined to be such by the Plan Commission or Common Council, said public way shall be dedicated or reserved by the owner in the locations and dimensions indicated on said plan or component and as set forth in this ordinance.~~

#### Sec. 17-4. Preplatting requirements.

(a) **Preplatting conference.** Prior to submitting an application for the approval of a Preliminary Plat within the corporate limits, the subdivider shall schedule a preplatting conference with the City Engineer or ~~his or her~~ their designee. The purpose of the preplatting conference is to provide an opportunity for communication between the ~~developer~~ subdivider and City staff, regarding the purpose and objectives of these regulations, the Official Map, eComprehensive pPlan, Comprehensive Outdoor Recreation Plan, Trails Master Plan, zoning regulations, erosion control and stormwater management practices, neighborhood plans, and duly adopted plan implementation devices of the City, and to otherwise assist the subdivider in planning the development. The subdivider will receive information regarding required procedures.

(1) The City staff involved in the preplatting conference shall include, but not be limited to, representatives from the Department of Public Works, Community and Economic Development Department, Parks, Recreation and Facilities Management Department, and Fire Department.

(b) **Required information.** The following information shall be submitted to the City Engineer or ~~his or her~~ their designee prior to the preplatting conference:

(1) The scaled sketch plan shall show:

- a. The title, scale, north point, and date;
- b. The boundaries of the property to be subdivided;
- c. Natural characteristics such as drainage, wetlands, steep slopes, hills, ridges, floodplains, environmentally sensitive lands, and wooded areas;
- d. Development characteristics such as surrounding streets, existing structures, and available utilities;
- e. The proposed layout of streets, blocks, and lots;
- f. The proposed location of business, parkland, trails, and other nonresidential areas;
- g. Existing easements and covenants affecting the property; and
- h. Where site conditions permit, any tract subdivided into parcels containing one (1) or more acres shall be arranged to allow future resubdivision of any parcels into smaller lots.

(2) The scaled location sketch shall show the relationship of the proposed subdivision to:

- a. Traffic arterials;
- b. Schools, parks, playgrounds, trails, and other community facilities;
- c. Churches and retail facilities;
- d. Public transportation;
- e. Local zoning districts; and
- f. Existing plats.

(Code 1965, §21.16, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

- (3) The subdivider shall indicate how they propose to accommodate parkland and/or trail needs in a manner that is consistent with §17-29.

*Comments: Listed the City departments to be involved in preliminary platting discussions, as noted above. Clarified that park/trail needs are items to be evaluated during the pre-submittal process.*

**Sec. 17-29. Dedication of public parks and other public sites and open spaces.**

~~(a) **Purpose.** In order~~ The requirements of this section are established to ensure that adequate parks, open spaces, and sites for other public uses may be properly located and preserved as the community develops, and in order This section has also been established to ensure that the cost of providing park and recreation sites and facilities necessary to serve the additional families people brought into the community by subdivision development may be most equitably apportioned on the basis of the additional need created by the individual subdivision or minor land division development, the following provisions are established: The requirements shall apply to all lands proposed for all residential development.

~~(b) **Applicability.** Any subdivision or minor land division (certified survey map) approval which enables the creation of additional dwelling units, and that has not already been subject to the requirements of this section, shall require compliance with the parkland and/or trail dedication and fee in lieu of dedication requirements included in this section.~~

~~(c) **Exception.** Reconfiguration of existing lots and redevelopment which does not create new, additional lots shall not be subject to the provisions of this section. Zoning districts not listed in the tables under §17-29(e)(1) and §17-29(f)(1) are exempt from the provisions of this section.~~

~~(d) **Conformance with adopted ordinances and planning documents.** The location, size, standards, and recommendations related to parkland and/or trail dedication and fee in lieu of parkland and/or trail dedication shall be consistent with the following adopted city documents: Official Map, Comprehensive Plan, Comprehensive Outdoor Recreation Plan, Trails Master Plan, and/or other document officially adopted by Common Council.~~

*Comments: Created the paragraph above regarding consistency with municipal plans in order to comply with 2017 Wisconsin Act 243, particularly Section 236.45(6) of the Wisconsin State Statutes.*

