

**CHAPTER 5  
CREATION OF PLANNING COMMISSION**

**5.1 Title**

This ordinance is entitled the “Town of Fremont Planning Commission Ordinance.”

**5.2 Purpose**

The purpose of this ordinance is to establish a Town of Fremont Planning Commission and set forth its organization, powers and duties, to further the health, safety, welfare and wise use of resources for the benefit of current and future residents of the Town and affected neighboring jurisdictions, through the adoption and implementation of comprehensive planning with significant citizen involvement.

**5.3 Authority; Establishment**

The Town Board of the Town of Fremont has been authorized by a Town meeting under sec. 60.11(2)(c), Wis. Stats., to exercise village powers and the Town has a population of less than 2,500, according to the most recent regular or special federal census, sec. 990.01 (29), Wis. Stats. The Town Board hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a five (5) member Planning Commission under secs. 60.62(4), 61.35 and 62.23, Wis. Stats. The Planning Commission shall be considered the “Town Planning Agency” under secs. 236.02(13) and 236.45, Wis. Stats., which authorize, but do not require, Town adoption of a subdivision or other land division ordinance.

**5.4 Membership**

The Planning Commission consists of five (5) members, two (2) of which may be a Town officials and only one of which may be a Town Board Member, and who shall be persons of recognized experience and qualifications.

**5.5 Appointments**

The Town Board Chairperson shall appoint the members of the Planning Commission and designate a Planning Commission Chairperson during the month of April to fill any expiring term. All appointments are subject to the approval of the Town Board. In a year in which any elected Town official is elected at the spring election, any appointment or designation by the Town Board Chairperson of such elected official shall be made after the election and qualification of the said elected official. Any citizen appointed to the Planning Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under secs. 19.01 and 60.31, Wis. Stats.

**5.6 Terms of Office**

The term of office for the Planning Commission Chairperson and each Commission member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified, except:

- (1) Initial Terms. The citizen members initially appointed to the Planning Commission shall be appointed for staggered terms. If the Town Board appoints (5) citizen members

then they shall appoint (2) persons for a term that expires in one (1) year and (2) persons for a term that expires in (2) years and (1) person for a term that expires in (3) years. If the Town Board appoints (1) or (2) elected officials then these appointments shall replace one or both of the initial (1) and (2) year citizen member terms.

(2) Elected Town Official. A Planning Commission member who is an elected official, including a person designated the Planning Commission Chairperson, shall serve for a period of two (2) years, as allowed under sec. 66.0501(2), Wis. Stats., concurrent with their term on the Town Board, except an initial appointment made after April 30 shall be for a term that expires two (2) years from the previous April 30.

### **5.7 Vacancies**

A person who is appointed to fill a vacancy on the Planning Commission shall serve for the remainder of the term.

### **5.8 Compensation; Expenses**

The Town Board of the Town of Fremont shall set a per diem allowance by resolution as allowed under sec. 66.0501(2), Wis. Stats. In addition, the Town Board may reimburse reasonable costs and expenses, as allowed under sec. 60.321, Wis. Stats.

### **5.9 Experts & Staff**

The Planning Commission may, under sec. 62.23(1), Wis. Stats., recommend to the Town Board the employment of experts and staff, and may review and recommend to the approval authority payments under any contract with an expert.

### **5.10 Rules; Records**

The Planning Commission, under sec. 62.23(2), Wis. Stats., may adopt rules for the transaction of its business, subject to Town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under secs. 19.21-19.39, Wis. Stats.

### **5.11 Chairperson & Officers**

- (1) Chairperson. The Planning Commission Chairperson shall be appointed and serve a term as provided in sections 5.05 and 5.06 of this ordinance. The Chairperson shall, subject to Town ordinances and Commission rules:
  - (a) provide leadership to the Commission;
  - (b) set Commission meeting and hearing dates;
  - (c) provide notice of Commission meetings and hearings and set their agendas, personally or by his or her designee;
  - (d) preside at Commission meetings and hearings; and
  - (e) ensure that the laws are followed.
  
