

ENROLLED ORDINANCE 164-92

COMPREHENSIVE AMENDMENT TO THE TEXT AND ZONING MAP
OF THE TOWN OF LISBON ZONING CODE (ZT-1701)

WHEREAS the subject matter of this Ordinance having been approved by the Lisbon Town Board on January 25, 2010, after Public Hearing, and the giving of requisite notice of said hearing, and duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval, 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 State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Text and Zoning Map of the Town of Lisbon Zoning Code, adopted by the Town of Lisbon on July 14, 1958, is hereby amended to repeal and recreate the Town of Lisbon Zoning Code and the Official Zoning Map of the Town of Lisbon, 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, 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 Lisbon.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

COMPREHENSIVE AMENDMENT TO THE TEXT AND ZONING MAP
OF THE TOWN OF LISBON ZONING CODE (ZT-1701)

Presented by:
Land Use, Parks, and Environment Committee

ABSENT
Fritz Ruf, Chair

Janel Brandtjen
Janel Brandtjen

Robert Hutton
Robert Hutton

James Jeskewitz
James Jeskewitz

Walter L. Kolb
Walter L. Kolb

ABSENT
Ted Rolfs

Gilbert W. Yerke
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: 3-30-2010, Kathy Nickolaus
Kathy Nickolaus, County Clerk

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

Approved: X
Vetoed: _____
Date: 3-30-10, Daniel P. Vrakas
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/23/10

(ORD) NUMBER-1640095

- 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 P. DECKER.....AYE
- 15 P. MEYERS.....
- 17 J. TORTOMASI.....AYE
- 19 S. WIMMER.....AYE
- 21 W. ZABOROWSKI.....AYE
- 23 J. PLEDL.....AYE
- 25 G. YERKE.....AYE

- 2 T. ROLFS.....
- 4 J. DWYER.....AYE
- 6 J. BRANDTJEN.....
- 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.....
- 24 W. KOLB.....AYE

TOTAL AYES-21

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-21

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

FILE NO.: ZT-1701

DATE: February 18, 2010

TAX KEY NO.: N/A

PETITIONER: Town Board of Lisbon
Town of Lisbon Town Hall
W234 N8676 Woodside Road
Sussex, WI 53089

REQUEST:

Amendment to repeal and re-create the Town of Lisbon Zoning Code and the Official Zoning Map of the Town of Lisbon.

PUBLIC HEARING DATES:

October 8, 2009 (Plan Commission) and October 29, 2009 (Town Board)

PUBLIC REACTION:

October 8, 2009 – none.

October 29, 2009

There were a few technical comments made by members of the audience and those comments were addressed as applicable. Other comments were made in regard to preserving rural density in the town and that it was not feasible; confusing land use and zoning and what lot sizes and densities are allowed; if there were provisions to amend zoning (yes); if there was an appeal process in the code (yes); if the Comprehensive Development Plan was approved (yes); if the zoning code was proposed (yes); a suggestion that everyone in the town should have received a certified letter (the meeting was published with the town newsletter that was sent to all residents); the zoning must match the land use map (which it does not until a property is developed as suggested in the Land Use Plan); if there were provisions in the code for cluster type developments (yes); concerns with the Upland Corridor district taking away private development rights; a resident doesn't have any problem with his land being zoned Upland Corridor so that the woodlands are protected and preserved; the Upland Corridor category should be included but with restrictions; and a resident stated that she supports the new code and that it is good timing for the Town to approve it now.

TOWN PLAN COMMISSION ACTION:

After the October 8, 2009 public hearing, the Town of Lisbon Plan Commission submitted a final report to the Town Board for public hearing and action. The final report included the Zoning Ordinance text and Official Zoning Map and minutes from the public hearing, which appended comments from staff.

164-0-095

TOWN BOARD ACTION:

On January 25, 2010, the Town of Lisbon Board adopted Ordinance No. 02-10 (Exhibit A) to repeal and re-create the Town of Lisbon Zoning Code, also known as Chapter 11 of the municipal code, thereby comprehensively revising the zoning code for all portions of the Town that the Lisbon Town Board currently exercises authority, including all attachments referenced therein (which includes the Official Zoning Map), and subject to modifications as recommended by staff to the Official Zoning Map (refer to Exhibit B).

STAFF ANALYSIS:

The Town of Lisbon has been working with the Planning and Zoning Division's Community Assistance Planner to revise its Zoning Code and Zoning Map since the adoption of their original Land Use Plan in 2004. Simultaneously, the Town also adopted a Comprehensive Development Plan in 2009 as part of the cooperative intermunicipal process with Waukesha County. The revised Zoning Code will allow for immediate implementation of the Comprehensive Development Plan as the lands have been zoned "as used" as recommended in the Plan. Some of the more significant changes to the proposed Zoning Code are summarized herein.

