

**TOWN OF SUGAR CREEK & CITY OF ELKHORN
JOINT EXTRATERRITORIAL ZONING
COMMITTEE MEETING**

**City of Elkhorn Council Chambers
311 Seymour Court, Elkhorn, WI 53121**

Thursday, January 4, 2024 - 5:00 p.m.

1. Call to Order
2. Establish a Quorum
3. Motion and Action to Name Chairperson
4. Discussion RE: Anticipated Extraterritorial Zoning planning process, review of City Ordinance No. 23-12, and City Resolution No. 23-25
5. Discussion and Recommendation RE: Future Meeting date(s) and time(s)
6. Adjournment

DATED at Elkhorn, Wisconsin, this 29th day of December 2023

Should you have any questions or comments regarding any items on this agenda, please contact the City Zoning Administrator at 262-741-5124. Upon reasonable notice to the City Clerk (262-723-2219), efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services.

NOTICE IS HEREBY GIVEN THAT A MAJORITY OF THE MEMBERS OF THE CITY COMMON COUNCIL, CITY PLAN COMMISSION, TOWN PLAN COMMISSION, AND TOWN BOARD MAY ATTEND THE ETZ COMMITTEE MEETING TO GATHER INFORMATION ABOUT A SUBJECT OVER WHICH THEY HAVE DECISION-MAKING RESPONSIBILITY. HOWEVER, NO ACTION WILL BE TAKEN BY ANY OF THE POTENTIAL BODIES IN ATTENDANCE AT THIS MEETING.

**CITY OF ELKHORN
RESOLUTION 23-25**

**A RESOLUTION DECLARING THE INTENTION TO EXERCISE
EXTRATERRITORIAL ZONING POWER IN THE TOWN OF SUGAR CREEK**

WHEREAS, Wis. Stat. § 62.23(7a) authorizes a city which has created a plan commission under Wis. Stat. § 62.23(1) and has adopted a zoning ordinance under Wis. Stat. § 62.23 (7) may exercise extraterritorial zoning power as set forth in the statute;

WHEREAS, the City of Elkhorn (the “City”) has created a plan commission under Wis. Stat. § 62.23(1) and has adopted a zoning ordinance under Wis. Stat. § 62.23(7); and

WHEREAS, the City has determined that it is appropriate to exercise extraterritorial zoning power under Wis. Stat. § 62.23(7a) for a portion of the Town of Sugar Creek representing approximately 1.5 miles from the jurisdictional border of the City as described on **Exhibit A** hereto and incorporated herein.

NOW, THEREFORE, THE FOLLOWING IS HEREBY RESOLVED by the Common Council of the City of Elkhorn, Walworth County, Wisconsin:

RESOLVED, that the City shall exercise extraterritorial zoning power under Wis. Stat. § 62.23(7a).


BE IT FURTHER RESOLVED, that the area within the Town of Sugar Creek subject to the City’s extraterritorial zoning jurisdiction is created pursuant to Wis. Stat. § 62.23(7a)(a) and is specified in the map attached hereto as **Exhibit A** and incorporated herein (the “ETZ Area”).

BE IT FURTHER RESOLVED, that it is hereby declared to be the intent of the City to prepare a comprehensive zoning ordinance for all or part of the ETZ Area and this Resolution shall be published in a newspaper having general circulation in the area proposed to be zoned, as a class 1 notice, under Wis. Stat. Ch. 985, within 15 days of the adoption of this Resolution.

BE IT FURTHER RESOLVED, that the City Clerk shall mail a certified copy of this Resolution and a scale map reasonably showing the boundaries of the extraterritorial jurisdiction to the Clerks of Walworth County and to the Town Clerk of the Town of Sugar Creek which contains the ETZ Area.

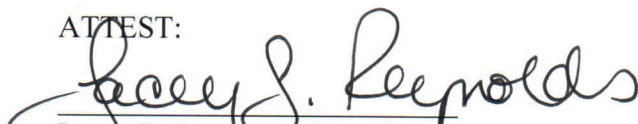
BE IT FURTHER RESOLVED, that the City Plan Commission is hereby directed to formulate tentative recommendations for the district plan and regulations within all or a part of the extraterritorial zoning jurisdiction in the ETZ Area as described in **Exhibit A** and pursuant to the procedures under Wis. Stat. § 62.23(7a).

DATED this 16th day of October, 2023.



