

ORDINANCE NO. 2024-01

Whereas, the Plan Commission has reviewed Chapter 35 of the Code of the Town of St. Joseph regarding Plan Commission; and

Whereas, the Plan Commission met on December 6, 2023, and has determined that Chapter 35 needs updating and has recommended that the Town Board adopt revisions to Chapter 35;

NOW THEREFORE, the Town Board, having reviewed the proposed Plan Commission Ordinance recommended by the Plan Commission, hereby adopts Ordinance No. 2024-01 as the Town of St. Joseph Plan Commission Ordinance.

Passed and adopted by the Town Board of the Town of St. Joseph this 11th day of January, 2024.



Theresa Johnson, Town Chair

Attest:


Teri Kelly, Town Clerk/Treasurer

Chapter 35

Plan Commission

[HISTORY: Adopted by the Town Board of the Town of St. Joseph 12-5-2002 by Ord. No. 2002-2. This ordinance also repealed former Ch. 35, Planning Board, adopted 2-8-1990, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 80.

Subdivision of land — See Ch. 168.

Zoning — See Ch. 170.

§ 35-1 Purpose.

The Plan Commission's purposes include but are not limited to: promoting good planning practices and to keeping the public and the Town Board well informed on planning issues affecting the Town; exercising first level oversight over the administration of the Town's subdivision of land through review and recommendation concerning all proposed subdivision of land; utilizing the existing Town Plan with amendments thereto until such time as a new plan is created and adopted; preparing and recommending for Town Board approval the Town's Comprehensive Plan (hereafter referred to as the Plan) and any amendments thereto and to recommend implementation measures concerning it; reviewing land use matters referred to it by the Town Board and performing other duties at the request of the Town Board; reviewing requests for rezoning of land located in the Town of St. Joseph and making a recommendation thereon to the Town Board, taking the Town's Plan into account; and keeping accurate records of its actions.

§ 35-2 Authority and establishment.

The Town Board of the Town of St. Joseph, having been authorized by the Town meeting under W.S.A. § 60.10(2)(c) to exercise village powers, hereby exercises village powers under W.S.A. § 60.22(3) and establishes a seven member Plan Commission under W.S.A. §§ 61.35 and 62.23. The Plan Commission shall be considered the "Town Planning Agency" under W.S.A. §§ 236.02(13) and 236.45, which authorize, but do not require, Town adoption of a subdivision or other land division ordinance.

§ 35-3 Membership.

- A. The Plan Commission shall consist of the Town Board Chairperson or a designated Town Board member and six citizen members, who are not otherwise Town officials, and who shall be persons of recognized experience and qualifications. **[Amended 12-2-2010 by Ord. No. 2010-4]**
- B. There shall be three alternate members, one of whom shall be a Town Supervisor, elected in the even years, who shall be an alternate to the Town Board Chairperson. Alternates shall attend all meetings and participate in any hearings but shall only participate in deliberations and decisions when a regular member or Town Chairperson is absent, unavailable or has a conflict of interest. In the event that an alternate is needed to vote, there shall be designated first and second alternates and the first alternate shall be the most senior member.

§ 35-4 Appointments.

- A. The initial Plan Commission shall be compiled from a list of volunteers reviewed by the existing Planning Board and Zoning Committee and referred to the Town Chairperson. The Town Chairperson shall appoint the Plan Commission members and they shall be ratified by an advisory vote of the Town Supervisors.
- B. The Plan Commission shall maintain a list of citizens interested in serving on the Plan Commission. It shall interview all interested individuals and forward its recommendations for citizen members to the Town Chairperson before the first Town Board meeting following the election and qualification of Board Members, or upon any vacancy. In an even year in which any Town Board Supervisor is elected, any appointment or designation by the Town Chairperson shall be made after the election and qualification of the Town Board Supervisor elected. The Town Chairperson shall appoint Plan Commission members and they shall be confirmed by a majority vote of the Town Board at the first Town Board meeting following the election and qualification of Board Members, as provided under W.S.A. § 60.62. or upon any vacancy. Any citizen appointed to the Plan Commission shall take and file the oath of office within five days of notice of appointment, as provided under W.S.A. § 19.01 and 60.31. **[Amended 12-2-2010 by Ord. No. 2010-4]**
- C. The Plan Commission, on its own motion or at the direction of the Town Board by resolution, may organize itself into one or more work groups. The Plan Commission may appoint additional citizen members to work groups. At least one member or alternate of the Plan Commission shall be a part of any work group. These work groups shall hold public meetings in accordance with applicable state statutes and shall be in effect until dissolved by the Board or Commission or once the work group has completed the assigned task(s). The work group shall have no independent authority and shall report to the Plan Commission, and the Plan Commission shall make a recommendation to the Town Board regarding that particular issue.

