

ENROLLED ORDINANCE 169-70

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE TO REPEAL  
AND RECREATE SECTIONS 82-21(d)(12) AND 82-27(c) AND CREATE  
SECTION 82-21(d)(12A) RELATING TO THE PARKING OF  
COMMERCIAL VEHICLES AND BUSES (ZT-1799)

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 4, 2014, 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 60.61, 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 repeal and recreate Sections 82-21(d)(12) and 82-27(c) and create Section 82-21(d)(12A) relating to the parking of commercial vehicles and buses, 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-1799, is hereby approved.

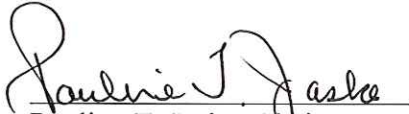
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.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 REPEAL  
AND RECREATE SECTIONS 82-21(d)(12) AND 82-27(c) AND CREATE  
SECTION 82-21(d)(12A) RELATING TO THE PARKING OF  
COMMERCIAL VEHICLES AND BUSES (ZT-1799)


Presented by:  
Land Use, Parks, and Environment Committee

  
Pauline T. Jaske, Chair


  
Jim Batzko

  
Jennifer Grant


  
Keith Hammitt

  
Eric Higham


  
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: 11/25/2014,   
Kathleen Novack, County Clerk

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

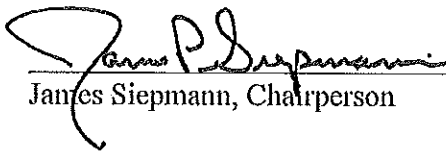
Approved: X  
Vetoed: \_\_\_\_\_  
Date: 12-2-14,   
Daniel P. Vrakas, County Executive

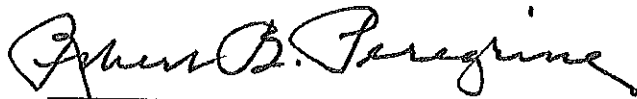
**COMMISSION ACTION**

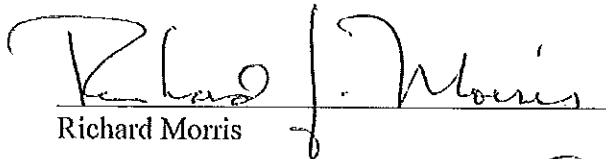
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Ordinance hereby recommends approval of ZT-1799 (Text Amendment) in accordance with the attached "Staff Report and Recommendation".

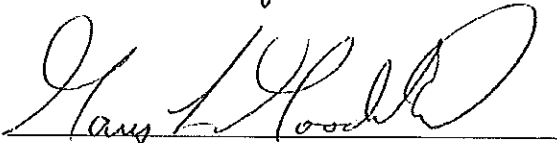
**PARK AND PLANNING COMMISSION**

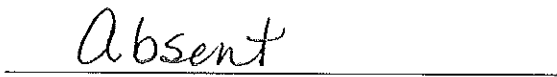
**October 16, 2014**


  
James Siepmann, Chairperson

  
Robert Peregrine

  
Richard Morris

  
Gary Godchild

  
William Mitchell

  
Robert Hamilton

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

**DATE:** October 16, 2014

**FILE NO.:** ZT-1799

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

**REQUEST:**  
Repeal and recreate Sections 82-21(d)(12) and 82-27(c) and create Section 82-21(d)(12A) of the Town of Mukwonago Municipal Zoning Code (Town Ordinance 2014-O-16) related to the parking of commercial vehicles and buses.

**PUBLIC HEARING DATE:** June 4, 2014.

**PUBLIC REACTION:** None.

**TOWN PLAN COMMISSION ACTION:**  
On June 4, 2014, the Town of Mukwonago Plan Commission recommended in favor of the proposed amendments with a split vote of 5 "ayes" and 3 "no's".

**TOWN BOARD ACTION:**  
On June 4, 2014, the Town of Mukwonago Town Board approved the Zoning Ordinance Amendments as recommended by the Town Plan Commission on a three to two vote.