Bruce Lechner, Mayor

ATTEST:



Lacey L. Reynolds, City Clerk

Exhibit A
Map of Area of
Extraterritorial Zoning Jurisdiction

Zoning Within City Limits

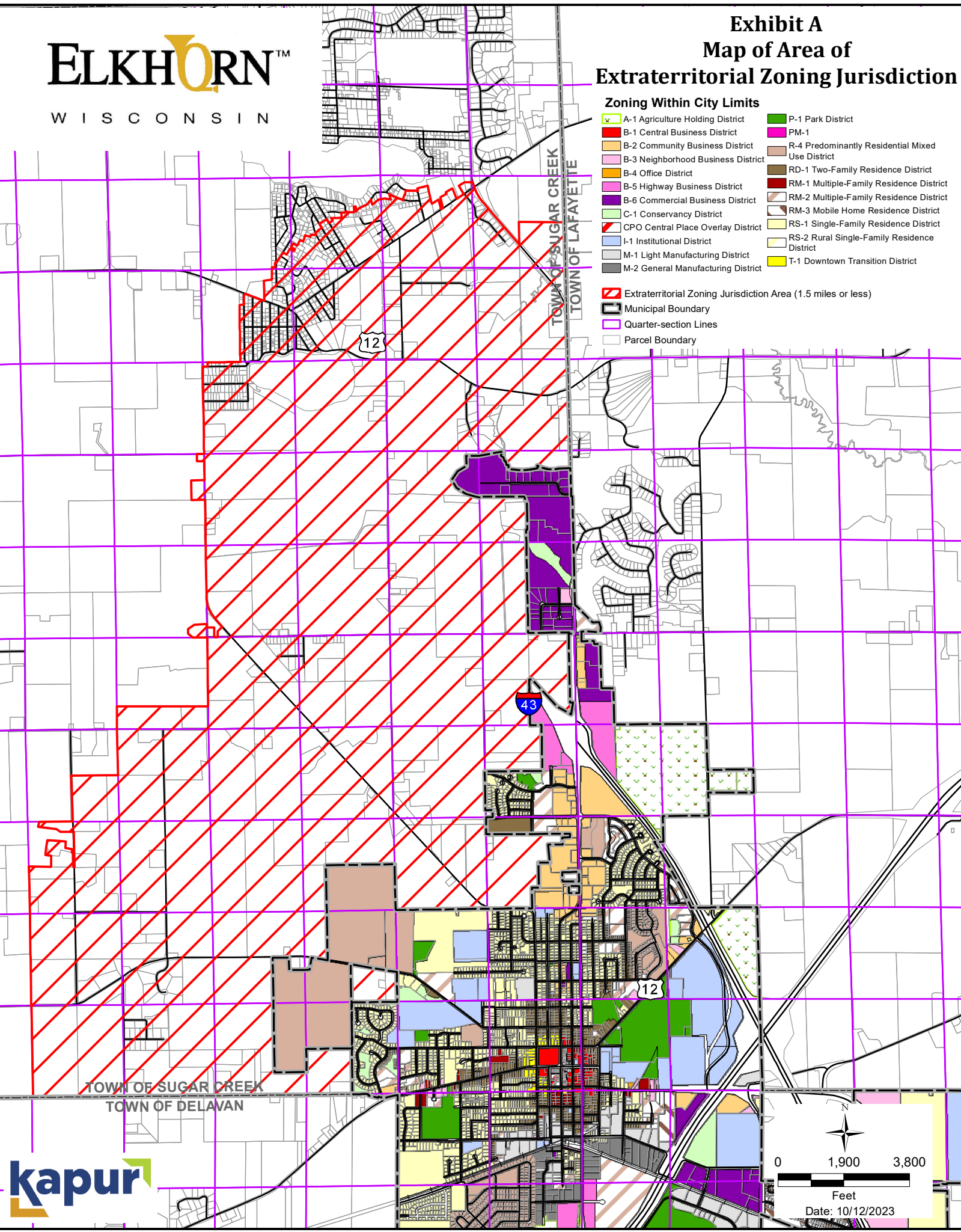
- A-1 Agriculture Holding District
- B-1 Central Business District
- B-2 Community Business District
- B-3 Neighborhood Business District
- B-4 Office District
- B-5 Highway Business District
- B-6 Commercial Business District
- C-1 Conservancy District
- CPO Central Place Overlay District
- I-1 Institutional District
- M-1 Light Manufacturing District
- M-2 General Manufacturing District
- P-1 Park District
- PM-1
- R-4 Predominantly Residential Mixed Use District
- RD-1 Two-Family Residence District
- RM-1 Multiple-Family Residence District
- RM-2 Multiple-Family Residence District
- RM-3 Mobile Home Residence District
- RS-1 Single-Family Residence District
- RS-2 Rural Single-Family Residence District
- T-1 Downtown Transition District

Extraterritorial Zoning Jurisdiction Area (1.5 miles or less)