- (2) Vice Chairperson. The Planning Commission may elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., a Vice Chairperson to act in the place of the Chairperson when the Chairperson is absent or incapacitated for any cause.

- (3) Secretary. The Planning Commission shall elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., one of its members to serve as Secretary, or, with the approval of the Town Board, designate the Town Clerk or other Town officer or employee as Secretary.

#### **5.12 Commission Members as Local Public Officials**

All members of the Planning Commission shall faithfully discharge their official duties to the best of their abilities, as provided in the oath of office, sec. 19.01, Wis. Stats., in accordance with, but not limited to, the provisions of the Wisconsin Statutes on:

Public Records, secs. 19.21-19.39; Code of Ethics for Local Government Officials, secs. 19.42, 19.58 & 19.59; Open Meetings, secs. 19.81-19.89; Misconduct in Office, sec. 946.12; and Private Interests in Public Contracts, sec. 946.13. Commission members shall further perform their duties in a fair and rational manner and avoid arbitrary actions.

#### **5.13 General & Miscellaneous Powers**

The Planning Commission, under sec. 62.23(4), Wis. Stats., shall have the power:

- (1) Necessary to enable it to perform its functions and promote Town planning.
- (2) To make reports and recommendations relating to the planning and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
- (3) To recommend to the Town Board programs for public improvements and the financing of such improvements.
- (4) To receive from public officials, within a reasonable time, requested available information required for the Commission to do its work for itself, its members and employees, in the performance of their duties, to enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

#### **5.14 Town Comprehensive Planning: General Authority & Responsibilities**

The Planning Commission shall have the authority to make and adopt a comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats., which contains the elements specified in sec. 66.1001(2), Wis. Stats, and follows the procedures in sec. 66.1001(4), Wis. Stats. The term “make” the plan means that the Planning Commission shall ensure that the plan is prepared, and oversee and coordinate the preparation of the plan, whether the work is performed for the Town by the Planning Commission, Town staff, another unit of government, the regional planning commission, a consultant, citizens, an advisory committee, or any other person, group or organization.

#### **5.15 Procedure for Planning Commission Adoption & Recommendation of a Town Comprehensive Plan or Amendment**

The Planning Commission, in order to ensure that the requirements of sec. 66.1001(4), Wis. Stats., are met, shall proceed as follows.

- (1) Public participation verification. Prior to beginning work on a comprehensive plan, the Planning Commission shall verify that the Town Board has adopted written procedures designed to foster public participation in every stage of preparation of the comprehensive plan. These written procedures shall include open discussion, communication programs, information services and noticed public meetings. These written procedures shall further provide for wide distribution of proposed, alternative or amended elements of a comprehensive plan and shall provide an opportunity for written comments to be submitted by members of the public to the Town Board and for the Town Board to respond to such written comments.
- (2) Resolution. The Planning Commission, under sec. 66.1001(4) (b), Wis. Stats., shall recommend its proposed comprehensive plan or amendment to the Town Board by adopting a resolution by a majority vote of the entire Planning Commission. The vote shall be recorded in the minutes of the Planning Commission. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of the comprehensive plan. The resolution adopting a comprehensive plan shall further recite that the requirements of the comprehensive planning law have been met, under sec. 66.1001, Wis. Stats., namely that:
  - (a) the Town Board adopted written procedures to foster public participation and that such procedures allowed public participation at each stage of preparing the comprehensive plan;
  - (b) the plan contains the nine (9) specified elements and meets the requirements of those elements;
  - (c) the maps and other descriptive materials that relate to the plan;
  - (d) the plan has been adopted by a majority vote of the entire Planning Commission, which the clerk or secretary is directed to record in the minutes; and
  - (e) the Planning Commission clerk or secretary is directed to send a copy of the comprehensive plan adopted by the Commission to the governmental units specified in sec. 66.1001(4), Wis. Stats., and sub. (3) of this section.
- (3) Transmittal. One copy of the comprehensive plan or amendment adopted by the Planning Commission for recommendation to the Town Board shall be sent to:
  - (a) Every governmental body that is located in whole or in part within the boundaries of the Town, including any school district, Town sanitary district, public inland lake protection and rehabilitation district or other special district.
  - (b) The clerk of every city, village, town, county and regional planning commission that is adjacent to the Town.
  - (c) The Department of Administration.
  - (e) The regional planning commission in which the Town is located.
  - (f) The public library that serves the area in which the Town is located.

