

ENROLLED ORDINANCE 163-32

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY REPEALING  
AND RECREATING SECTION 82-269(A) REGARDING REVISIONS TO THE  
FORFEITURE SCHEDULE FOR VIOLATIONS (ZT-1677)

WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago Town Board on July 16, 2008, after Public Hearing and the giving of requisite notice of said hearing, and duly referred and considered by the Waukesha County Park and Planning Commission and a recommendation thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors as required by Section 60.61 of the Wisconsin Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Ordinance amending the text of the Town of Mukwonago Zoning Ordinance, approved by the Mukwonago Town Board on February 27, 2007, to repeal and recreate Section 82-269(a) regarding revisions to the forfeiture schedule for violations, and more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference (ZT-1677) is hereby approved.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

BE IT FURTHER ORDAINED that the Ordinance shall be in full force and effect upon passage, approval and publication.

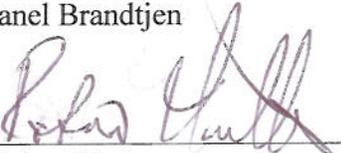
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or with contravention of provisions of this Ordinance are hereby repealed.

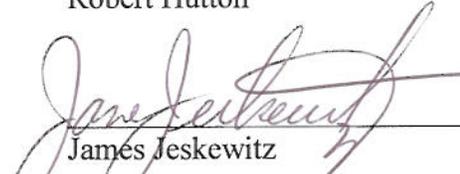
AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY REPEALING  
AND RECREATING SECTION 82-269(A) REGARDING REVISIONS TO THE  
FORFEITURE SCHEDULE FOR VIOLATIONS (ZT-1677)

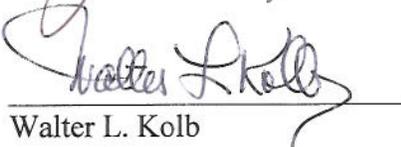
Presented by:  
Land Use, Parks, and Environment Committee

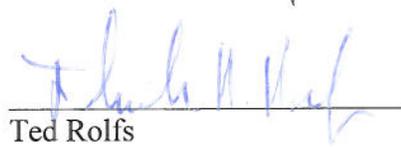
Absent  
Fritz Ruf, Chair

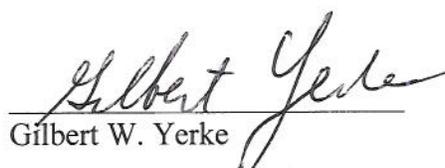
Absent  
Janel Brandtjen

  
Robert Hutton

  
James Jeskewitz

  
Walter L. Kolb

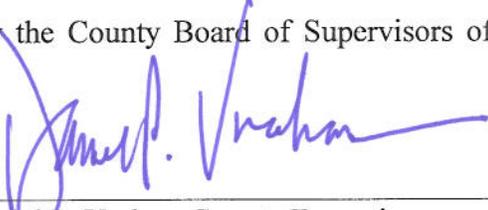
  
Ted Rolfs

  
Gilbert W. Yerke

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County,  
Wisconsin, was presented to the County Executive on:

Date: 9-26-08   
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County,  
Wisconsin, is hereby:

Approved:  \_\_\_\_\_  
Vetoed:  \_\_\_\_\_  
Date: 9-29-08   
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE  
STAFF REPORT AND RECOMMENDATION  
TEXT AMENDMENT

FILE NO.: ZT-1677

DATE: July 31, 2008

PETITIONER: Town of Mukwonago Board  
Town of Mukwonago Hall  
W320 S8315 Beulah Road  
Mukwonago, WI 53149

NATURE OF REQUEST:

Amendment to the forfeiture schedule for violations under the Town of Mukwonago Zoning Ordinance.

PUBLIC HEARING DATE:

July 2, 2008.

PUBLIC REACTION:

Two residents were present who both supported the increase in forfeitures for violations to the Ordinance.

TOWN PLAN COMMISSION:

On July 2, 2008, the Town of Mukwonago Plan Commission voted in favor of amending the Zoning Ordinance to increase the forfeitures to a maximum of \$2,000.00, which requires a "must appear" provision on the citation.

TOWN BOARD ACTION:

On July 16, 2008, the Town of Mukwonago Town Board, moved to approve the Zoning Ordinance amendment to increase forfeitures for zoning violations as recommended by the Town Plan Commission.

CONFORMANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF MUKWONAGO LAND USE PLAN:

Not applicable for Text Amendments.

