

ENROLLED ORDINANCE 170-26

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE TO  
MODIFY SUBSECTION 82-131(1) RELATING TO THE KEEPING OF  
LIVESTOCK IN THE A-1 AGRICULTURAL DISTRICT (ZT-1808)

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 April 1, 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 82-131(1) relating to the keeping of livestock in the A-1 Agricultural District, 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-1808, 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.

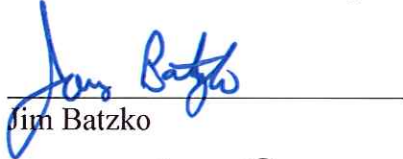
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.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 82-131(1) RELATING TO THE KEEPING OF  
LIVESTOCK IN THE A-1 AGRICULTURAL DISTRICT (ZT-1808)

Presented by:  
Land Use, Parks, and Environment Committee

  
Pauline T. Jaske, Chair

  
Jim Batzko

  
Jennifer Grant

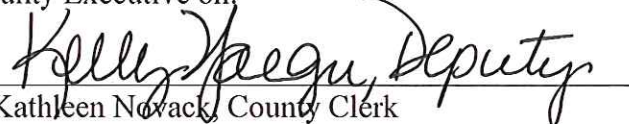
  
Keith Hammitt

  
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: June 26, 2015,   
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: \_\_\_\_\_


Date: 6-26-15,   
Paul Farrow, County Executive

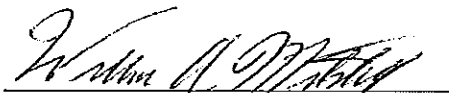
**COMMISSION ACTION**

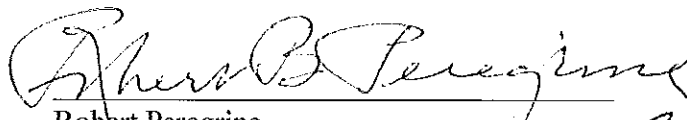
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Ordinance hereby recommends **approval** of ZT-1808 (Text Amendment) in accordance with the attached "Staff Report and Recommendation".

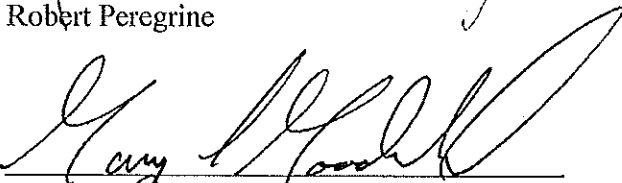
**PARK AND PLANNING COMMISSION**

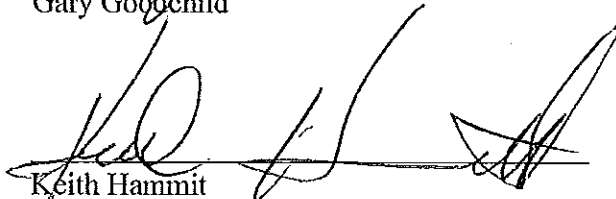
**May 21, 2015**

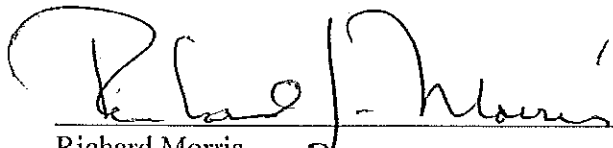
  
James Siepmann, Chairperson

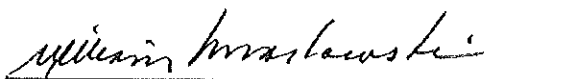
  
William Mitchell, Vice Chairperson

  
Robert Peregrine

  
Gary Goodchild

  
Keith Hammit

  
Richard Morris

  
William Maslowski

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

**FILE NO.:** ZT-1808

**DATE:** May 21, 2015

**PETITIONER:** Jean Holtz Trust  
Marital Trust Created Under the Holtz Trust Et AL  
W335 S7907 C.T.H. "E"  
Mukwonago, WI 53149

**NATURE OF REQUEST:**

Amend Subsection 82-131(1) of the Town of Mukwonago Zoning Code (Town Ordinance 2015-O-26) relating to the keeping of livestock in the A-1 Agricultural District.