§ 35-5 Terms of office.

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

- A. Initial terms. If the initial appointments to the Plan Commission are made during April, the citizen members shall be appointed for staggered terms as follows: two persons for a term that expires in one year; two persons for a term that expires in two years; and two persons for a term that expires in three years. If the initial appointments are made after April, the first citizens appointed to the Plan Commission shall be appointed for staggered terms as follows: two persons for a term that expires one year from the previous April 30; two persons for a term that expires two years from the previous April 30; and two persons for a term that expires three years from the previous April 30.
- B. Town Board members. The Town Board members shall serve for a period of two years, as allowed under W.S.A. § 66.0501(2), concurrent with his or her term on the Town Board.

§ 35-6 Vacancies.

A person who is appointed to fill a vacancy on the Plan Commission shall serve for the remainder of the term vacated. Appointments shall be made in seniority order from the Plan Commission alternates. If an alternate is unavailable or rejects an appointment, another applicant shall be appointed.

§ 35-7 Compensation and expenses.

The Plan Commission members and alternates shall be compensated on a per meeting basis at a rate set by the Town Board as allowed under W.S.A. § 60.321. In addition, the Town Board may reimburse preauthorized reasonable costs and expenses, upon being presented with a receipt, as allowed under W.S.A. § 60.321.

§ 35-8 Experts and staff.

The Plan Commission may, under W.S.A. § 62.23(1), recommend to the Town Board the employment of experts and staff and shall review and recommend for approval proposed payments under any contract with an expert.

§ 35-9 Rules and records.

The Plan Commission, under W.S.A. § 62.23(2), 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 unless exempt from public access by applicable common law or statute.

§ 35-10 Chairperson and officers.

A. Chairperson. The Town Chair shall appoint the Plan Commission Chair. The Plan Commission may recommend a member to be appointed as Plan Commission Chairperson. The Chairperson shall, subject to Town ordinances and Commission rules: **[Amended 12-2-2010 by Ord. No. 2010-4]**

- (1) Provide leadership to the Commission;
- (2) Set Commission meeting and hearing dates;
- (3) Provide notice of Commission meetings and hearings and set their agendas, personally or by his or her designee;
- (4) Preside at Commission meetings and hearings; and
- (5) Ensure that the laws are followed.

B. Vice Chairperson. The Plan Commission may elect, by open vote or secret ballot under W.S.A. § 19.88(1), a Vice Chairperson to act in the place of the Chairperson when the Chairperson is absent or incapacitated for any cause.

C. Secretary. The Plan Commission may elect, by open vote or secret ballot under W.S.A. § 19.88(1), a person to serve as Secretary, or, with the approval of the Town Board, designate the Town Clerk or other Town officer or employee as Secretary.

D. Recording secretary. The Plan Commission shall recommend to the Town Board for their approval an individual to serve as the recording secretary, who shall not be a voting member of the Commission.

§ 35-11 Removal because of absences.

After three absences in one calendar year, a Commission member may be removed from the Commission at the recommendation of the Plan Commission to the Town Board. The Chair shall send written notice of the potential removal to the Commission member after the third absence.

§ 35-12 Commission members as local public officials.