OTHER CONSIDERATIONS:

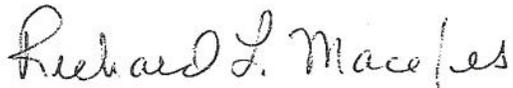
The Town proposes to increase the maximum forfeiture for zoning violations from its present maximum of \$200.00 per day for each violation, to \$2,000.00 per day. The only change in this Ordinance applies to the maximum amount that can be charged per day for violations. The minimum amount of \$10.00 per day remains. Existing language is present in the Town's Ordinance to require that failure to pay the citation would be subject to imprisonment in the County Jail for a period not to exceed six (6) months or until such forfeiture and subsequent costs have been paid. There is similar language in the County Codes and the only real difference is the maximum amount of penalty, which is being provided for in the requested change.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request to be **approved**. We feel this maximum forfeiture is appropriate and more in line with the County's forfeiture schedule. The existing Ordinance is outdated as those fees were established many years ago. The Staff has come to realize that many violations occur because people acknowledge the maximum fine that might be imposed upon them is \$200.00

per day and such low fees are "the price of doing business". We feel an increase is appropriate in order to make the public aware that the Zoning Ordinance needs better enforcement techniques. It should be noted that the forfeitures in the County's citation procedure are far in excess of \$200.00 for many violations, especially the more serious violations where some of the required fines are in excess of \$1,300.00 per violation.

Respectfully submitted,



Richard L. Mace  
Planning and Zoning Manager

RLM:kab

Attachment: Town Ordinance 2008-4

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\1677 Text Amendment mkt.doc

## ORDINANCE 2008-4

AN ORDINANCE TO AMEND SECTION 82-269 OF THE  
ZONING ORDINANCE FOR THE TOWN OF MUKWONAGO

WHEREAS, the Plan Commission for the Town of Mukwonago has initiated a zoning amendment petition regarding maximum forfeitures for violation of the Town of Mukwonago Zoning Code; and

WHEREAS, said rezoning petition seeks to amend the Town of Mukwonago Zoning Code, by increasing the maximum forfeiture that is shown in Section 82-269(a) from \$200 to \$2,000; and

WHEREAS, the Town Clerk for the Town of Mukwonago has properly referred the matter to the Plan Commission and to the Waukesha County Park and Planning Commission, pursuant to Section 82-265(c) of the Town of Mukwonago Zoning Code; and

WHEREAS, the Plan Commission for the Town of Mukwonago has conducted the necessary investigation, and has scheduled a public hearing for the Town of Mukwonago Plan Commission and the Town of Mukwonago Town Board, pursuant to Section 82-265(c)(2) of the Town of Mukwonago Zoning Code; and

WHEREAS, upon due notice as required by Section 82-267(a), the Town Board held a public hearing on July 2, 2008 pursuant to Section 82-265(d) of the Town of Mukwonago Zoning Code along with the Plan Commission for the Town of Mukwonago; and

WHEREAS, within a reasonable time after the hearing, the Plan Commission for the Town of Mukwonago has reported its recommendation in favor of this Zoning Code Amendment to the Town Board; and

WHEREAS, the Town Board for the Town of Mukwonago, after carefully reviewing the recommendation of the Plan Commission for the Town of Mukwonago and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Town of Mukwonago, will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board for the Town of Mukwonago, Waukesha County,  
DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 82 of the Town of Mukwonago Municipal Code entitled "Zoning," Section 82-269 entitled "Violations", subsection (a) entitled "Penalties" is hereby repealed and re-created as follows:

(a) *Penalties.* Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of this chapter, shall be subject to a forfeiture of not less than \$10.00 and not to exceed the sum of \$2,000.00 for

each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the county jail, for a period not to exceed six months, or until such forfeiture and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.

SECTION 2. SEVERABILITY. Several sections this ordinance are declared to be severable and if any section or portion thereof shall be declared by a decision of the court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance which shall remain. The remainder of the ordinance shall remain in full force and effect and any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

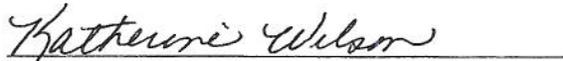
SECTION 3. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

Adopted this 16<sup>th</sup> day of July, 2008

TOWN OF MUKWONAGO

  
David Dubey, Town Chairman

ATTEST:

  
Katherine Wilson, Town Clerk

Published and posted this 17<sup>th</sup> day of July, 2008

163-0-033

6.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-09/23/08

(ORD) NUMBER-1630033

1 D. FALSTAD.....AYE  
3 R. HUTTON.....AYE  
5 J. JESKEWITZ.....AYE  
7 P. HAUKOHL.....AYE  
9 J. HEINRICH.....AYE  
11 F. RUF.....AYE  
13 J. BEHREND.....AYE  
15 P. MEYERS.....AYE  
17 J. TORTOMASI.....AYE  
19 S. WIMMER.....AYE  
21 W. ZABOROWSKI.....AYE  
23 J. PLEDL.....AYE  
25 G. YERKE.....AYE

2 T. ROLFS.....AYE  
4 J. DWYER.....AYE  
6 J. BRANDTJEN.....AYE  
8 T. SCHELLINGER.....AYE  
10 D. SWAN.....AYE  
12 P. WOLFF.....AYE  
14 B. MORRIS.....AYE  
16 D. PAULSON.....AYE  
18 K. CUMMINGS.....AYE  
20 P. JASKE.....AYE  
22 P. GUNDRUM.....AYE  
24 W. KOLB.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED \_\_\_\_\_

DEFEATED \_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-25