## 5.16 Planning Implementation & Administration

(1) Ordinance development. If directed by resolution or motion of the Town Board, the Planning Commission shall prepare the following:

- (a) Zoning. A Town zoning ordinance under village powers, secs. 60.22(3), 61.35 and 62.23(7), Wis. Stats., a Town construction site erosion control and stormwater management, zoning ordinance under sec. 60.627(6), Wis. Stats., a Town exclusive agricultural zoning ordinance under subch. V of ch. 91, Wis. Stats., and any other zoning ordinance within the Town's authority.
- (b) Official map. A proposed official map ordinance under sec. 62.23 (6), Wis. Stats.
- (c) Subdivisions. A proposed Town subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
- (d) Other. Any other ordinance specified by the Town Board.

(2) Ordinance amendment. The Planning Commission, on its own motion, or at the direction of the Town Board by its resolution or motion, may prepare proposed amendments to the Town's ordinances relating to comprehensive plan and land use.

(3) Non-regulatory programs. The Planning Commission, on its own motion, or at the direction of the Town Board by resolution or motion, may propose non-regulatory programs to implement the comprehensive plan, including programs relating to topics such as education, economic development and tourism promotion, preservation of natural resources through the acquisition of land or conservation easements, and capital improvement planning.

(4) Program administration. The Planning Commission shall, pursuant to Town ordinances, have the following powers.

- (a) Zoning conditional use permits. The zoning administrator shall refer applications for conditional use permits under Town zoning to the Planning Commission for review and recommendation to the Town Board.
- (b) Subdivision review. Proposed plats under ch. 236, Wis. Stats, proposed subdivisions or other land divisions under the Town subdivision ordinance under sec. 236.45, Wis. Stats. shall be referred to the Planning Commission for review and recommendation to the Town Board.
- (c) Other. All other planning issues may be referred to the Planning Commission for review and recommendation to the Town Board.

(5) Consistency. Any ordinance, amendment or program proposed by the Planning Commission, and any Planning Commission approval, recommendation for approval or other action under Town ordinances or programs that implement the Town's comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats, shall be consistent with that plan as of January 1, 2010. If any such Planning Commission action would not be consistent with the comprehensive plan, the Planning Commission shall use this as information to consider in updating the comprehensive plan.