The Town of Lisbon has seen tremendous residential growth since the adoption of their original Zoning Code in 1958. Interestingly, the Town's previous Zoning Map identified the majority of those developed areas and areas yet to be developed in the same residential zoning category, and it was felt the zoning districts needed to better accommodate the "zoned as used" principle recommended in the Comprehensive Development Plan. Therefore, while the number of zoning districts were increased, the main change relative to the zoning districts was actually made to the Zoning Map itself which now reflects the "zoned as used" principal mentioned above. The number of principal residential zoning districts remains at five, and the number of agricultural districts remains at two. However, two density districts were added to accommodate smaller lot sizes when a development is proposed with the intent to preserve farmland.

In addition to the Conservancy District which appeared in the previous code, two additional districts were added to accommodate environmentally sensitive areas. The districts are the Upland Corridor District and the Existing Floodplain Development (EFD) District. There are eight properties with improvements that lie within the floodplain in the Town. Accordingly, the EFD District provides for continued use of these properties and structures in accordance with sound floodplain management practices while limiting future expansion. The overall intent of the district is to lessen the public responsibilities attendant to the continued and expanded development of land and structures in the floodplain and which are incompatible with floodplain and to lessen the potential danger to life, safety, health, and welfare of persons whose lands are subject to the hazards of floods. The Upland Corridor District is an important addition to the Code in that it is one of the requirements in the Comprehensive Development Plan that allows the Town to utilize the 30% density increase discussed in the Plan. This district will also aid in the protection of all three types of environmental corridors located in the Town and which the Town considers a valuable resource and asset in the preservation of its rural character while also providing for limited residential development in accordance with the Comprehensive Development Plan. The new zoning map, which was prepared with assistance of the Waukesha County Land Information Staff, reflects the new 2008 FEMA floodplain mapping, as well as the 2005 Wisconsin Wetland Inventory Maps and the 2005 SEWRPC Environmental Corridor Inventory.

The other districts added to the Zoning Map are the Park and Recreation District, the Public and Institutional District, and two additional Business districts (B-4 and B-P) and the related design standards, which were the outcome of lengthy discussions with the Village of Sussex as part of the boundary agreement with the Village. The design standards apply to four specific areas that are part of the boundary agreement with the Village which as labeled as Exhibits A-D in the Zoning Code. In addition, the Town identified two other specific areas in which they agreed the design standards will be applied (Exhibits E and F).

In addition, the Town desired to modernize and provide more detail than found in the previous code language, which over time, has included amendments to repeal and re-create various sections of the Code. Changes to the Code include the incorporation of various new and revised definitions including the use of new FEMA terminology; the addition of a site plan and plan of operation approval process; processes to deal with land altering activities and disturbance/preservation of topography, basement protection, accessory buildings, adult oriented establishments, and violations of the code; and the inclusion of cross references to existing town signage, swimming pool, mobile home, storm water management and erosion control, and nuisance ordinances.

Further, several new Conditional Use (CU) categories were added to modernize the Code and are as follows: bed and breakfast establishments, business parks, churches, commercial truck parking, contractors yards, in law units, land altering activities, limited family businesses, marinas, multi family uses, and communication towers. Four additional CU categories were added as part of the discussions with the Village of Sussex relative to the B-4 and B-P districts (only) and they are as follows: outside storage, truck terminals, factory outlets, and sale of industrial products.

In general, the proposed comprehensive revision and recreation of the Zoning Code is consistent with the general purpose and intent of the adopted Zoning Code. The majority of the changes are related to expanding zoning districts and modernizing and providing more detailed language. Finally, the Town's proposed Code does not differ substantially from the provisions of the Waukesha County Shoreland and Floodland Protection Ordinance, which also governs the shoreland and floodland areas of the Town. The general consistency between the two (2) codes or ordinances allows for relative ease in administering the two (2) documents relative to the same lands.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the repeal and recreation of the Town of Lisbon Zoning Code and Official Zoning Map, which was approved by the Town Board on January 25, 2010, be **approved** as presented. This is a major effort by the Town to modernize and update its Zoning Code and Zoning Map, including the incorporation of newly available natural resource mapping, is a step forward in the Town being able to better administer zoning regulations. The relative consistency between the Town's Zoning Code and County zoning regulations allows for an ease of understanding for the citizenry affected by the provisions of multiple ordinances. The addition of new zoning classifications allows for proper administration of the zoning regulations in the various areas of the Town including those areas in the boundary agreement area with the Village of Sussex. In addition, a more current Zoning Code is an important element in the Town being able to effectively carry out the objectives and standards of the Town's newly adopted Comprehensive Development Plan.

Respectfully submitted,



Sandy Scherer
Senior Planner

Attachments: Exhibit A (Ordinance 02-10) and Exhibit B (Zoning Map)

N:\PRKAND\UA\Planning and Zoning\Rezoning\Staff Reports\1701 Comp Text Map Amendment Ist.doc

ORDINANCE NO. 02-10

**AN ORDINANCE TO REPEAL AND RECREATE THE ZONING CODE AND THE
OFFICIAL ZONING MAP OF THE
TOWN OF LISBON**

The Town Board of the Town of Lisbon do ordain as follows:

1-1. Adoption of Code.