All members of the Plan Commission shall faithfully discharge their official duties to the best of their abilities, as provided in the oath of office, W.S.A. § 19.01, in accordance with, but not limited to, the provisions of the Wisconsin Statutes on: Public Records, §§ 19.21 to 19.39; Code of Ethics for Local Government Officials, §§ 19.59; Open Meetings, §§ 19.81 to 19.98; Misconduct in Office, § 946.12; and Private Interests in Public Contracts, § 946.13. Commission members shall further perform their duties in a fair and rational manner and avoid arbitrary actions. A Commission member who may have a conflict of interest shall excuse himself or herself as a member of the Commission for that issue, and an alternate shall take the Commission member's place for that issue.

§ 35-13 General and miscellaneous powers.

The Plan Commission, under W.S.A. § 62.23(4), shall have the power:

- A. Necessary to enable it to perform its functions and promote Town planning.
- B. To make reports and recommendations relating to the Plan and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
- C. To recommend to the Town Board programs for public improvements and the financing of such improvements.
- D. To receive from public officials, within a reasonable time, requested available information required for the Commission to do its work.
- E. 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 W.S.A. § 66.0119 or other court-issued warrant.

§ 35-14 Town comprehensive planning: general authority and requirements

- A. The Plan Commission shall make and adopt a Plan under W.S.A. §§ 62.23 and 66.1001, which contains the elements specified in W.S.A. § 66.1001(2), and follows the procedures in W.S.A. § 66.1001(4).
- B. The Plan Commission shall make and adopt the Plan within the time period directed by the Town Board, but not later than a time sufficient to allow the Town Board to review the Plan and pass an ordinance adopting it to take effect on or before January 1, 2010, so that the Town Plan is in effect by the date on which any Town program or action affecting land use must be consistent with the Plan under W.S.A. § 66.1001(3).
- C. In this section, the requirement to "make" the Plan means that the Plan 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 Plan Commission, Town staff, another unit of government, the Regional Planning Commission, a consultant, citizens, an advisory committee, or any other person, group or organization.
- D. The Plan Commission shall review and, if necessary, recommend changes to the Plan at least every three years. The Plan shall be updated no less than once every 10 years.

§ 35-15 Procedure for Plan Commission adoption and recommendation of a Town Comprehensive Plan or amendment.

The Plan Commission, in order to ensure that the requirements of W.S.A. § 66.1001(4) are met, shall proceed as follows:

- A. Public participation verification. Prior to beginning work on a Plan, the Plan Commission shall verify that the Town Board has adopted written procedures designed to foster public participation in every stage of preparation of the 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 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.
- B. Resolution. The Plan Commission, under W.S.A. § 66.1001(4)(b), shall recommend its proposed Plan or amendment to the Town Board by adopting a resolution by a majority vote of the entire Plan Commission. The vote shall be recorded in the minutes of the Plan Commission. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of the Plan.

- C. The resolution adopting a Plan shall further recite that the requirements of the comprehensive planning law have been met, under W.S.A. § 66.1001, namely that:
- (1) The Town Board adopted written procedures to foster public participation and that such procedures allowed public participation at each stage of preparing the Plan;
 - (2) The Plan contains the nine specified elements and meets the requirements of those elements;
 - (3) The maps and other descriptive materials related to the Plan;
 - (4) The Plan has been adopted by a majority vote of the entire Plan Commission, which the Clerk or Secretary is directed to record in the minutes; and
 - (5) The Plan Commission Clerk or Secretary is directed to send one copy of the Plan or amendment adopted by the Plan Commission for recommendation to the Town Board to the governmental units specified in W.S.A. § 66.1001(4) as follows:
 - (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) After September 1, 2003, the Department of Administration.
 - (d) The Regional Planning Commission in which the Town is located.
 - (e) The public libraries that serve the area in which the Town is located.

§ 35-16 Plan implementation and administration.

