

ENROLLED ORDINANCE 175-27

AMEND THE TEXT OF THE TOWN OF LISBON ZONING CODE TO REPEAL AND  
RECREATE SECTION 27, RELATING TO THE B-4 COMMERCIAL  
SPECIAL USE ZONING DISTRICT (RZ60)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Town of Lisbon Town Board on December 9, 2019; 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 Lisbon Zoning Code, adopted by the Town of Lisbon on April 9, 2010, is hereby amended to repeal and recreate Section 27 relating to the B-4 Commercial Special Use Zoning 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 RZ60, 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.

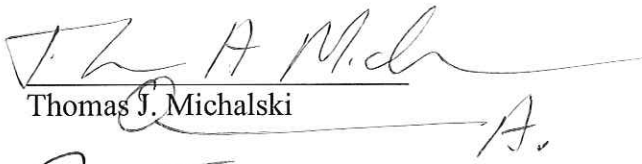
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

AMEND THE TEXT OF THE TOWN OF LISBON ZONING CODE TO REPEAL AND RECREATE SECTION 27, RELATING TO THE B-4 COMMERCIAL SPECIAL USE ZONING DISTRICT (RZ60)

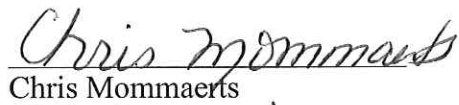
Presented by:  
Land Use, Parks, and Environment Committee

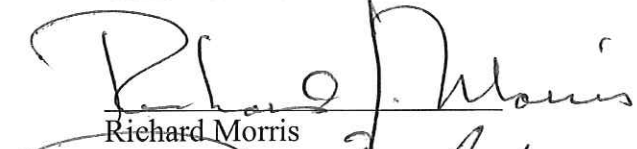
  
Jennifer Grant, Chair

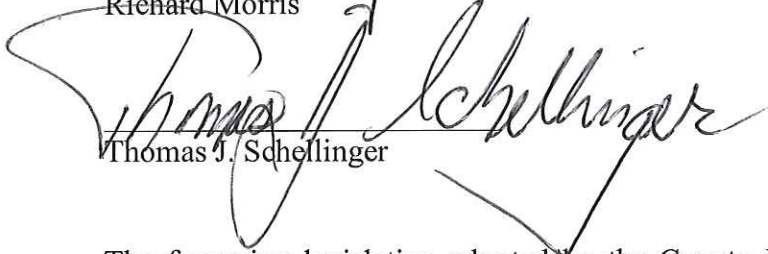
  
Keith Hammitt

  
Thomas J. Michalski


  
William A. Mitchell

  
Chris Mommaerts

  
Richard Morris

  
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: 8/31/2020,   
Margaret Wartman, County Clerk

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

Approved: X

Vetoed:

Date: 8/31/2020,   
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 text of the Town of Lisbon Zoning Code hereby recommends **approval** of **RZ60 (Text Amendment/Town Lisbon Board)** in accordance with the attached “Staff Report and Recommendation”.

PARK AND PLANNING COMMISSION

July 16, 2020

Robert Peregrine (via Microsoft Teams)

Robert Peregrine, Chairman

William Mitchell (via Microsoft Teams)

William Mitchell, Vice Chairman

Richard Morris (via Microsoft Teams)

Richard Morris

James Siepmann (via Microsoft Teams)

James Siepmann

Thomas Michalski (via Microsoft Teams)

Thomas Michalski

Absent

William Maslowski

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

**DATE:** July 16, 2020

**FILE NO.:** RZ60

**APPLICANT:** Town of Lisbon Board of Supervisors  
W234 N8676 Woodside Road  
Lisbon, WI 53089

**REQUEST:**  
Repeal and recreate Section 27, B-4 Commercial Special Use Zoning District, of the Town of Lisbon Zoning Ordinance.