Municipal Boundary

Quarter-section Lines

Parcel Boundary



TOWN OF SUGAR CREEK
TOWN OF DELAVAN

**CITY OF ELKHORN
ORDINANCE NO. 23-12**

**AN ORDINANCE AMENDING THE ELKHORN MUNICIPAL CODE
BY CREATING ARTICLE 17.16-7 ENTITLED “INTERIM ZONING ORDINANCE TO
PRESERVE EXISTING ZONING IN THE EXTRATERRITORIAL ZONING
JURISDICTION AREA OF THE TOWN OF SUGAR CREEK”**

WHEREAS, the City of Elkhorn adopted Resolution No. 23-25 declaring the City’s intention to prepare a comprehensive zoning ordinance for all or part of the area of the Town of Sugar Creek representing approximately 1.5 miles from the jurisdictional border of the City as described on **Exhibit A** hereto and incorporated herein (the “ETZ Area”); and

WHEREAS, pursuant to Wis. Stat. § 62.23(7a)(b), the City may enact, without referring the matter to the City plan commission, an interim zoning ordinance to preserve existing zoning in the ETZ Area which is subject to a general zoning ordinance under s. 59.69, 60.61, or 60.62 and to preserve existing uses in the ETZ Area not subject to a general zoning ordinance in all or part of the extraterritorial zoning jurisdiction while a comprehensive zoning plan is being prepared;

NOW, THEREFORE, THE FOLLOWING IS HEREBY ORDAINED by the Common Council of the City of Elkhorn:

Section 1: Article 17.16-7 of the Elkhorn Municipal Code is created to read as follows:

**“Article 17.16-7. Interim Zoning Ordinance to Preserve Existing Zoning in the
Extraterritorial Zoning Jurisdiction Area of the Town of Sugar
Creek.**

- (1) **Intent; Purpose.** The intent and purpose of this Article is to exercise extraterritorial zoning power over a portion of the Town of Sugar Creek pursuant to Wis. Stat. § 62.23(7a) as set forth below:
 - (a) The City’s extraterritorial zoning jurisdiction shall be the unincorporated area of the Town of Sugar Creek within one and one-half (1 ½) miles from the corporate limits of the City and more specifically described in the map created pursuant to Wis. Stat. § 62.23(7a)(a) attached hereto as **Exhibit A** and incorporated herein by reference that is also attached to the City’s resolution declaring its intention to prepare a comprehensive zoning ordinance for all or part of its extraterritorial zoning jurisdiction.
 - (b) The existing zoning in areas subject to a general zoning ordinance under Wis. Stat. §§ 59.69, 60.61, or 60.62, and any existing uses not subject to a general zoning ordinance within the extraterritorial zoning jurisdiction, are hereby preserved while the comprehensive zoning plan is being prepared

pursuant to Wis. Stat. § 62.23(7a)(b).

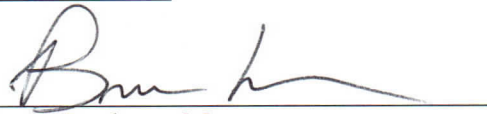
- (c) This Article shall be in effect for eighteen (18) months after its enactment, except that the City Council may extend this Article for up to an additional year upon the recommendation of a joint extraterritorial zoning committee.
- (d) While this Article is in effect, the City Council may amend districts and regulations pursuant to Wis. Stat. § 62.23(7a).
- (e) The City shall provide for the enforcement and administration of this Article. This includes that the City building inspector shall have the authority to review and approve all Town of Sugar Creek building permits in the extraterritorial zoning jurisdiction as to zoning prior to the issuance of such Town of Sugar Creek building permit.”

Section 2: If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is found invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision(s) or application(s) of this Ordinance that can be given effect without the invalid or unconstitutional provision(s) or application(s).

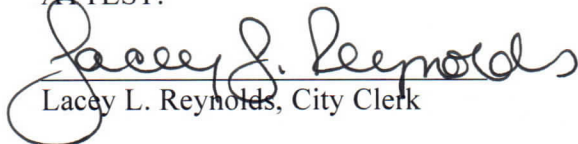
Section 3: This Ordinance shall be in full force and effect from and after its date of adoption and notice to the public after compliance with Wisconsin statutory requirements for adoption and publication.

Section 4: City personnel are hereby authorized and directed to make all changes to the Code of the City of Elkhorn necessary to reflect this amendment.

APPROVED AND ADOPTED this 16th day of October 2023.