**STAFF ANALYSIS:**  
The Town of Mukwonago is proposing amendments to the Town Zoning Code that largely help to clarify language already in the Code regarding commercial truck and bus parking. The Town Code currently provides a Conditional Use option for limited parking of commercial type vehicles such as dump trucks, school buses and semi trailers in various zoning districts, including residential districts. Such a zoning option is available to accommodate individuals that drive such a vehicle to and from work each day. Currently, many of the requirements in the commercial truck parking section are all contained within one paragraph, whereas with the proposed language, each requirement is clarified in a separate paragraph. The existing standards that are being carried forward limit the number of trucks or buses on such a property to one, make the option available to those properties that abut arterial and collector highways and restrict the distance that such vehicles must be parked from property lines and roadways.

A new criterion is proposed which requires that the operator of such commercial trucks and buses must be able to turn the vehicle around on the premises so that the vehicle is not backed into the road or backed into the driveway. In addition, the changes split school bus parking into a separate Conditional Use sub-section while the standards for consideration of bus parking remain quite similar to the truck parking provisions.

The submitted Town ordinance contains two typographical errors. Sections 82-21(d)(12) and 82-21(d)(12A) are mis-identified as Sections 82-12(d)(12) and 82-12(d)(12A). Staff will wait to submit the ordinance for final County Board approval until a corrected ordinance is received from the Town.

**STAFF RECOMMENDATION:**  
Based on the above analysis, it is the opinion of the Planning and Zoning Division Staff that the proposed text amendments be approved in accordance with the Town's decision. The proposed text amendments will allow for clarification and slight modification of the commercial truck and bus parking sections of the Town's Zoning Code. The

standards required for Conditional Use consideration will help to ensure that the limited parking of commercial type vehicles in rural and residential settings is compatible with the surrounding neighborhood.

Respectfully submitted,

*Sandra L. Scherer*

Sandy Scherer  
Senior Planner

Attachment: Town Ordinance 2014-O-16

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ORDINANCE 2014-O-16

AN ORDINANCE TO REPEAL AND RECREATE SECTIONS 82-21(d)(12) AND  
82-27(c) AND TO CREATE SECTION 82-21(d)(12A) OF THE TOWN OF  
MUKWONAGO MUNICIPAL CODE RELATED TO COMMERCIAL VEHICLES  
AND BUSES

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 update the Town zoning code regarding the parking of commercial vehicles and buses; 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 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 Town Board held a public hearing on June 2, 2014 pursuant to Section 82-265(d) of the Town of Mukwonago Zoning Code along with the Plan Commission; 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(d)(12) of Chapter 82 of the Town of Mukwonago municipal code entitled "Zoning," is hereby repealed and recreated to read as follows:

- (12) *Commercial truck parking.* The parking of commercial vehicles when accessory to a residential use in all residential and agricultural districts and in the B-2 district, subject to all of the following:
- a. Commercial vehicles include those vehicles not otherwise allowed under s. 82-27(e) such as dump trucks, construction vehicles, semi trailers and tractors and other unspecified vehicles as determined by the Plan Commission.
  - b. The commercial vehicle must be owned or leased and operated by an occupant of the premises.
  - c. The parcel shall front on and have access to an arterial or a collector as depicted on a highway width map as may be adopted by the Waukesha County Board of Supervisors pursuant to s. 63.1031, Wis. Stats.
  - d. The operator must be able to turn the commercial vehicle around on the premises so that it is not backed into the road or backed into the driveway. This standard does not obligate the jurisdiction with access control over the roadway to permit more than one access point to meet this requirement.
  - e. No more than one (1) such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two (2) additional construction vehicles (e.g., backhoes, front-end loaders, grading equipment) shall be allowed. Such vehicles shall be fully operational and in active use. Where considered appropriate, one trailer may be allowed but in no case may there be more than one semi-tractor or cab unit.
  - f. No such vehicles shall be allowed to be parked or stored closer than 50 feet to any adjacent lot line and not closer than 100 feet from the base setback line. In the case of a refrigerator truck, the refrigeration unit may not be operated in the open if such truck is parked closer than 500 feet to the nearest neighboring property line.
  - g. The conditional use permit shall be reviewed every two (2) years by the plan commission in order to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. Failure to conduct such review shall not invalidate any subsequent review or any enforcement proceeding. If it is determined that the conditional use permit is no longer compatible, or that the provisions of the permit have not been complied with, the conditional use permit may be revoked or amended in accordance with the procedures set forth in this chapter.