**PUBLIC HEARING DATE:** November 14, 2019

**PUBLIC COMMENT:** None

**TOWN PLAN COMMISSION ACTION:**

On November 14, 2019, the Town of Lisbon Plan Commission unanimously recommended approval of the text amendment, Ordinance 19-19, amending Section 27 of the Town of Lisbon's Zoning Ordinance regarding the B-4 District to the Town Board.

**TOWN BOARD ACTION:**

On December 9, 2019, the Lisbon Town Board of Supervisors unanimously approved Ordinance No. 19-19 (attached) and recommended the same to Waukesha County. The ordinance has been on hold as the town and Village of Sussex have been engaged in a legal dispute but are now progressing in working together.

**STAFF ANALYSIS:**

There are two special use zoning districts outlined in the Town of Lisbon's Zoning Ordinance (the B-P and B-4 Districts) that implement the Town of Lisbon's Comprehensive Development Plan where the uses allowed must incorporate design standards and require review by the Town of Lisbon and Village of Sussex Joint Planning Committee (JPC).

The Town is proposing to repeal and recreate these two special use zoning districts. The subject text amendment concerns the B-4 Commercial Special Use Zoning District. The B-P Industrial/Business Park Special Use Zoning District was forwarded for your review a few months ago but was not immediately advanced to the County Board at the request of the Village of Sussex. Since that time, the village and town have made progress regarding their disputes and are working towards a resolution regarding boundary agreement issues. The village administrator conveyed that the village is now comfortable with the pending zoning ordinance moving forward as the communities continue working towards a final resolution.

The B-4 district is currently applied to just a few properties within the town. Specifically in the B-4 District, the amendments will update the purpose and intent language, amend references to the joint planning committee role from "approve" to "review", consistent with boundary agreement language, and delete the prohibited uses list. The revised text also maintains references to the binding

Boundary Stipulation and Intergovernmental Cooperation Agreement between the Town of Lisbon and the Village of Sussex dated January 22, 2001. The binding boundary agreement requires a joint planning committee comprised of representatives of the two communities to “receive, consider and comment upon” rezoning, conditional use, planned unit developments and plats. However, the existing B-4 District language states that zoning regulations and design standards shall be reviewed and approved by the JPC. While town is proposing to eliminate the JPC approval language, references to the need for projects to go before the joint planning committee of the two communities for review is being preserved. If the two communities create a new boundary agreement, additional verbiage changes to the codes will likely be needed.

**STAFF RECOMMENDATION:**

Based on the above analysis, the Planning and Zoning Division Staff recommends approval of the request. The revised district language does not significantly change the permitted use types of the district and adherence to design standards continues to be required. Therefore, the proposed text amendment complies with the town and county’s comprehensive plans and all other aspects of the Town of Lisbon’s Zoning Ordinance.

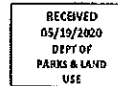
Respectfully submitted,

*Sandra L. Scherer*

Sandy Scherer  
Senior Planner

Attachment: Town Ordinance No. 19-19

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STATE OF WISCONSIN

TOWN OF LISBON

WAUKESHA COUNTY

Ord. 19-19

**AN ORDINANCE AMENDING CHAPTER 11, SECTION 27 OF THE TOWN ZONING CODE RELATED TO THE B-4 COMMERCIAL SPECIAL USE ZONING DISTRICT, OF THE TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN**