Bruce Lechner, Mayor

ATTEST:


Lacey L. Reynolds, City Clerk

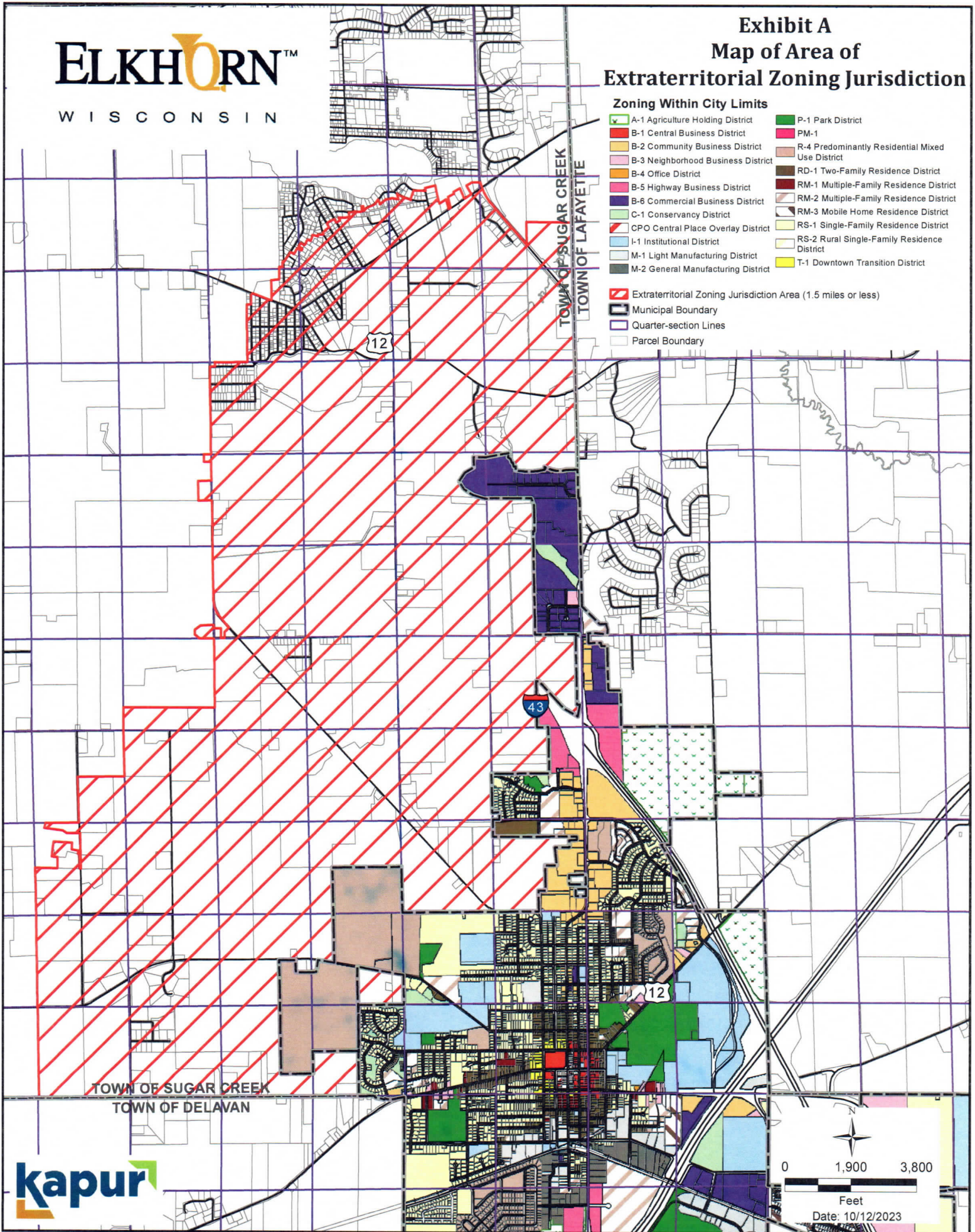
1st Reading waived
2nd Reading October 16, 2023
Adopted October 16, 2023
Published October 26, 2023

Exhibit A
Map of Area of
Extraterritorial Zoning Jurisdiction

Zoning Within City Limits

- A-1 Agriculture Holding District
- B-1 Central Business District
- B-2 Community Business District
- B-3 Neighborhood Business District
- B-4 Office District
- B-5 Highway Business District
- B-6 Commercial Business District
- C-1 Conservancy District
- I-1 Institutional District
- M-1 Light Manufacturing District
- M-2 General Manufacturing District
- P-1 Park District
- PM-1
- R-4 Predominantly Residential Mixed Use District
- RD-1 Two-Family Residence District
- RM-1 Multiple-Family Residence District
- RM-2 Multiple-Family Residence District
- RM-3 Mobile Home Residence District
- RS-1 Single-Family Residence District
- RS-2 Rural Single-Family Residence District
- T-1 Downtown Transition District