Pursuant to Wis. Stat. § 66.0103, the ordinances of the Town of Lisbon of a general and permanent nature adopted by the Town Board of the Town of Lisbon, consisting of Chapter 11 of the General Code of Ordinances, is hereby approved, adopted, ordained and enacted as the "Zoning Code of the Town of Lisbon, Wisconsin", hereinafter referred to as the "Zoning Code."

1-2. Code supersedes prior ordinances.

This Ordinance pertaining to the Zoning Code and Official Zoning Map shall supersede all other related permanent zoning ordinances and zoning maps enacted prior to the enactment of this Zoning Code and Zoning Map, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

1-3. Continuation of existing provisions.

The provisions of the Zoning Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Zoning Code by this Ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

1-4. Copy of Code on file.

A copy of the Zoning Code, in loose-leaf form, has been filed in the office of the Town Clerk and has remained there for use and inspection by the public for not less than two (2) weeks prior to the adoption of this Ordinance as required by Wis. Stat. § 66.0103. Upon adoption of this Ordinance, the copy of the Code on file with the Town Clerk shall be certified to by the Town Clerk, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Zoning Code is in effect.

1-5. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Zoning Code, when adopted in such form as to indicate the intention of the Town Board to make them a part thereof, shall be deemed to be incorporated into such Zoning Code so that reference to the "Zoning Code of the Town of Lisbon, Wisconsin" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Zoning Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Zoning Code as amendments and supplements thereto.

1-6. Publication; filing.

The Clerk of the Town of Lisbon, pursuant to law, shall cause to be published, in the manner required by law, a copy of this Ordinance in lieu of publication of the entire Zoning Code as provided for in Wis. Stat. § 66.0103. Sufficient copies of the Zoning Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Ordinance, coupled with the availability of a copy of the Zoning Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Zoning Code for all purposes.

1-7. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Zoning Code required to be filed in the Clerk's office for use by the public. All changes in said Zoning Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Zoning Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Zoning Code book, at which time such supplements shall be inserted therein.

1-8. Sale of Code book.

Copies of the Zoning Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Zoning Code.

1-9. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Zoning Code or to alter or tamper with such Zoning Code in any manner whatsoever which will cause the law of the Town of

Lisbon to be misrepresented thereby. This code may only be amended by the Town Clerk upon direction and approval by the Town Board as authorized by Section 35 of this Zoning Code.

1-10. Severability of Code provisions.

Each section of the Zoning Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

1-11. Severability of ordinance provisions.

Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

1-12. Repealer.

All ordinances or parts of ordinances of the original Zoning Code adopted July 14, 1958 and as subsequently amended and in force on the date of the adoption of this Ordinance and not contained in this Zoning Code are hereby repealed as of the effective date of this Ordinance.

1-13. When effective.

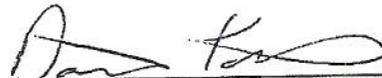
This ordinance shall take effect upon passage and publication as required by law.

Adopted this 25th day of January, 2010.

TOWN OF LISBON



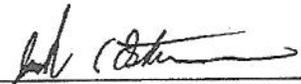
MATTHEW GEHRKE, Town Chair

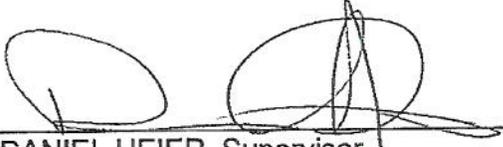


DANIEL FISCHER, Supervisor



RONALD ESSER, Supervisor


JOSEPH OSTERMAN, Supervisor


DANIEL HEIER, Supervisor

ATTEST:

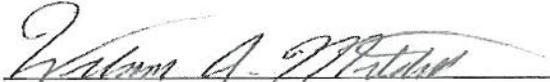

Jeffrey Musche Town Clerk

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Lisbon Zoning Code hereby recommends approval of **ZT-1701 (Town of Lisbon Zoning Code)** in accordance with the attached "Staff Report and Recommendation".

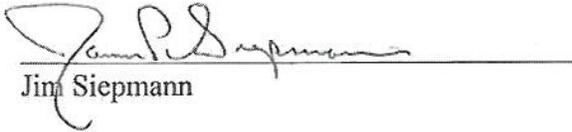
PARK AND PLANNING COMMISSION

February 18, 2010

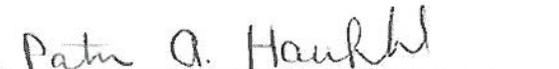

William Mitchell, Chairperson


Bob Peregrine, Vice Chairperson


Walter Kolb


Jim Siepmann


Bonnie Morris


Patricia Haukohl


Gary Goodchild