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SECTION 2. Subsection 82-21(d)(12A) of Chapter 82 of the Town of Mukwonago municipal code entitled "Zoning," is hereby created to read as follows:

(12A) *School bus parking.* The parking of school buses when accessory to a residential use in all residential and agricultural districts and in the B-2 district, subject to all of the following:

- a. The school bus shall be operated by an occupant of the premises. The school bus may be owned or leased by the occupant of the premises or owned or leased by a business for which the occupant of the premises is an employee or is otherwise contracted to provide such services.
- b. The school bus shall be licensed by the state of Wisconsin and fully operational.
- c. The parcel shall front on and have access to an arterial or a collector as depicted on a highway width map as may be adopted by the Waukesha County Board of Supervisors pursuant to s. 63.1031, Wis. Stats.
- d. The school bus operator must be able to turn the school bus around on the premises so that it is not backed into the road or backed into the driveway. This standard does not obligate the jurisdiction with access control over the roadway to permit more than one access point to meet this requirement.
- e. No more than one (1) school bus shall be allowed to be parked or stored on the occupant's property.
- f. A school bus shall not be parked or stored closer than 50 feet to any adjacent lot line and closer than 100 feet to the base setback line.
- g. The bus shall not be parked or stored on the occupant's property when school is not in session for four (4) or more days (e.g., over Christmas vacation or summer break).
- h. The conditional use permit shall be reviewed every two (2) years by the plan commission in order to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. Failure to conduct such review shall not invalidate any subsequent review or any enforcement proceeding. If it is determined that the conditional use permit is no longer compatible, or that the provisions of the permit have not been complied with, the conditional use permit may be revoked or amended in accordance with the procedures set forth in this chapter.

SECTION 3. Subsection 82-27(c) of Chapter 82 of the Town of Mukwonago municipal code entitled "Zoning," is hereby repealed and recreated to read as follows:



(c) *Parking of trucks and equipment.* No other vehicular equipment of a commercial or industrial nature, as excepted in subsection (b) of this section, shall be parked or stored for more than three (3) consecutive hours and six (6) accumulative hours during any 24-hour period on any lot in any zoning district, except business or industrial districts, or as follows:

- (1) Agricultural equipment, such as farm tractors, plows, seeders, combines, cultivators, and farm trucks, used in a farm operation and located within an agricultural district or the R-H rural home district.
- (2) One (1) panel, van or pick-up truck used in the conduct of a conforming business activity being carried on in a residential or an agricultural district. The plan commission may, if the need is evident, permit more than one (1) such vehicle as a special exception. No limitation shall be placed on vans or pick-up trucks if they are used for private nonbusiness or noncommercial recreational purposes.
- (3) Vehicles and related equipment allowed under a conditional use permit issued pursuant to sections 82-21(d)(12) or 82-21(d)(12A) . . .

SECTION 4. 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 5. 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 6. 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.

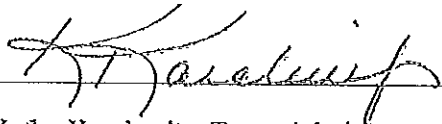
Adopted this 4<sup>th</sup> day of June 2014

TOWN OF MUKWONAGO



David Dubey, Town Chairman

ATTEST:

  
Kathy Karalewitz, Town Administrator/Clerk

Published ~~and~~<sup>is</sup> posted this 10 day of June, 2014

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-11/25/14

NUMBER-1690073

1 R. KOLB.....AYE  
3 R. MORRIS.....AYE  
5 J. BRANDTJEN.....AYE  
7 J. GRANT.....AYE  
9 J. HEINRICH.....AYE  
11 C. HOWARD.....AYE  
13 P. DECKER.....AYE  
15 B. MITCHELL.....AYE  
17 D. PAULSON.....AYE  
19 K. CUMMINGS.....AYE  
21 W. ZABOROWSKI.....AYE  
23 K. HAMMITT.....  
25 G. YERKE.....AYE

2 D. Zimmermann.....AYE  
4 J. BATZKO.....AYE  
6 J. WALZ.....AYE  
8 E. HIGHUM.....AYE  
10 D. SWAN.....AYE  
12 P. WOLFF.....AYE  
14 C. PETTIS.....AYE  
16 M. CROWLEY.....AYE  
18 L. NELSON.....AYE  
20 T. SCHELLINGER....AYE  
22 P. JASKE.....AYE  
24 S. WHITTOW.....AYE

TOTAL AYES-24

TOTAL NAYS-00

CARRIED \_\_\_\_\_

DEFEATED \_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-24