- Extraterritorial Zoning Jurisdiction Area (1.5 miles or less)
- Municipal Boundary
- Quarter-section Lines
- Parcel Boundary



TOWN OF SUGAR CREEK
TOWN OF DELAVAN

total capacity of such community living arrangements does not exceed 25 or one percent of the city's population, whichever is greater. When the capacity of the community living arrangements in the city reaches that total, the city may prohibit additional community living arrangements from locating in the city. In any city of the 1st, 2nd, 3rd or 4th class, when the capacity of community living arrangements in an aldermanic district reaches 25 or one percent of the population, whichever is greater, of the district, the city may prohibit additional community living arrangements from being located within the district. Agents of a facility may apply for an exception to the requirements of this subdivision, and such exceptions may be granted at the discretion of the city.

2m. A foster home that is the primary domicile of a foster parent and that is licensed under s. 48.62 or an adult family home certified under s. 50.032 (1m) (b) shall be a permitted use in all residential areas and is not subject to subds. 1. and 2. except that foster homes operated by corporations, child welfare agencies, churches, associations, or public agencies shall be subject to subds. 1. and 2.

2r. a. No adult family home described in s. 50.01 (1) (b) may be established within 2,500 feet, or any lesser distance established by an ordinance of the city, of any other adult family home described in s. 50.01 (1) (b) or any community living arrangement. An agent of an adult family home described in s. 50.01 (1) (b) may apply for an exception to this requirement, and the exception may be granted at the discretion of the city.

b. An adult family home described in s. 50.01 (1) (b) that meets the criteria specified in subd. 2r. a. and that is licensed under s. 50.033 (1m) (b) is permitted in the city without restriction as to the number of adult family homes and may locate in any residential zone, without being required to obtain special zoning permission except as provided in subd. 9.

3. In all cases where the community living arrangement has capacity for 8 or fewer persons being served by the program, meets the criteria listed in subds. 1. and 2., and is licensed, operated, or permitted under the authority of the department of health services or the department of children and families, that facility is entitled to locate in any residential zone, without being required to obtain special zoning permission except as provided in subd. 9.

4. In all cases where the community living arrangement has capacity for 9 to 15 persons being served by the program, meets the criteria listed in subds. 1. and 2., and is licensed, operated, or permitted under the authority of the department of health services or the department of children and families, that facility is entitled to locate in any residential area except areas zoned exclusively for single-family or 2-family residences except as provided in subd. 9., but is entitled to apply for special zoning permission to locate in those areas. The city may grant such special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

5. In all cases where the community living arrangement has capacity for serving 16 or more persons, meets the criteria listed in subds. 1. and 2., and is licensed, operated, or permitted under the authority of the department of health services or the department of children and families, that facility is entitled to apply for special zoning permission to locate in areas zoned for residential use. The city may grant such special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

6. The department of health services shall designate a single subunit within that department to maintain appropriate records indicating the location and number of persons served by each community living arrangement for adults, and such information shall be available to the public. The department of children and families shall designate a single subunit within that department to maintain appropriate records indicating the location and number of persons served by each community living arrangement for children, and such information shall be available to the public.

7. In this paragraph, "special zoning permission" includes but is not limited to the following: special exception, special permit, conditional use, zoning variance, conditional permit and words of similar intent.

8. The attorney general shall take all necessary action, upon the request of the department of health services or the department of children and families, to enforce compliance with this paragraph.

9. Not less than 11 months nor more than 13 months after the first licensure of an adult family home under s. 50.033 or of a community living arrangement and every year thereafter, the common council of a city in which a licensed adult family home or a community living arrangement is located may make a determination as to the effect of the adult family home or community living arrangement on the health, safety or welfare of the residents of the city. The determination shall be made according to the procedures provided under subd. 10. If the common council determines that the existence in the city of a licensed adult family home or a community living arrangement poses a threat to the health, safety or welfare of the residents of the city, the common council may order the adult family home or community living arrangement to cease operation unless special zoning permission is obtained. The order is subject to judicial review under s. 68.13, except that a free copy of the transcript may not be provided to the adult family home or community living arrangement. The adult family home or community living arrangement must cease operation within 90 days after the date of the order, or the date of final judicial review of the order, or the date of the denial of special zoning permission, whichever is later.

9m. The fact that an individual with acquired immunodeficiency syndrome or a positive HIV test, as defined in s. 252.01 (2m), resides in a community living arrangement with a capacity for 8 or fewer persons may not be used under subd. 9. to assert or prove that the existence of the community living arrangement in the city poses a threat to the health, safety or welfare of the residents of the city.

