



# REZONING

## General Information

A rezoning is an application to change an area from one zoning district to another. A rezoning will only be approved if the proposed zoning is compliant with the City’s Comprehensive Plan, there are adequate public facilities, any impact on the surrounding environment is mitigated, it is not an illegal spot zoning, and the proposed rezoning is the minimum action necessary to accomplish the intent of the applicant.

Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Common Council may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the City Plan Commission and based on the adopted Comprehensive Plan and the associated future Land Use Map. Rezoning is a petition to change the zoning district boundaries pursuant to the provisions of Section 62.23 (7) (d) of the Wisconsin Statutes and §275-22 of the City of New Berlin Municipal Code. A Public Hearing, Plan Commission and Common Council approval is required.

## Fees

Application Fee and Filing Fee (non-refundable). Please make check payable to the City of New Berlin.

Application	Fee	Filing Fee
Rezoning	\$600	\$50

## Procedure

The Plan Commission and staff shall review the application and shall only approve plans that meet all the requirements set forth in the Zoning Ordinance.

- 1. Pre-application conference (optional):** The purposes of the pre-application conference are to provide an opportunity for the applicant and the staff to discuss the review process schedule and submittal requirements, the scope of the project, and compliance with the Zoning Ordinance. Staff opinions presented during pre-petition meetings are informational only and do not represent a commitment on behalf of the City regarding the acceptability of the development proposal.
- 2. Application and determination of completeness:** All development applications shall be submitted to staff a minimum of 45 days prior to the next regularly scheduled Plan Commission meeting at which the application will be reviewed. An application will be considered complete if it is submitted in the required number and form, includes all mandatory information, and is accompanied by the applicable fee. If an application is determined to be complete, the application shall be processed. If an application is determined to be incomplete, the Department of Community Development shall notify the applicant of the application's deficiencies in writing. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 45 days of receiving notice of

the deficiencies, the application shall be considered withdrawn.

3. **Staff review and report:** Once a submitted application is certified as complete, the Department of Community Development shall refer the application to the appropriate review agencies or City departments to review. Staff shall form a recommendation, and prepare and present a staff report which will contain findings of fact and make a recommendation to the Plan Commission. Any changes to the development application or any accompanying plans or information may be permitted after submittal. Changes or additional submittals may cause the application to be rescheduled for a later meeting and/or restart the routing and review procedure. If changes to the application are later found to result in an application that is not in compliance with the zoning ordinance, an amendment to the application will be required.
4. **Public hearing before Plan Commission:** After the Common Council sets the date for the public hearing, the Plan Commission shall hold a public hearing on the application. All costs for notice publication, notice mailings, public hearing transcription, publication of ordinance, and recording fees shall be borne by the applicant and billed accordingly.
5. **Plan Commission meeting:** In accordance with regular meeting schedules, within 45 days from the date that a submitted application is determined to be complete, the Plan Commission shall review the application at a public meeting.
6. **Plan Commission action:** The Plan Commission shall meet in accordance with open meeting law and shall discuss and take action on applications. The Plan Commission may approve, approve with conditions, defer, table, deny with reason, refer to committee, or remove from the agenda any applications. The Plan Commission shall recommend to Council approval, approval with conditions, or deny with reason.
7. **Common Council action:** The Common Council shall review and consider the application, the staff report, the Plan Commission's recommendation, and the evidence from any public meetings or hearings. The Common Council shall take final action by approving, approving with conditions, or denying the referral from the Plan Commission based on its compliance with the appropriate review standards and Master Plan. Common Council approval of an application shall not become final until the applicant complies or accepts all conditions of approval. Compliance with conditions of approval (e.g., required revisions to plans and drawings) shall be completed by the applicant and submitted to the staff within 30 days following the Common Council's action, unless a longer time is requested by the applicant and agreed to by staff. If approval is granted, it is by City Ordinance. The Ordinance normally requires three consecutive readings before final adoption by the Common Council.

# **Application Check List**

## **§275-24B Development Application**

\_\_\_ Completed Application

## **§275-20C Fees**

\_\_\_ Paid Fees

## **§275-22C Application Documentation**

\_\_\_ Premises to be rezoned - §275-22C

- A Plat of Survey or Certified Survey Map describing the area to be rezoned is required
- Property boundaries and dimensions
- Existing buildings and structures
- Neighboring uses labeled
- Proposed zoning setbacks labeled

\_\_\_ A letter or report justifying the petition to rezone - §275-22F(2)

- Consistency with the Master Plan
- Consistency with Zoning Ordinance
- Adequate public facilities will be available and will not place an unreasonable burden on the ability of the City to provide services such as sewer disposal, water supply, electricity supply, natural gas supply, schools, police protection, fire protection, and transportation.
- Impacts on surrounding properties and natural environment are avoided or mitigated regarding air, water, noise, storm water, soil conservation, wildlife and vegetation.
- The development will not cause unreasonable soil erosion or have unreasonable adverse effect on rare or irreplaceable natural areas.
- The proposed rezoning is not an illegal spot zoning
- The proposed rezoning is the minimum action necessary to accomplish the intent of the developer and that a variance, or conditional use permit not be used to achieve the same result.

\_\_\_ Plans showing the proposed use of the land to be rezoned - §275-22C

- Conceptual Plan of Operation
- Conceptual Site Plan
- Conceptual Architectural Plans
- New/Revised with more detailed Plan of Operation, Site Plan, and Architectural Plans will need to be submitted during the Use Approval Process

## **§275-37B(4)(b) Wetland Field Verification**

\_\_\_ Wetland stacking request application form

- All C-2 zoning boundaries shall be field verified unless the area has an previously approved field verified wetland survey
- Survey financial assurance

## **§275-21B Incomplete Applications**

- All of the information listed is required for a complete application.
- Staff may request additional or more detail information to be provided for adequate review.
- If the required information is not included with the application, Staff will notify the applicant in writing of the missing plans.
- The applicant will generally have one week to submit the required information to remain on the scheduled Plan Commission date.
- If adequate plans are not submitted within one week, the application will automatically be rescheduled for a later Plan Commission meeting.
- If adequate plans are not submitted within 30 days of receiving notice of the deficiencies, the application will be considered withdrawn.

## **§275-21C(2) Plan Revisions**

- Based on comments from staff during the review process, the applicant may submit revised plans.
- The required number of copies shall be submitted for all revised plans.
- All revised plans must be submitted no later than 19 days before the Plan Commission meeting to allow for adequate time for Staff Review, Staff Report, and Plan Commission consideration.

**If plans are not submitted within a reasonable amount of time before the scheduled Plan Commission meeting, the application will be rescheduled for a later meeting.**