~~(a) **Reservation of potential sites.** In the design of the subdivision or minor land division, consideration shall be given to the adequate provision of and correlation with such public sites or open areas. Where it is determined by the Plan Commission that a portion of that subdivision or minor land division is required for such public sites or open spaces, the subdivider may be required to reserve such area for a period not to exceed three (3) years, after which the City shall either acquire the property or release the reservation.~~

~~(b) (e) **Dedication of sites Parkland and/or trail dedication.** Within the corporate limits of the City, the subdivider shall dedicate land to provide for park, trail, and/or recreation needs in accordance with the adopted ordinances and planning documents described in subsection (d) above.~~

~~(1) Within the corporate limits of the City, the subdivider shall provide and dedicate to the public either a minimum of five (5) acres of land to provide for park and recreation needs of the community as required by the adopted comprehensive plan or as determined by the Plan Commission in conjunction with the subdivider and in **Dedication area calculation.** The dedication to the public shall be a minimum of three (3) acres or an amount of land to be determined in accordance with the zoning classification intended for each lot in the subdivision as specified in the following table, whichever is greater.:~~

<i>Types of Dwelling Units and Zones</i>	<i>Percent Allocation of Total Gross Residential Acreage</i>
R-1A zone, one family	5
R-1B and R-1C zone, one family	6

R-2 zone, two-family	8
R-3 zone, apartment	12
PD (Planned Development Overlay—Residential)	12

<u>Zoning District</u>	<u>Land Dedication (per dwelling unit)</u>
R-1A, R-1B, R-1C, and R-2	800 square feet
R-3, PD, and TND	650 square feet

*Comments: Changed the land dedication amount as shown above based on the “Public Facility Needs Assessment” completed by Baker Tilly and approved by Common Council on December 7, 2022. The Baker Tilly report included irregular numbers (789.11 square feet for single-family and 667.26 square feet for multi-family), so the numbers above were rounded up and down, respectively. Adjusted from a minimum of five acres to a minimum of three acres based on direction from the Parks, Recreation, and Facilities Management Department. Streamlined the table above to improve usability.*

- (2) **Dedication consultation and land evaluation.** The location, suitability, and dimensions of the land to be dedicated shall be determined in consultation between the subdivider and appropriate City departments (see §17-4), prior to submission of the preliminary plat or certified survey map. The land to be dedicated must be free of wetlands, floodplain, or other limitations that would prevent the land from being used for parkland purposes, unless this requirement is waived by the Director of Parks, Recreation and Facilities Management or their designee.
- a. Factors used in evaluating the adequacy of land to be dedicated shall include, but not be limited to, size, shape, topography, geography, tree cover, access, and location of people to be served.
  - b. Stormwater ponds may be located within the land to be dedicated, but pond square footage shall not count toward the dedication requirement unless designed and constructed to serve as a park amenity, as determined by the Director of Parks, Recreation and Facilities Management or their designee.

*Comments: Identified factors above to be considered when evaluating the feasibility of land for dedication, with the goal of having land dedicated that is usable for park development and programming purposes.*

- (3) **Reservation of additional land.** Where the adopted ordinances and planning documents described in §17-29(d) call for a larger amount of land than the subdivider is required to dedicate, the land needed beyond the minimum amount shall be reserved for subsequent purchase by the City. Such acquisition must occur within three (3) years from the date of approval of the final plat or certified survey map, unless the timing or other details regarding the conveyance are modified by the development agreement. If such acquisition does not occur within the specified time period, the City shall release the reservation.
- (2) ~~Where such dedication is not feasible or is not compatible with the comprehensive plan, the subdivider shall in lieu thereof pay to the City a fee according to the zoning classification intended for each lot in the subdivision as specified in the following table:~~

<u>Types of Dwelling Units and Zones</u>	<u>In Lieu of Payment (per unit)</u>
R-1A zone, one-family	\$300.00
R-1B zone, one-family	\$300.00
R-1C zone, one-family	\$300.00
R-2 zone, two-family	\$200.00
R-3 zone, apartment	\$150.00
PD (Planned Development Overlay—Residential)	\$150.00

