

ENROLLED ORDINANCE 170-48

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE
TO MODIFY SUBSECTION 82-21(a)(2) RELATING TO NOTICE
REQUIREMENTS FOR PUBLIC HEARINGS (ZT-1813)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Mukwonago Town Board on June 3, 2015, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section (60.62), Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Mukwonago Zoning Code, adopted by the Town of Mukwonago on February 27, 2007, is hereby amended to modify Subsection 82-21(a)(2) relating to notice requirements for public hearings, 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-1813, is hereby approved.

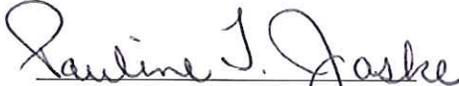
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

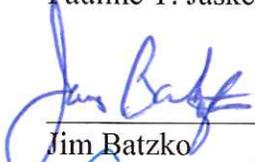
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

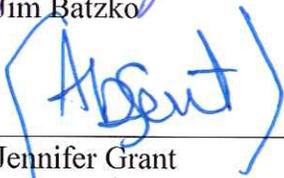
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

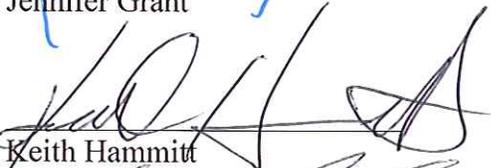
AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE
TO MODIFY SUBSECTION 82-21(a)(2) RELATING TO NOTICE
REQUIREMENTS FOR PUBLIC HEARINGS (ZT-1813)

Presented by:
Land Use, Parks, and Environment Committee


Pauline T. Jaske, Chair

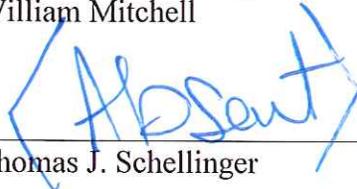

Jim Batzko


Jennifer Grant


Keith Hammitt


Eric Highum


William Mitchell


Thomas J. Schellinger

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

Date: 9/22/15, 
Kathleen Novack, County Clerk

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

Approved: X

Vetoed:

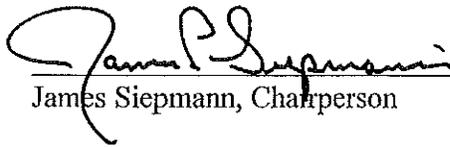
Date: 9/23/15, 
Paul Farrow, County Executive

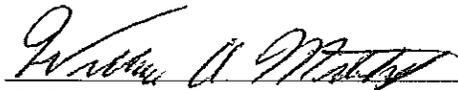
COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Ordinance hereby recommends approval of ZT-1813 (Text Amendment) in accordance with the attached "Staff Report and Recommendation".

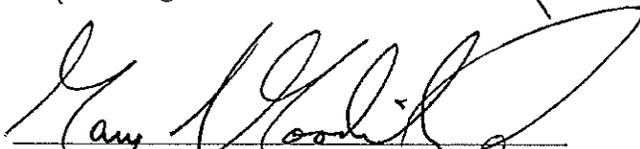
PARK AND PLANNING COMMISSION

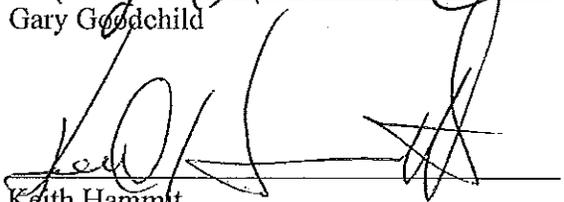
August 20, 2015


James Siepmann, Chairperson


William Mitchell, Vice Chairperson


Robert Peregrine


Gary Goodchild


Keith Hammit


Richard Morris

Absent
William Maslowski

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

FILE NO.: ZT-1813

DATE: July 16, 2015

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

NATURE OF REQUEST:
Amend Subsection 82-21(a)(2) of the Town of Mukwonago Zoning Code (Town Ordinance 2015-O-28) relating to notice requirements for public hearings.

PUBLIC HEARING DATE:
June 3, 2015.

PUBLIC REACTION:
None.

