

**CITY OF MADISON  
OFFICE OF THE CITY ATTORNEY  
Room 401, CCB  
266-4511**

Date: December 15, 2006

**MEMORANDUM**

TO: Plan Commission

FROM: Katherine C. Noonan, Assistant City Attorney

RE: Procedure for the Adoption of Neighborhood Conservation Districts

The proposed ordinance, regulating the creation of Neighborhood Conservation Districts, will be in the City's Zoning Code. Because creation of such districts will be done under the City's zoning power, the procedures for the adoption process are the same as for all text or map amendments to the Code. Sec. 28.12 (10) sets out the procedures, which include notice, public hearings, consideration by the Plan Commission and/or Common Council, and appeal. These procedures are based on the statutorily required procedures in Wis. Stats. Sec. 62.23(7).

There has been a suggestion to include the adoption procedures in the body of the Neighborhood Conservation District ordinance, similar to the way the ordinances creating Historic and Urban Design Districts contain the procedures for creating those districts. I would not recommend the inclusion of the procedural requirements in the proposed ordinance because those procedures already are set out in Sec. 28.12(10). The Historic District and Urban Design District Ordinances are not in the Zoning Code, and there are no general procedures that apply to Chapter 33.

Repeating the general zoning procedures in the Neighborhood Conservation District ordinance would be confusing and potentially misleading. Ordinances should not contain extraneous language. Inclusion of the procedures might suggest that the adoption of these districts is different from the general procedure applicable to all other zoning provisions, which is not the case. An example of an existing 'overlay' district in the Zoning Code is Sec. 28.107, the Wellhead Protection Districts. As new maps are generated for additional wells, new districts are created for each well. The creation of those districts is subject to Sec. 28.12(10), and no general procedural language is included in the ordinance. There is no reason to treat the Neighborhood Conservation District ordinance differently.