~~(3) Such fees shall be held in a nonlapsing fund to be used exclusively for immediate or future site acquisition or capital improvement.~~

(e) ~~(f) **Proportionate payment in lieu of parkland and/or trail dedication.** Where such dedication is not feasible or is not consistent compatible with the comprehensive plan adopted ordinances and planning documents described in subsection (d) above, the subdivider landowner shall, in lieu thereof, pay to the City a fee equivalent to the value of the required dedication. Such fee should be distributed and paid as follows:~~

~~(1) **Fee amount.** In lieu of parkland and/or trail dedication, the landowner shall pay to the City a fee according to the zoning classification of each lot as specified in the following table:~~

<u>Zoning District</u>	<u>In Lieu Payment (per dwelling unit)</u>
<u>R-1A, R-1B, R-1C, and R-2</u>	<u>\$1,100.00</u>
<u>R-3, PD, and TND</u>	<u>\$900.00</u>

*Comments: Changed the fees as shown above based on the "Public Facility Needs Assessment" completed by Baker Tilly and approved by Common Council on December 7, 2022. The Baker Tilly report included irregular numbers (\$1,097.29 for single-family and \$927.83 for multi-family), so the numbers above were rounded up and down, respectively. Repositioned and streamlined the table above to improve usability.*

~~(1) No payment shall be required for a lot created by the subdivision of land under this ordinance on which a residential structure already exists, or which is a residential parcel in excess of one hundred twenty (120) acres and not intended for immediate sale or other conveyance.~~

~~(2) (2) **Fee collection.** The required payment shall be made before the certification of approval may be affixed to the Final Plat by the landowner upon the issuance of a building permit for individual lots.~~

*Comments: Revised the paragraph above regarding the timing for fee payment in order to comply with 2017 Wisconsin Act 243, particularly Section 236.45(6) of the Wisconsin State Statutes.*

~~(3) **Fee deposit.** Such fees shall be deposited and held in a nonlapsing fund to be used exclusively for immediate or future site acquisition or capital improvement.~~

~~(3) (4) **Further division of land.** After the Final Plat has been recorded, no If a lot or parcel may be is further divided, by replat, or conveyance as defined in W.S.A. §706.01(3), and no building permit may be issued, unless: payment of the fee as specified in this section must be made, upon issuance of a building permit, for each additional undeveloped lot or parcel created by the land division.~~

~~a. Such further division has been approved by the Plan Commission as being in accordance with the purpose of this ordinance and with the purposes of W.S.A. Chapter 236;~~

~~b. Payment of the fee as specified in §17-28(3) shall be made for each additional lot or parcel created by the division; and~~

~~e. The proportionate payment in lieu of dedication as set forth in this section shall be paid for all certified survey maps, and the Register of Deeds of the county in which the land is located shall not accept a certified survey map for record unless the map has been approved by the Common Council.~~

~~(g) **Provision of land for trails.** The following requirements are included in this chapter to recognize the importance of trails within and between developments. Trails provide access to parks, open spaces, and other community destinations.~~

~~(1) Within the corporate limits of the City, the subdivider shall provide land for trail needs in accordance with the adopted ordinances and planning documents described in subsection (d) above. The location, suitability, and dimensions shall be determined in consultation between the subdivider and appropriate City departments (see~~

§17-4), prior to submission of the preliminary plat or certified survey map. The following factors and criteria shall be considered:

- a. A subdivision and/or minor land division adjacent to an existing trail shall provide connection(s) to said trail.
  - b. A subdivision and/or minor land division in an area identified with a proposed trail, per the Trails Master Plan, shall accommodate future trail placement using outlot(s) dedicated to the public and/or widened street right-of-way. In limited cases, the use of easements may also be considered.
  - c. Outlots dedicated to the public for trail purposes shall be exempt from any dimensional standards on lot width and lot area found in Chapter 23, Zoning of the Municipal Code and from lot design standards found in §17-26. These outlots must be noted as such on the Final Plat or Certified Survey Map.
  - d. Exact trail placement and configuration is adaptable, based on site features at the time of subdividing. The location and dimensions of land needed for a trail shall reasonably accommodate development of the property. To allow for trail pavement, clearances, and other amenities, a corridor width of twenty (20) feet will be considered typical.
  - e. Unless otherwise agreed upon, the City is responsible for design, construction, and maintenance of trails after the land is dedicated or transferred to the City.
  - f. Rules governing trail use are found in Chapter 13, Parks and Recreation of the Municipal Code.
- (2) The area of the outlot(s) and/or widened street right-of-way dedicated for trail purposes shall be counted toward the parkland dedication requirement as specified in §17-29(e).