TOWN PLAN COMMISSION:
On June 3, 2015, the Town of Mukwonago Plan Commission voted unanimously to recommend adoption of the proposed ordinance to the Town Board.

TOWN BOARD ACTION:
On June 3, 2015, the Town of Mukwonago Board approved the Zoning Ordinance Amendments as recommended by the Town Plan Commission by a unanimous vote.

OTHER CONSIDERATIONS:
The Town of Mukwonago is proposing amendments to the existing public notice requirements for rezoning, conditional use requests and board of adjustment requests to slightly amend the Town's mailing requirements that call for owners within 300' of the subject parcel to be notified of such hearings. The proposed change clarifies that each individual owner of commonly-held outlots shall be notified of such hearings by mail. The changes also remove the requirement that notice of such pending actions or requests be posted near the subject property and instead specifies that notice shall be provided to property owners within 300' via mail.

STAFF RECOMMENDATION:
It is the opinion of the Planning and Zoning Division Staff that the proposed text amendment be approved. The changes ensure that all owners of jointly owned parcels receive notice of zoning related public hearings which provides the opportunity for public participation in various zoning processes.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance 2015-O-28

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ORDINANCE 2015-O-28

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE ZONING REGULATIONS
RELATING TO NOTICE REQUIREMENTS FOR PUBLIC HEARINGS

WHEREAS, the Town Board for the Town of Mukwonago adopted a zoning code for the Town of Mukwonago in 1953 and has amended it from time to time since then; and

WHEREAS, that zoning code is codified as Chapter 82 of the Town of Mukwonago Municipal Code, titled "Zoning;" and

WHEREAS, the Plan Commission for the Town of Mukwonago prepared a recommended ordinance to revise notice requirements for public hearings; 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 Town Board has conducted the necessary investigation, and scheduled a public hearing for the Plan Commission and the 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 Plan Commission and Town Board held a joint public hearing on June 3, 2015 pursuant to Section 82-265(d) of the Town of Mukwonago Zoning Code; and

WHEREAS, within a reasonable time after the hearing, the Plan Commission has reported its recommendation 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. Subsection 82-21(a)(2) of Chapter 82 of the Town of Mukwonago municipal code entitled "Conditional uses," is hereby repealed and recreated to read as follows:

- (2) *Public hearing.* Upon receipt of the application, the foregoing data and fees, the town planner shall establish a date for a joint public hearing by the plan commission and town board, or its designee, and shall publish notice of said hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the area of the proposed conditional use. Notice of the public hearing shall be given by regular mail to the owners of all lands within three hundred (300) feet of any part of the land included in such conditional use at least seven (7) days before such public hearing unless waived by the plan commission as follows. If the applicant is a governmental entity or group of property owners and the area affected by the proposed conditional use is so large such that the plan commission finds the mail notice to the owners within three hundred (300) feet to be unnecessarily burdensome, the plan commission may waive the mail notice requirement.

A copy of the notice of public hearing along with pertinent information relative to the specific nature of the matter (copy of application and map) shall be transmitted without delay to any other governmental agencies having jurisdiction by regular mail not less than ten (10) days prior to the date of the hearing. Testimony of all interested parties will be received at the public hearing and the plan commission shall take action within a reasonable time to either recommend approval or denial of the application along with any recommended conditions of approval or reasons for recommending denial. The action of the plan commission, and any conditions made applicable thereto, shall then be sent in writing to the town board.

If an outlot or other open lands in a platted subdivision, which is owned by all owners in the subdivision, a corporate entity, the original developer, the Town of Mukwonago, or otherwise, is located within 300 feet of the subject property, the mailing shall also be sent to all of the owners of land in the subdivision.

The town clerk shall complete an affidavit of mailing to certify the mailing was sent as required under this subsection.

SECTION 2. Subsection 82-21(d)(30)(b)(2) of Chapter 82 of the Town of Mukwonago municipal code entitled "Conditional uses," is hereby repealed and recreated to read as follows:

- (2) *Public hearing.* Within 65 days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing as provided in section 82-267, notices shall be sent by regular mail to all land owners within a half-mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed at least ten (10) days prior to the date of the hearing.