- A. Ordinance development. If directed by resolution or motion of the Town Board, the Plan Commission shall prepare the following:
- (1) Zoning. A proposed Town zoning ordinance under village powers, W.S.A. §§ 60.22(3), 61.35 and 62.23(7), a Town construction site erosion control and stormwater management zoning ordinance under W.S.A. § 60.627(6), a Town farmland preservation zoning ordinance under W.S.A. § 91.36, and any other zoning ordinance within the Town's authority.
 - (2) Official map. A proposed official map ordinance under W.S.A. § 62.23 (6), Subdivisions.
 - (3) Land Division. Revision of the Town Subdivision Ordinance or preparation or revision of any ordinance relating to land division under Wis. Stat. 236.45.
 - (4) Other. Any other ordinance specified by the Town Board (Note: e.g., historic preservation, design review, site plan review).
- B. Ordinance amendment. The Plan 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 Code of Ordinances.
- C. Nonregulatory programs. The Plan 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 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.

- D. Program administration. The Plan Commission shall, pursuant to Town ordinances, have the following powers:
- (1) Recommendations for local or county variances and special exceptions / conditional use permits. To review and make recommendations to the Town Board concerning the appropriate action or position for the Town to take on applications for variances under Town or county ordinances or under applications for special exception/conditional use permits under Town or county zoning ordinances.
 - (2) Subdivision review. Proposed plats under W.S.A. ch. 236, and proposed subdivisions or other land divisions under the Town Subdivision, Chapter **168** of the Town Code shall be referred to the Plan Commission for review and recommendation to the Town Board.
 - (3) Others as determined necessary by the Plan Commission or Town Board.
- E. Consistency. Any ordinance, amendment or program proposed by the Plan Commission, and any Plan Commission approval, recommendation for approval or other action under Town ordinances or programs that implement the Town's Plan under W.S.A. §§ 62.23 and 66.1001, shall be consistent with that Plan as of its last adopted update. If any such Plan Commission action would not be consistent with the Plan, the Plan Commission shall use this as information to consider in updating the Plan.

§ 35-17 Referrals to the Plan Commission.

- A. Required referrals under W.S.A. § 62.23(5). The following shall be referred to the Plan Commission for report:
- (1) The location and architectural design of any public building.
 - (2) The location of any statue or other memorial.
 - (3) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any:
 - (a) Street, alley or other public way;
 - (b) Park or playground;
 - (c) Airport;
 - (d) Area for parking vehicles; or
 - (e) Other memorial or public grounds.
 - (4) The location, extension, abandonment or authorization for any publicly or privately owned public utility.
 - (5) All divisions of land into parcels falling under the Town's jurisdiction, including land divisions under the Town Subdivision Ordinance.
 - (6) The location, character and extent or acquisition, leasing or sale of lands for:
 - (a) Public or semipublic housing;
 - (b) Slum clearance;
 - (c) Relief of congestion; or

(d) Vacation camps for children.

(7) The amendment or repeal of any ordinance adopted under W.S.A. § 62.23, including ordinances relating to: the Town Plan Commission; the Town Comprehensive Plan under W.S.A. § 66.1001; a Town official map; and Town zoning under village powers.

B. Required referrals under sections of the Wisconsin Statutes other than W.S.A. § 62.23(5). The following shall be referred to the Plan Commission for report:

(1) An application for initial licensure of a child welfare agency or group home under W.S.A. § 48.68(3).

(2) An application for initial licensure of a community-based residential facility under W.S.A. § 50.03(4).

(3) Proposed designation of a street, road or public way, or any part thereof, wholly within the jurisdiction of the Town, as a pedestrian mall under W.S.A. § 66.0905.

(4) Matters relating to the establishment or termination of an architectural conservancy district under W.S.A. § 66.1007.

(5) Matters relating to the establishment of a reinvestment neighborhood required to be referred under W.S.A. § 66.1107.

(6) Matters relating to the establishment or termination of a business improvement district required to be referred under W.S.A. § 66.1109.

(7) A proposed housing project under W.S.A. § 66.1211(3).

(8) Matters relating to urban redevelopment and renewal in the Town required to be referred under W.S.A. subch. XIII of ch. 66.

