

ORDINANCE #25-19

REPEALING AND REENACTING ORDINANCE #25-17
ANNEXING TERRITORY TO THE CITY OF DE PERE, WISCONSIN
(Vanpay and Radue Homes, Inc.; Parcels R-29-1; R-39; R-110 and R-114)

WHEREAS, the Common Council approved annexation of Parcels R-29-1, R-39, R-110 and R-114 on November 18, 2025, pursuant to Ordinance #25-17; and

WHEREAS, following approval, but prior to the signing or any circulation of the approved ordinance, it was determined that said annexation requires the creation of a new ward designation within the city; and

NOW THEREFORE, BASED ON THE FOREGOING, THE COMMON COUNCIL OF THE CITY OF DE PERE, WISCONSIN, DOES ORDAIN THAT ORDINANCE #25-17 IS HEREBY REPEALED AND REENACTED AS FOLLOWS:

SECTION 1. Territory Annexed. In accordance with Wis. Stats. § 66.0217(2) and the Petition for Direct Annexation by Unanimous Approval filed with the City Clerk on the 22nd day of October, 2025, signed by all the electors residing in the territory and all of the owners of the real property in the territory, the following territory described in Exhibit A, attached hereto and incorporated herein by reference, from the Town of Rockland, Brown County, Wisconsin, is annexed to the City of De Pere, Wisconsin.

A copy of a scale map showing the above-described property is attached hereto and incorporated herein by reference as Exhibit B.

SECTION 2. Effect of Annexation. From and after the date of this Ordinance the territory described in SECTION 1 shall be a part of the City of De Pere for any and all purposes provided by law and all persons coming or residing within such territory shall be subject to all ordinances, rules and regulations governing the City of De Pere.

SECTION 3. Temporary Zoning Classification. (a) Upon recommendation of the Plan Commission, the territory annexed to the City of De Pere by this ordinance is temporarily zoned as follows:

1. Parcel R-29-1: R1-80, Single-Dwelling Detached District (80 feet minimum frontage).
2. Parcels R-39; R-110 and R-114: AG, Agricultural District.

(b) The Plan Commission is directed to prepare an amendment to the zoning ordinance setting forth a permanent zoning classification for the annexed area and to submit its recommendations to the Common Council.

SECTION 4. Department of Administration Review of Annexation. The Department of Administration (“Department”) has, pursuant to Wis. Stats. §66.0217(6), reviewed such annexation petition, referenced as **MBR Number 14812**. That statute also requires the Department to provide, within 20 days after receipt of the annexation petition, a notice to the affected municipalities that states whether, in its opinion, the annexation is in the public interest or is not in the public interest as that term is defined in Wis. Stats. § 66.0217(6)(c). The City has reviewed the reasons given by the department for its opinion that such annexation is not in the public interest, and after reviewing such determination as required under Wis. Stats. § 66.0217(8), the Council responds as follows:

1. The Department’s analysis of the proposed annexation’s shape and that of its homogeneity with the annexing city is erroneous as follows:
 - a. It fails to apply the controlling judicial standards in its review of the proposed annexation’s shape and homogeneity. Wisconsin courts have held that boundaries which create an exceptional shape resulting in a “crazy quilt” of municipal boundaries are impermissibly arbitrary. *Town of Wilson v. City of Sheboygan*, 2020 WI 16, ¶ 28-29, 390 Wis. 2d 266, 938 N.W.2d 493. The Department does not make such findings, but instead provides that the proposed annexation somewhat protrudes and cuts down into the Town of Rockland’s territory. These factors are inconsistent with

required standards as set forth under Wisconsin law and are therefore immaterial to the Department's determination of the public interest; and

- b. It does, however, recognize that the contiguity of proposed annexation appears to be adequate and in further, that it would connect an island of city-owned territory that was previously annexed by the City. These factors satisfy the statutory requirements of contiguity; and
- c. It fails to apply Wisconsin Court decisions finding that boundaries of the territory to be annexed are discretionary with the petitioners.

2. The Department's determination that the City of De Pere will not be able to provide sanitary sewer and water supply services to the territory subject to annexation is erroneous in that:

- a. Wisconsin law does not set forth a requirement that municipal services must be in place but rather that the annexing city can provide such services; and
- b. It fails to mention that the City's Annexation Review Questionnaire submitted to the Department indicates that it is capable of providing needed utility services and would be able to do so in two years or less; and
- c. Lastly, the Department provides no authority to support that a proposed annexed territory must be within Sewer Service Area Plan, when in fact the purpose of such plan is to anticipate future needs and is not intended to restrict a community's growth or affect community annexation policy.

SECTION 5. Tax Payment. Pursuant to § 66.0217(14)(a)1. Wis. Stats., the City hereby obligates itself and agrees, for a period of five (5) years, to pay annually to the Town of Rockland an amount equal to the amount of property taxes levied on the annexed territory in the Town's jurisdiction, as shown by the tax roll under § 70.65 Wis. Stats., for the year in which this annexation is final.

SECTION 6. Population. The population of the territory annexed is four (4).

SECTION 7. **Ward Designation.** The territory described in SECTION 1 is hereby made part of Ward 25 of the City, and subject to all the rules and regulations governing the same.

SECTION 8. **Severability.** If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

SECTION 9. **Effective Date.** This ordinance shall take effect upon passage as provided by law.

Adopted by the Common Council of the City of De Pere, this 2nd day of December, 2025.

APPROVED:

James G. Boyd, Mayor

Carey E. Danen, City Clerk

Ayes: 9

Nays: 0

Board/Committee Approval: 10/27/2025

Publication Date: 12/05/2025

Effective Date: 12/02/2025