SECTION 3. Subsection 82-262(c) of Chapter 82 of the Town of Mukwonago municipal code entitled "Same--Appeals," is hereby repealed and recreated to read as follows:

- (c) *Hearing.* Each appeal shall be heard within a reasonable time and not to exceed 65 days from the time the appeal was filed with the board of adjustment. Notice of hearing shall be given by publishing in a paper of general circulation in the vicinity of the appeal, at least once each week for two consecutive weeks and not less than seven days from the date of the hearing. In addition, written notice shall be given to the administrative officer appealed from, and by regular mail to the petitioner, the owners of each parcel of land within 300 feet of the land in question, and any other specifically interested parties. At the hearing, any party may appear in person or by agent or by attorney.

If an outlot or other open lands in a platted subdivision which is owned by all owners in the subdivision, a corporate entity, the original developer, the Town of Mukwonago, or otherwise, is located within 300 feet of the subject property, the mailing shall also be sent to all of the owners of land in the subdivision.

The town clerk shall complete an affidavit of mailing to certify the mailing was sent as required under this subsection.

SECTION 4. Subsection 82-267(a)(2) of Chapter 82 of the Town of Mukwonago municipal code entitled "Same--Procedure," is hereby repealed and recreated to read as follows:

- (2) When the hearing involves a proposed change in the zoning district classification of any property, the granting of a conditional use, or are appealed to the board of adjustment, the clerk shall send the public hearing notice by regular mail to the owners of all lands within 300 feet of any part of the land included in such proposed change, conditional use or variance at least ten (10) days before such public hearing. The failure of such notice to reach a property owner provided such failure is not intentional, shall not invalidate any amending ordinance, variance or grant of conditional use.

If an outlot or other open lands in a platted subdivision which is owned by all owners in the subdivision, a corporate entity, the original developer, the Town of Mukwonago, or otherwise, is located within 300 feet of the subject property, the mailing shall also be sent to all of the owners of land in the subdivision.

The town clerk shall complete an affidavit of mailing to certify the mailing was sent as required under this subsection.

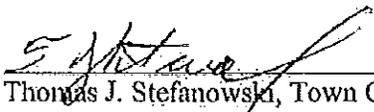
SECTION 5. SUBMITTAL TO WAUKESHA COUNTY. The Town of Mukwonago Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

SECTION 6. SEVERABILITY. Several sections of 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.

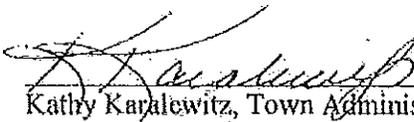
SECTION 7. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

Adopted this 3rd day of June 2015

TOWN OF MUKWONAGO


Thomas J. Stefanowski, Town Chairman

ATTEST:


Kathy Karalewitz, Town Administrator/Clerk

Published and posted this 8 day of June 2015

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-09/22/15 NUMBER-1700049

- 1 R. KOLB.....AYE
- 2 D. Zimmermann.....AYE
- 3 R. MORRIS.....AYE
- 4 J. BATZKO.....AYE
- 5 J. BRANDTJEN.....AYE
- 6 J. WALZ.....AYE
- 7 J. GRANT.....AYE
- 8 E. HIGHUM.....AYE
- 9 J. HEINRICH.....AYE
- 10 D. SWAN.....AYE
- 11 C. HOWARD.....AYE
- 12 P. WOLFF.....AYE
- 13 P. DECKER.....AYE
- 14 C. PETTIS.....
- 15 B. MITCHELL.....AYE
- 16 M. CROWLEY.....AYE
- 17 D. PAULSON.....AYE
- 18 L. NELSON.....AYE
- 19 K. CUMMINGS.....AYE
- 20 T. SCHELLINGER...AYE
- 21 W. ZABOROWSKI.....AYE
- 22 P. JASKE.....AYE
- 23 K. HAMMITT.....AYE
- 24 S. WHITTOW.....AYE
- 25 G. YERKE.....

TOTAL AYES-23

TOTAL NAYS-00

CARRIED X

DEFEATED

UNANIMOUS X

TOTAL VOTES-23