**SECTION 1:** Section 27 of the Town of Lisbon Zoning Code is hereby repealed and recreated to read as follows:

**SECTION 27 - B-4 COMMERCIAL SPECIAL USE ZONING DISTRICT**

**Purpose and Intent**

This District is intended to provide for the orderly and attractive grouping of businesses at appropriate locations in the Town, such as, but not limited to, along the STH 164 and STH 74 highways and adjacent routes that lead into and out of the Town of Lisbon in accordance with the adopted Design Standards (Addendum E of the Town of Lisbon Zoning Ordinance) and is appropriately designated for said zoning in compliance with the Town's Comprehensive Development Plan as a Special Use District, and said zoning shall be reviewed in accordance with the Boundary Stipulation and Intergovernmental Cooperation Agreement between the Town of Lisbon and the Village of Sussex dated January 22, 2001, and received, considered and commented on by the Town of Lisbon and Village of Sussex Joint Planning Committee. This district is intended for those businesses and customer services which are logically related to and dependent upon highway traffic, or which are specifically designed to serve the needs of such traffic and/or serve surrounding residential and corporate neighborhoods. The District is designed for convenience or one-stop shopping and is intended to service the entire community.

**SECTION 2:** The introductory paragraph titled "Joint Planning Committee Role and Authority in this Zoning District" of Section 27 of the Town of Lisbon Zoning Code is hereby repealed.

**SECTION 3:** The Introductory paragraph titled "Review Process for Proposed Developments" of Section 27 of the Town of Lisbon Zoning Code is hereby repealed and recreated to read as follows:

### **Review Process for Proposed Developments**

The review process for this zoning district shall be in accordance with the language contained in Section 27, and the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts Design Standards, and other Town ordinances as applicable (Addendum E and Exhibit Maps A, B, C and D).

- (1) To encourage a commercial environment that is compatible with the residential character of the Town and the neighboring Village, building permits for permitted uses in this zoning district shall not be issued without review by the Joint Planning Commission (JPC), review and recommendation by the Town of Lisbon Plan Commission, and approval by the Town Board. The JPC review shall be concerned with site plan, architectural plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization. Town of Lisbon review and approval shall consist of all required plans per the Municipal Code of the Town of Lisbon.
- (2) The process for PUDs, CUs, and site plan and plan of operation review shall follow the process requirements outlined in Chapter 11 of the Town of Lisbon's Town Code except as limited in this zoning district. Where a conflict may occur, this zoning district shall apply as it is intended to guide development in this zoning district. Uses shall be limited to those described in this zoning district.

#### **(a) Permitted Uses**

The following retail and customer service establishments involving the selling of and storing of merchandise are permitted subject to the approval of a site plan and plan of operation:

- (1) Art, dance, music teaching studios, or other similar fine arts.
- (2) Architects, accountants, attorneys, advertisers, engineers, insurance sales, consultants, or other professional offices.
- (3) Bakery stores.
- (4) Banks, savings and loan associations, and other financial and/or investment institutions, including drive up facilities.
- (5) Barber shops and beauty shops.
- (6) Book stores.
- (7) Business offices.
- (8) Candy and confectionery stores.
- (9) Copying and mail services.
- (10) Delicatessens.
- (11) Dentist, physician, or other similar professional health offices and clinics, excluding hospitals.

- (12) Drugstores.
- (13) Dry cleaning pick-up and delivery services.
- (14) Florists, retail.
- (15) Fruit and vegetable markets.
- (16) Galleries.
- (17) Gift stores, antique shops.
- (18) Government services (post offices, etc.)
- (19) Hardware, paint, or decorating stores.
- (20) Hobby shops.
- (21) Meat, fish, or poultry markets.
- (22) Optical stores.
- (23) Packaged beverage stores.
- (24) Photo and film pick-up stores, photography studios.
- (25) Realtors.
- (26) Shoe repair shops.
- (27) Shoe stores.
- (28) Soda and ice cream stores.
- (29) Sporting goods stores.
- (30) Tobacco stores.
- (31) Variety stores.
- (32) Video stores (non-adult oriented).
- (33) Family home day care in an existing residential dwelling
- (34) Other uses not specifically mentioned above may be permitted uses if, following a review and recommendation by the Town of Lisbon Plan Commission, the Town of Lisbon Board finds:
  - a. The use is consistent with the intent and types of uses depicted above, and
  - b. The use is not listed as a conditional use, and
  - c. The use is safe, clean, and would not cause any hardship to neighboring property owners from noise, pollution, or other nuisance.
  - d. The Town of Lisbon and Village of Sussex Joint Planning Committee has received, considered and commented on the use.