## 5.17 Referrals to the Planning Commission

- (1) Required referrals under sec. 62.23(5), Wis. Stats. The following may be referred to the Planning Commission for report:
  - (a) The location and architectural design of any public building.
  - (b) The location of any statue or other memorial.
  - (c) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any
    - (i) street, alley or other public way;
    - (ii) park or playground;
    - (iii) airport;
    - (iv) area for parking vehicles; or
    - (v) other memorial or public grounds.
  - (d) The location, extension, abandonment or authorization for any publicly or privately owned public utility.
  - (e) All plats under the Town's jurisdiction under ch. 236, Wis. Stats., including divisions under a Town subdivision or other land division ordinance adopted under sec. 236.45, Wis. Stats.
  - (f) The location, character and extent or acquisition, leasing or sale of lands for
    - (i) public or semi-public housing;
    - (ii) slum clearance;
    - (iii) relief of congestion; or
    - (iv) vacation camps for children.
  - (g) The amendment or repeal of any ordinance adopted under sec. 62.23, Wis. Stats., including ordinances relating to: the Town Planning Commission; the Town master planning or the Town comprehensive plan under sec. 66.1001, Wis. Stats.; a Town official map; and Town zoning under village powers.
- (2) Required and recommended referrals under this ordinance. In addition to referrals required by the Wisconsin Statutes, the following matters are encouraged to be referred to the Planning Commission for report:
  - (a) Any proposal, under sec. 59.69, Wis. Stats. that would approve a general county zoning ordinance.
  - (b) A Town official map ordinance under sec. 62.23(6), Wis. Stats., or any other proposed Town ordinance under sec. 62.23, Wis. Stats., not specifically required by the Wisconsin Statutes to be referred to the commission.
  - (c) A proposed extraterritorial zoning ordinance or a proposed amendment to an existing ordinance under sec. 62.23(7a), Wis. Stats.
  - (d) A proposed boundary change pursuant to an approved cooperative Planning agreement under sec. 66.0307, Wis. Stats., or a proposed boundary agreement under sec. 66.0225, Wis. Stats., or other authority.
  - (e) A zoning ordinance or amendment pursuant to an agreement in an approved cooperative planning under sec. 66.0307(7m), Wis. Stats.

- (f) Any proposed plan, element of a plan or amendment to such plan or element developed by the regional planning commission and sent to the Town for review or adoption.
  - (g) Any proposed contract, for the provision of information, or the preparation of a comprehensive plan, an element of a plan or an implementation measure, between the Town and the regional planning commission, under sec. 66.0309, Wis. Stats., another unit of government, a consultant or any other person or organization.
  - (h) A proposed ordinance, regulation or plan, or amendment to the foregoing, relating to a mobile home park under sec. 66.0435, Wis. Stats.
  - (i) A proposal to create environmental remediation tax incremental financing in the town under sec. 66.1106, Wis. Stats.
  - (j) A proposed county agricultural preservation plan or amendment, under subch. IV of ch. 91, Wis. Stats., referred by the county to the Town, or proposed Town agricultural preservation plan or amendment.
  - (k) Any other matter required by any Town ordinance or Town Board resolution or motion to be referred to the Planning Commission.
- (4) Discretionary referrals. The Town Board, or other town officer or body with final approval authority or referral authorization under the Town ordinances, may refer any of the following to the Planning Commission for report:
- (a) A proposed town or county development plan or comprehensive plan, proposed element of such a plan, or proposed amendment to such plan.
  - (b) A proposed town zoning or county shoreland zoning ordinance or amendment.
  - (c) A proposed town or county subdivision or other land division ordinance under sec. 236.45, Wis. Stats., or amendment.
  - (d) An appeal or permit application under the town zoning ordinance or county shoreland zoning ordinance to either the town board of appeals or the county zoning board of adjustment, county planning body or other county body.
  - (e) A proposed intergovernmental cooperation agreement, under sec. 66.0301, Wis. Stats., or other statute, affecting land use, or a municipal revenue sharing agreement under sec. 66.0305, Wis. Stats.
  - (f) A proposed plat or other land division under the town and county subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
  - (g) A proposed town or county plan, under sec. 236.46, Wis. Stats., or the proposed amendment or repeal of the ordinance adopting such plan, for a system of town arterial thoroughfares and minor streets, and the platting of lots surrounded by them.
  - (h) Any other matter deemed advisable for referral to the Planning Commission for report.
- (5) Referral period. No final action may be taken by the Town Board or any other officer or body with final authority on a matter referred to the Planning Commission until the Commission has made its report, or thirty (30) days, or

such longer period as stipulated by the Town Board, has passed since referral. The thirty (30) day period for referrals required by the Wisconsin Statutes may be shortened only if so authorized by statute. The thirty (30) day referral period, for matters subject to required or discretionary referral under the Town's ordinances, but not required to be referred under the Wisconsin Statutes, may be made subject by the Town Board to a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.