

1983 Assembly Bill 22

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1983 Wisconsin Act 49

AN ACT *to renumber 62.23 (6) (e) to (h); to renumber and amend 62.23 (6) (a) to (d); and to create 62.23 (6) (a) of the statutes, relating to allowing cities to place waterways on the official city map.*

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 62.23 (6) (a) to (d) of the statutes are renumbered 62.23 (6) (b) to (e) and amended to read:

62.23 (6) (b) The council of any city may by ordinance or resolution establish an official map of the city or any part thereof showing the streets, highways, parkways, parks and playgrounds laid out, adopted and established by law. The city may also include the location of railroad rights-of-way, waterways and public transit facilities on its map. A city may include a waterway on its map only if the waterway is included in a comprehensive surface water drainage plan. The map is conclusive with respect to the location and width of streets, highways, waterways and parkways, and the location and extent of railroad rights-of-way, public transit facilities, parks and playgrounds shown on the map. The official map is declared to be established to conserve and promote the public health, safety, convenience or general welfare. The ordinance or resolution shall require the city clerk at once to file with the register of deeds of the county or counties in which the city is situated a certificate showing that the city has established an official map. An ordinance or resolution establishing any part of an official map enacted prior to June 16, 1965, which would be valid under this paragraph is hereby validated.

(c) The city council may amend the official map of the city so as to establish the exterior lines of planned new streets, highways, parkways, railroad rights-of-way, public transit facilities, waterways, parks or playgrounds, or to widen, narrow, extend or close existing streets, highways, parkways, railroad rights-of-way, public transit facilities, waterways, parks or playgrounds. No such change may become effective until after a public hearing concerning the proposed change before the city council or a committee appointed by the city council from its members, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the public hearing shall be published as a class 2 notice under ch. 985. Before amending the map, the council shall refer the matter to the city plan commission for report, but if the city plan commission does not make its report within 60 days of reference, it forfeits the right to further suspend action. When adopted, amendments become a part of the official map of the municipality, and are conclusive with respect to the location and width of the streets, highways, waterways and parkways and the location and extent of railroad rights-of-way, public transit facilities, parks and playgrounds shown on the map. The placing of any street, highway, waterway, parkway, railroad right-of-way, public transit facility, park or playground line or lines upon the official map does not constitute the opening or establishment of any street, parkway, railroad right-of-way, public transit facility, park or playground or alteration of any waterway, or the taking or acceptance of any land for these purposes.

(d) The locating, widening or closing, or the approval of the locating, widening or closing of streets, highways, waterways, parkways, railroad rights-of-way, public transit facilities, parks or playgrounds by the city under provisions of law other than this section shall be deemed to amend the official map, and are subject to this section, except that changes or additions made by a subdivision plat approved by the city under ch. 236 do not require the public hearing specified in par. ~~(b)~~ (c) if the changes or additions do not affect any land outside the platted area.

(e) No permit may be issued ~~for to construct or enlarge any building in the bed within the limits~~ of any street, highway, waterway, railroad right-of-way, public transit facility or parkway, shown or laid out on the map except as provided in this section. The street, highway, waterway, railroad right-of-way, public transit facility or parkway system shown on the official map may be shown on the official map as extending beyond the boundaries of a city or village a distance equal to that within which the approval of land subdivision plats by the city council or village board is required as provided by s. 236.10 (1) (b) 2. Any person desiring to construct or enlarge a building ~~in the bed within the~~

limits of a street, highway, railroad right-of-way, public transit facility or parkway so shown as extended may apply to the authorized official of the city or village for a building permit. Any person desiring to construct or enlarge a building within the limits of a street, highway, waterway, railroad right-of-way, public transit facility or parkway shown on the official map within the incorporated limits of the municipality shall apply to the authorized official of the city or village for a building permit. Unless an application is made, and the building permit granted or not denied within 30 days, the person is not entitled to compensation for damage to the building in the course of construction of the street, highway, railroad right-of-way, public transit facility or parkway shown on the official map. Unless an application is made, and the building permit granted or not denied within 30 days, the person is not entitled to compensation for damage to the building in the course of construction or alteration of the waterway shown on the official map within the incorporated limits of the municipality. If the land within the mapped street, highway, waterway, railroad right-of-way, public transit facility or parkway is not yielding a fair return, the board of appeals in any municipality which has established such a board having power to make variances or exceptions in zoning regulations may, by the vote of a majority of its members, grant a permit for a building or addition in the path ~~of~~ of the street, highway, waterway, railroad right-of-way, public transit facility or parkway, which will as little as practicable increase the cost of opening the street, highway, waterway, railroad right-of-way, public transit facility or parkway or tend to cause a change of the official map. The board may impose reasonable requirements as a condition of granting the permit to promote the health, convenience, safety or general welfare of the community. The board shall refuse a permit where the applicant will not be substantially ~~damaged~~ affected by not constructing the addition or by placing the building outside the mapped street, highway, waterway, railroad right-of-way, public transit facility or parkway.

SECTION 2. 62.23 (6) (a) of the statutes is created to read:

62.23 (6) (a) As used in this subsection, "waterways" includes rivers, streams, creeks, ditches, drainage channels, watercourses, lakes, bays, ponds, impoundment reservoirs, retention and detention basins, marshes and other surface water areas, regardless of whether the areas are natural or artificial.

SECTION 3. 62.23 (6) (e) to (h) of the statutes are renumbered 62.23 (6) (f) to (i).