10. A determination made under subd. 9. shall be made after a hearing before the common council. The city shall provide at least 30 days' notice to the licensed adult family home or the community living arrangement that such a hearing will be held. At the hearing, the licensed adult family home or the community living arrangement may be represented by counsel and may present evidence and call and examine witnesses and cross-examine other witnesses called. The common council may call witnesses and may issue subpoenas. All witnesses shall be sworn by the common council. The common council shall take notes of the testimony and shall mark and preserve all exhibits. The common council may, and upon request of the licensed adult family home or the community living arrangement shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the city. Within 20 days after the hearing, the common council shall mail or deliver to the licensed adult family home or the community living arrangement its written determination stating the reasons therefor. The determination shall be a final determination.

(7a) EXTRATERRITORIAL ZONING. The governing body of any city which has created a city plan commission under sub. (1) and has adopted a zoning ordinance under sub. (7) may exercise extraterritorial zoning power as set forth in this subsection. Insofar as applicable sub. (7) (am), (b), (c), (ea), (h) and (i) shall apply to extraterritorial zoning ordinances enacted under this subsection. This subsection shall also apply to the governing body of any village.

(a) Extraterritorial zoning jurisdiction means the unincorporated area within 3 miles of the corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city or a village. The unincorporated area subject to extraterritorial zoning jurisdiction includes areas that are either surrounding or entirely sur-

rounded by a single city or village. Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.0105 shall apply and any subsequent alteration of the corporate limits of the city by annexation, detachment or consolidation proceedings shall not affect the dividing line as initially determined under s. 66.0105. The governing body of the city shall specify by resolution the description of the area to be zoned within its extraterritorial zoning jurisdiction sufficiently accurate to determine its location and such area shall be contiguous to the city. The boundary line of such area shall follow government lot or survey section or fractional section lines or public roads, but need not extend to the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption of the resolution the governing body shall declare its intention to prepare a comprehensive zoning ordinance for all or part of its extraterritorial zoning jurisdiction by the publication of the resolution in a newspaper having general circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The city clerk shall mail a certified copy of the resolution and a scale map reasonably showing the boundaries of the extraterritorial jurisdiction to the clerk of the county in which the extraterritorial jurisdiction area is located and to the town clerk of each town, any part of which is included in such area.

(am) 1. In this paragraph, “primary geographical area” means the area of a city or village that serves as the location of the primary seat of government and all territory that is contiguous to that area.

2. Unless otherwise agreed to by a town, the authority of a city or village to exercise jurisdiction outside of its adjacent outlying waters when acting under s. 30.745 (2), or outside of its boundaries or corporate limits when acting under this subsection or sub. (2), or under s. 66.0415 (1), 236.10 (1) (b) or (2), or 254.57, includes only town territory within the extraterritorial zoning jurisdiction of the city or village surrounding or included entirely within the primary geographical area of the city or village.

(b) The governing body may enact, without referring the matter to the plan commission, an interim zoning ordinance to preserve existing zoning in areas subject to a general zoning ordinance under s. 59.69, 60.61, or 60.62 and to preserve existing uses in areas not subject to a general zoning ordinance in all or part of the extraterritorial zoning jurisdiction while the comprehensive zoning plan is being prepared. Such ordinance may be enacted as is an ordinary ordinance but shall be effective for no longer than 18 months after its enactment, unless extended as provided in this paragraph. Within 15 days of its passage, the governing body of the city shall publish the ordinance in a newspaper having general circulation in the area proposed to be zoned as a class 1 notice, under ch. 985, or as a notice, as described under s. 62.11 (4) (c) 2., and the city clerk shall mail a certified copy of the ordinance to the clerk of the county in which the extraterritorial jurisdiction is located and to the clerk of each town affected by the interim zoning ordinance and shall file a copy of the ordinance with the city plan commission. The governing body of the city may extend the interim zoning ordinance for no longer than one year, upon the recommendation of the joint extraterritorial zoning committee established under par. (c). No other interim zoning ordinance shall be enacted affecting the same area or part thereof until 5 years after the date of the expiration of the interim zoning ordinance or the one year extension thereof. While the interim zoning ordinance is in effect, the governing body of the city may amend the districts and regulations of the ordinance according to the procedure set forth in par. (f).