This section is added to allow flexibility for the Town of Lisbon Plan Commission, Town of Lisbon Board, and JPC to consider multiple uses that cannot all be enumerated above in light of the difficulty and time constraints of adjusting zoning in a Town government.



**(b) Permitted Accessory Uses**

- (1) Garages for storage of licensed vehicles used in conjunction with the operation of a business.
- (2) Dumpsters and other refuse type containers shall be screened from view from streets and adjacent properties.
- (3) Roof mounted HVAC type equipment shall be located, screened, and/or painted to minimize visibility from street and adjacent sites.
- (4) Signs in accordance with the guidelines set forth in Chapter 13, Signs, of the General Code of Ordinances (refer to Addendum A). Landscape and site plans for the signs must be submitted, reviewed, and approved by the plan commission to evaluate size, orientation, and compatibility with the entire site.
- (5) Off-street parking and loading areas provided detailed site plans, including landscaping and buffering, are submitted to and approved by the plan commission. Front, rear, and side yard pavement setbacks shall not be less than ten (10) feet. Shared drives and shared parking areas may be allowed between adjacent properties where appropriate and practical, through the use of cross-easements or other internal linkages between the properties, with approval of the plan commission.

**(c) Conditional Uses**

Any use similar in character to the permitted uses listed above conducted as a retail business on the premises, catering to the general public, and compatible to the character of adjacent areas:

- (1) Restaurants, Supper Clubs, Lake Resorts, Taverns, Dance Halls, Pool Halls, Bowling Alleys, and similar uses, including fast food and drive through restaurants.
- (2) Automobile, Gasoline, and Service Station and Convenience Stores associated with gasoline sales.
- (3) Communication towers and facilities, including antenna masts and satellite dish antennas located in the rear yard and roof-mounted satellite dish antennas and roof-mounted solar collectors on the roof of the principal structure, provided a registered engineer contracted by the owner shall certify that the structure is adequate to support the load. All such roof mounted facilities shall be screened from view with the screening approved by the plan commission.
- (4) Private clubs and resorts.
- (5) Business park and shopping center uses.

- (6) Public and semi public buildings and uses, including hospitals and health care facilities.
- (7) All outside storage areas shall be at least 600 feet from residential, park, and public and institutional zoning districts located in the Town of Lisbon and the Village of Sussex. The Town Board may waive or reduce the 600-foot separation requirement. In all cases, outside storage shall be screened from all sides. All screening plans are subject to Town Plan Commission review and approval. Screening may be a permanent opaque wall matching the building materials, fencing or landscaping as deemed appropriate by the Town Plan Commission. The height of the screening shall be sufficient to screen the product(s) in the outside storage area. Furthermore, no use shall be granted a modification of the separation requirement if the Town Plan Commission determines that the use will have a high risk of fire, explosion, noise, vibration, or odor.
- (8) Other uses not specifically mentioned above may be conditional uses if the Town of Lisbon Board finds:
  - a. The use is consistent with the intent and types of uses depicted above, and
  - b. The use is safe, clean, and would not cause any hardship to neighboring property owners from noise, pollution, or other nuisance.
  - c. The Town of Lisbon and Village of Sussex Joint Planning Committee has received, considered and commented on the use.

This section is added to allow flexibility for the Town of Lisbon Plan Commission, Town of Lisbon Board, and JPC to consider multiple uses that cannot all be enumerated above in light of the difficulty and time constraints of adjusting zoning in a Town government.

**(d) Building Location**

- (1) Road Setback:  
Fifty (50) feet.
- (2) Side yard offset:  
Twenty (20) feet minimum.
- (3) Rear yard offset:  
Forty (40) feet minimum.
- (4) Shore Setback:

75 feet minimum from the ordinary high water mark, wetland conservancy, or floodplain, whichever is closer, unless otherwise excepted in this ordinance.