(9) The adoption or amendment of a Town subdivision or other land division ordinance under W.S.A. § 236.45(4).

(10) Any other matter required by the Wisconsin Statutes to be referred to the Plan Commission.

C. Required referrals under this chapter. In addition to referrals required by the Wisconsin Statutes, the following matters shall be referred to the Plan Commission for report:

(1) Any proposal, under W.S.A. § 59.69, for the town to approve or to remain under general county zoning.

(2) Proposed regulations or amendments relating to historic preservation under W.S.A. § 60.64.

(3) A proposed driveway access ordinance or amendment.

(4) A proposed Town official map ordinance under W.S.A. § 62.23(6), or any other proposed Town ordinance under W.S.A. § 62.23, not specifically required by the Wisconsin Statutes to be referred to the Commission.

(5) A proposed Town zoning ordinance or amendment adopted under authority separate from or supplemental to W.S.A. § 62.23, including a Town construction site erosion control and stormwater management zoning ordinance under § 60.627(6), W.S.A., and a Town farmland preservation zoning ordinance under W.S.A. ch. 91.

(6) A requested recommendation on an application for a variance or special exception/conditional use permit under the Town or County Zoning Ordinance.

- (7) A proposed concept and site plan.
 - (8) Actions affecting a proposed extraterritorial zoning ordinance or a proposed amendment to an existing ordinance under W.S.A. § 62.23(7a).
 - (9) A proposed boundary change pursuant to an approved cooperative plan agreement under W.S.A. § 66.0307, or a proposed boundary agreement under W.S.A. § 66.0225, or other authority.
 - (10) A proposed zoning ordinance or amendment pursuant to an agreement in an approved cooperative plan under W.S.A. § 66.0307(7m); 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.
 - (11) 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 W.S.A. § 66.0309, another unit of government, a consultant or any other person or organization.
 - (12) A proposed ordinance, regulation or plan, or amendment to the foregoing, relating to a mobile home park under W.S.A. § 66.0435.
 - (13) A proposed agreement, or proposed modification to such agreement, to establish an airport affected area under W.S.A. § 66.1009.
 - (14) A proposed town airport zoning ordinance under W.S.A. § 114.136(2).
 - (15) A proposal to create environmental remediation tax incremental financing in the town under W.S.A. § 66.1106.
 - (16) A proposed county agricultural preservation plan or amendment, under W.S.A. subch. IV of ch. 91, referred by the county to the Town, or proposed Town agricultural preservation plan or amendment.
 - (17) A proposed county development plan or comprehensive plan, proposed element of such a plan, or proposed amendment to such plan.
 - (18) A proposed county zoning ordinance or amendment.
 - (19) A proposed county subdivision or other land division ordinance under W.S.A. § 236.45, or amendment.
 - (20) An appeal or permit application under the County Zoning Ordinance to the County Zoning Board of Adjustment, county planning body or other county body.
 - (21) A proposed intergovernmental cooperation agreement, under W.S.A. § 66.0301, or other statute, affecting land use, or a municipal revenue sharing agreement under W.S.A. § 66.0305.
 - (22) A proposed plat or other land division under the County Subdivision or other land division ordinance under W.S.A. § 236.45. A proposed county plan, under W.S.A. § 236.46, 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.
 - (23) Any other matter deemed advisable by the Town Chairperson or a majority of the Town Board or any other matter required by any Town ordinance shall be referred for consideration and report.
- D. 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 Plan Commission until the Commission has made its report, or 30 days, or such longer period as stipulated by the Town Board, has passed since referral.

§ 35-18 Savings clause.

The Town of St. Joseph has had a Planning Board and Zoning Committee for many years prior to the enactment of this chapter. Nothing in this chapter is intended to invalidate any prior actions of those bodies. This chapter is enacted to allow the functions previously carried out by the Zoning Committee and Planning Board as well as additional function as provided herein to be carried out by the Plan Commission within the framework of Wis. Stat. § 62.23.