(c) If the governing body of the city adopts a resolution under par. (a), it shall direct the plan commission to formulate tentative recommendations for the district plan and regulations within all or a part of the extraterritorial zoning jurisdiction as described in the resolution adopted under par. (a). When the plan commission is engaged in the preparation of such district plan and regulations, or amendments thereto, a joint extraterritorial zoning committee shall be established. Such joint committee shall consist of 3 citizen members of the plan commission, or 3 members of the plan

commission designated by the mayor if there are no citizen members of the commission, and 3 town members from each town affected by the proposed plan and regulations, or amendments thereto. The 3 town members shall be appointed by the town board for 3 year terms and shall be residents of the town and persons of recognized experience and qualifications. Town board members are eligible to serve. If the town board fails to appoint the 3 members within 30 days following receipt of the certified resolution under par. (a), the board shall be subject to a mandamus proceeding which may be instituted by any resident of the area to be zoned or by the city adopting such resolution. The entire plan commission shall participate with the joint committee in the preparation of the plan and regulations, or amendments thereto. Only the members of the joint committee shall vote on matters relating to the extraterritorial plan and regulations, or amendments thereto. A separate vote shall be taken on the plan and regulations for each town and the town members of the joint committee shall vote only on matters affecting the particular town which they represent. The governing body shall not adopt the proposed plan and regulations, or amendments thereto, unless the proposed plan and regulations, or amendments thereto, receive a favorable vote of a majority of the 6 members of the joint committee. Such vote shall be deemed action taken by the entire plan commission.

(d) The joint committee shall formulate tentative recommendations for the district plan and regulations and shall hold a public hearing thereon. Notice of a hearing shall be given by publication in a newspaper having general circulation in the area to be zoned, as a class 2 notice, under ch. 985, during the preceding 30 days, and by mailing the notice to the town clerk of the town for which the plan and regulations are proposed. The notice shall contain the layout of tentative districts either by maps or words of description, and may contain the street names and house lot numbers for purposes of identification if the joint committee or the governing body so determines. At a public hearing an opportunity to be heard shall be afforded to representatives of the town board of the town and to any person in the town for which the plan and regulations are proposed.

(e) The governing body of the city may adopt by ordinance the proposed district plan and regulations recommended by the joint committee after giving notice and holding a hearing as provided in par. (d), or the governing body may change the proposed districts and regulations after first submitting the proposed changes to the joint committee for recommendation and report. The joint committee and the governing body may hold a hearing on the proposed changes after giving notice as provided in par. (d). The joint committee recommendation on the proposed changes shall be submitted to the governing body in accordance with the voting requirements set forth in par. (c).

(f) The governing body of the city may amend the districts and regulations of the extraterritorial zoning ordinance after first submitting the proposed amendment to the joint committee for recommendation and report. The procedure set forth in pars. (c), (d) and (e) shall apply to amendments to the extraterritorial zoning ordinance. In the case of a protest against an amendment the applicable provisions under sub. (7) (d) shall be followed.

(g) Insofar as applicable the provisions of subs. (7) (e), (f), (8) and (9) shall apply. The governing body of a city which adopts an extraterritorial zoning ordinance under this subsection may specifically provide in the ordinance for the enforcement and administration of this subsection. A town which has been issuing building permits may continue to do so, but the city building inspector shall approve such permits as to zoning prior to their issuance.

(8) OTHER MEASURES OF ENFORCEMENT AND REMEDIES; PENALTY. Any building erected, constructed or reconstructed in violation of this section or regulations adopted pursuant thereto shall be deemed an unlawful structure, and the building inspector or city attorney or other official designated by the council may bring action to enjoin such erection, construction or reconstruction, or cause such structure to be vacated or removed. It shall be unlawful to erect, construct or reconstruct any building or structure in viola-

Summary of Extraterritorial Zoning Planning Process City of Elkhorn and Town of Sugar Creek

The Common Council initiated the City's Extraterritorial Zoning authority within a portion of the Town of Sugar Creek on October 16, 2023, by adopting a resolution declaring its intent to exercise extraterritorial zoning power. This proposed zoning jurisdiction encompasses the portion of the Town that is 1.5 miles outside of the City's jurisdictional border (the "ETZ Area").¹ The Common Council also adopted an interim ordinance to preserve the existing zoning within the ETZ Area while a comprehensive zoning plan for the ETZ Area is being prepared.²

On October 20, 2023, a letter was sent to the Town notifying it of the resolution and ordinance adoption and requesting the Town Board appoint three members to the Joint Zoning Committee ("Joint Committee"). The Joint Committee is made up of three citizen members of the City Plan Commission, and three citizens of the Town as appointed by their respective governing bodies.³ On November 16, 2023, the City Plan Commission recommended the appointment of three members from the City to serve on the Joint Committee, and on November 20, 2023, the Common Council appointed the three members to the Joint Committee. The statute requires the Town to act to appoint its three members to the Joint Committee within thirty (30) days, and the Town Board noticed a meeting to make the appointments on December 28, 2023.⁴

As the first step in the planning process, Special Counsel to the City recommends the members of the Joint Committee meet with the City's Zoning Administrator and Planner to review the extraterritorial zoning process and work out a timeline with next steps. While the City Plan Commission may be present (as well as other members of the public so this is a posted and public meeting process), the intended purpose of the meeting is for the six Joint Committee members to be introduced, to review the planning process, and to begin to discuss a timeline for the ETZ Area plan. While the statute provides for participation by the City Plan Commission in the planning process, it is important for the Joint Committee to get oriented at the first meeting and then it can add in active participation by the City Plan Commission at its following meetings.