**PUBLIC HEARING DATE:**

April 1, 2015.

**PUBLIC REACTION:**

Two of the petitioners spoke in support of the amendment.

**TOWN PLAN COMMISSION:**

On April 1, 2015, the Town of Mukwonago Plan Commission recommended adoption of the proposed ordinance by a vote of 4 to 2.

**TOWN BOARD ACTION:**

On April 1, 2015, the Town of Mukwonago Board approved the Zoning Ordinance Amendments as recommended by the Town Plan Commission by a vote of 4 to 1.

**OTHER CONSIDERATIONS:**

The Town of Mukwonago recently received a request from a property owner to amend its zoning code to allow for leased lands to be taken into account in arriving at the number of permissible livestock on properties within the Town's A-1 Agricultural District. The A-1 District allows for parcels as small as three acres. At present, the Town Code allows for one horse or head of livestock per acre if a parcel has at least three acres with at least one acre being "open". The proposal would allow for adjacent lands owned by the same owner to be utilized in calculating the number of permissible livestock and provides individuals with the ability to petition the Town Plan Commission to increase the number of available animals if a lease of adjacent lands is secured and such lands are zoned C-1, EC, A-1, AE or AP.

The Town Planner indicated in his report that the Town modeled similar lease language within the County Shoreland & Floodland Protection Ordinance in drafting the proposed amendment. The Town Planner also inquired of our office as to whether such provisions have caused any particular problems over time. I advised that we had not had many issues with the provision and advised that the language allows for a fairly informal process whereby some documentation of a given lease is requested to demonstrate compliance with the ordinance.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that the proposed text amendments be **approved**. The proposed amendment is very minor and will provide more flexibility to rural residents for keeping animals.

Respectfully submitted,

*Jason Fruth*

Jason Fruth  
Planning and Zoning Manager

Attachment: Town Ordinance 2015-O-26

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ORDINANCE 2015-O-26

AN ORDINANCE TO AMEND SUBSECTION 82-131(1) OF THE  
TOWN OF MUKWONAGO MUNICIPAL CODE RELATED TO  
KEEPING OF LIVESTOCK IN THE A-1 AGRICULTURAL DISTRICT

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 Jean Holtz Trust owns property in the Town of Mukwonago and has submitted a petition to amend Subsection 82-131(1) of the Town of Mukwonago municipal code which relates to private stables, among other things; 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 April 1, 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 82-131(1) of Chapter 82 of the Town of Mukwonago municipal code entitled "Zoning," is hereby repealed and recreated to read as follows:

- (1) Any use as permitted in the A-E exclusive agricultural conservancy district subject to the following:
  - a. Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
  - b. Private stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.
  - c. Commercial stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.
  - d. Commercial stables on parcels of less than 20 acres are not permitted but may be allowed as conditional uses pursuant to section 82-21(d)(11) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
  - e. Poultry raising is permitted but not more than 20 fowl may be kept for each full open acre over two acres of lot area.
  - f. All lands to be utilized for the keeping of livestock must be under the same ownership, except the plan commission may upon petition allow leased lands to increase the maximum permitted livestock provided the leased lands are contiguous to the owner's property and such lands are zoned C-1, EC, A-1, AE, or AP.

SECTION 2. 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 3. 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.

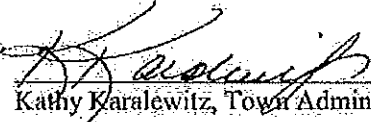
SECTION 4. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

Adopted this 1st day of April 2015

TOWN OF MUKWONAGO

  
\_\_\_\_\_  
David Dubey, Town Chairman

ATTEST:

  
\_\_\_\_\_  
Kathy Karalewicz, Town Administrator/Clerk

Published and posted this *10* day of *April* 2015



WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-06/23/15 (ORD) NUMBER-1700026

- |                          |                          |
|--------------------------|--------------------------|
| 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.....AYE     |
| 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.....AYE      |                          |

TOTAL AYES-25

TOTAL NAYS-00

CARRIED\_\_\_\_\_

DEFEATED\_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-25