*Comments: Created the section above to include trails in the dedication process and aid in the implementation of the Trails Master Plan.*

~~(d)~~ (h) **Determination of feasibility.** The determination as to the feasibility of dedication shall be made by the Common Council City Plan Commission. When dedication to the public is proposed for a certified survey map, the acceptance of the dedication must be approved by Common Council before administrative approval of the certified survey map. (Code 1965, §21.13(1)(c); Ord 55-94, §1, 4-20-94; Ord 67-94, §1, 6-18-94, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 44-09, §1, 3-10-09)

#### **Sec. 17-30. Identification of dedicated areas.**

All areas to be dedicated to the public for ~~except~~ streets shall be clearly identified as such on the Final Plat or Certified Survey Map. All other areas to be dedicated for public use shall be clearly identified on the Final Plat or Certified Survey Map, with its intended purpose noted. (Code 1965, §21.13(1)(d), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

#### **Sec. 17-31. Reservation of ~~road~~ street widths.**

Minimum street right-of-way widths are identified in §17-25. Any street ~~Road~~ widths requested in excess of the minimum primary arterial rights of way established in this ordinance are required to requirements must be reserved as specified in §17-29(e)(3). (Code 1965, §21.13(2)(a), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

#### **Sec. 17-32. Reservation of public sites.**

Where sites for parks, schools, playgrounds or other public uses except streets, ~~as shown in the comprehensive plan,~~ are located within the subdivision or minor land division area, the Common Council shall require that the sites be reserved by the

subdivider ~~for a period of two (2) years from the date of approval of the Final Plat as specified in §17-29(e)(3). If the a government agency, other than the City, concerned passes a resolution expressing its intent to acquire the land so to be reserved, the reservation process and time period specified in §17-29(e)(3) shall apply be extended for an additional six (6) months. Public reservations shall be clearly identified on the plat; e.g., “Reserved for Public School Site”. The Council may by resolution waive any reservation so required.~~

(Code 1965, §21.13(2)(b), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

### **Sec. 17-33. Private reservations.**

Reservation of areas for the exclusive use of the occupants of a subdivision may be permitted by the Common Council when such reservations will not be contrary to the public health, safety, morals or general welfare, and such areas shall be clearly identified on the preliminary and final plats or certified survey maps as private reservations.

(Code 1965, §21.13(2)(c), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

### **Sec. 17-34. Right of refusal.**

The number, size and location of all dedications, reservations or easements shall be subject to approval, and the Common Council shall ascertain that the proposed sites are suitable for the proposed uses. The Council retains the right to refuse any dedication. Upon refusal, an alternative parkland and/or trail dedication or payment in lieu of dedication shall occur.

(Code 1965, §21.13(3), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

### **Sec. 17-35. ~~Accomplishment~~ Acceptance of dedication.**

When a final plat of a subdivision located in the City has been approved by the Common Council and all other required approvals are obtained and the plat is recorded, that approval constitutes acceptance for the purpose designated on the plat of all lands shown in the plat as dedicated to the public, including street dedications. This also applies to certified survey maps following the process described in §17-29(h).

(Code 1965, §21.13(4), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## **RECOMMENDATION**

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Pending public comments, staff recommends the text amendments to Chapter 17 Subdivision Ordinance of the Municipal Code relating to Section 17-3 General Provisions, Section 17-4 Preplatting Requirements, Section 17-29 Dedication of Public Sites and Open Spaces, Section 17-30 Identification of Dedicated Areas, Section 17-31 Reservation of Road Widths, Section 17-32 Reservation of Public Sites, Section 17-33 Private Reservations, Section 17-34 Right of Refusal, and Section 17-35 Accomplishment of Dedication, as identified in this report, **BE APPROVED**.