After the Joint Committee is formed, the statute provides that the Joint Committee and the City Plan Commission (in a non-voting role) must meet to formulate tentative recommendations for the district plan and regulations. The district plan will be similar to a subarea plan for a comprehensive plan. It will also contain zoning regulations. The district plan may address the entire 1.5 mile area or portions of it. The meetings of the Joint Committee shall be noticed and posted in accordance with the Wisconsin open meetings laws at both the City and

¹ Wis. Stat. § 62.23(7a)(a).

² Wis. Stat. § 62.23(7a)(b).

³ Wis. Stat. § 62.23(7a)(c).

⁴ *Id.*

**Summary of Extraterritorial Zoning Planning Process
City of Elkhorn and Town of Sugar Creek**

Town. This formulation stage may take more than a few months, as there will be active discussion regarding the proposed plan and regulations. The Joint Committee will work with outside planning consultants to assist in preparing the district plan. The City may also want to consider asking the County staff to participate in some of the meetings.

Once the tentative recommendation for the district plan and regulations are completed, the Joint Committee will hold a public hearing (with class 2 notice published in a newspaper having general circulation in the area to be zoned during the 30 days preceding the public hearing) to allow the public an opportunity to weigh in on the proposed district plan and regulations.⁵ The notice must also be mailed to the Town Clerk of the Town of Sugar Creek.⁶ The notice shall contain the layout of tentative districts either by maps or words of description, and may contain the street names and house lot numbers for purposes of identification if the Joint Committee or the Common Council so determines.⁷

At the public hearing, an opportunity to be heard shall be afforded to representatives of the Town Board of the Town and to any person in the Town for which the district plan and regulations are proposed, along with any other members of the public who want to speak.⁸ After the public hearing, the Joint Committee should discuss and then vote on the tentative recommendations for the district plan and regulations. This discussion may take one meeting or several meetings. For the proposed district plan and regulations to be adopted by the Common Council, it must receive a favorable vote of a majority of the 6 members for the Joint Committee.⁹ Such vote shall be deemed action taken by the entire City Plan Commission.¹⁰

After the Joint Committee/Plan Commission votes favorably on the tentative recommendations for the district plan and regulations, the Common Council will consider it. At this point in the process, there are two courses of action the Common Council can take:

One, the Common Council may adopt the proposed district plan and regulations as recommended by the Joint Committee. Prior to acting on the proposed district plan and regulations the Common Council must hold a public hearing using the same requirements for the Joint Committee/Plan Commission public hearing, above.¹¹

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Wis. Stat. § 62.23(7a)(d).

⁹ Wis. Stat. § 62.23(7a)(c).

¹⁰ *Id.*

¹¹ Wis. Stat. § 62.23(7a)(e).

**Summary of Extraterritorial Zoning Planning Process
City of Elkhorn and Town of Sugar Creek**

And two, the Common Council may propose changes to the district plan and regulations by first submitting proposed changes to the Joint Committee for recommendation and report.¹² The Joint Committee and Common Council may hold a joint hearing on the proposed changes after giving notice as provided above.¹³ The Joint Committee recommendation on the proposed changes shall be submitted to the Common Council in accordance with the Joint Committee voting requirements set forth above.¹⁴ This process will result in at least 2 public hearings, which will extend the timeline for the district plan and regulations to be enacted.

The Common Council which adopts an extraterritorial zoning ordinance may specifically provide in the ordinance for the enforcement and administration of the subsection. A town which has been issuing building permits may continue to do so, but the City Zoning Administrator, or designee, shall review and approve such permits as to zoning prior to their issuance.

It is important to note that the preservation of zoning in the Town within the ETZ Area will remain in effect initially for 18 months, unless extended pursuant to the Statute. If the Joint Committee comes to agreement sooner on tentative recommendations to present to the City Council, the preservation of zoning can be lifted after City Council action which will then allow development in the ETZ Area to proceed in accordance any finally adopted ETZ plan and regulations. It is incumbent upon the Joint Committee to work together on forming tentative recommendations to move the process forward effectively and efficiently.

¹² *Id.*

¹³ *Id.*

¹⁴ Wis. Stat. § 62.23(7a)(d).