**(e) Height Regulations**

- (1) Principal structure: Forty-five (45) feet maximum if a two story and fully exposed on at least one side of the building. Thirty-five (35) feet maximum if a one story with or without an exposure, or a two story with no exposure.
- (2) Accessory structure: Fifteen (15) feet in height.

**(f) Area Regulations**

- (1) Floor Area Ratio/Lot Coverage/Open Space:  
Maximum FAR of thirty percent (30%) unsewered, and fifty percent (50%) sewerred. Not more than sixty-five percent (65%) unsewered, or seventy five percent (75%) sewerred, of any lot shall be covered with buildings, surfaced pavement, driveways, parking, loading areas, or other covering materials which are impervious to surface absorption. Landscaped open space shall occupy not less than 35% (unsewered), or 25% (sewerred) of the lot area.
- (2) Lot Size:  
One (1) acre minimum with or without sewer.
- (3) Lot Width:  
Minimum average lot width: 150 feet with or without sewer.

**(g) Design Standards**

The following guidelines are specific standards that apply to this zoning district. In addition, development in this zoning district must follow the adopted Design Standards of the Town of Lisbon for the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts (Addendum E) and other general guidelines within Chapter 11 of the Lisbon Municipal Code which is the Town's Zoning Ordinance (hereinafter referred to as Chapter 11) related to design issues. Where a conflict exists, this section and the adopted Design Standards (Addendum E) shall apply.

- (1) Parking and Storage
  - a. Surfacing. All off-street loading, driveways, parking areas shall be surfaced with an asphaltic or Portland cement pavement in accordance with Chapter 11 and the Town of Lisbon standards and specifications so as to provide a durable and dust free

surface, and shall be so graded and drained as to dispose of all surface water accumulated within the area. Any surface water discharged off premises shall be so channeled and located so as not to create a nuisance to adjacent properties. Surfacing of loading areas shall be completed before occupancy is granted. Storage areas shall be surfaced with an asphaltic or Portland cement.

- b. Landscaping. All public off-street parking areas which serve twenty (20) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Zoning Ordinance shall be provided with accessory landscape areas totaling not less than seven and one-half (7 1/2) percent. The minimum size of each landscape area shall not be less than 150 square feet and landscaped areas shall be distributed evenly throughout the parking area. Location of landscape areas, plant materials, and protection afforded the plantings shall be reviewed by the Town Plan Commission. All Plans for such proposed parking areas shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area. Those parking areas for twenty (20) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of six (6) feet.
- c. Driveway Opening. Openings for driveways shall provide adequate access to a public street. No driveway for any other use shall be less than 24 feet in width at the street right-of-way line nor shall it exceed 32 feet at the street right-of-way line.
- d. Storage. Parking spaces required to meet the minimum parking requirements of Chapter 11 shall not be used for the long term storage of motor vehicles, recreational vehicles, boats, commercial inventory, or equipment. Parking spaces shall not be used or leased to persons not using the principal use. Parking spaces are considered accessory to the principal use, unless prior approval for such shared or secondary use has been granted by the Town Plan Commission.

- e. Lighting. Lighting shall be installed and maintained in accordance with the standards set forth herein:
1. Type. Shielded luminaries, or luminaries with cutoff optics, and careful fixture placement shall be required so as to facilitate compliance with this section.
  2. Orientation. Exterior lighting fixtures shall be orientated so that the lighting element (or a transparent shield) does not throw rays onto neighboring properties. No lighting sources shall be visible from outside its premises. Light rays shall not be directed into street rights-of-way or upward into the atmosphere. No horizontal throw via outward projecting lenses or optics shall be permitted contributing as a point glare source. The intensity of illumination, measured at the property line, shall not exceed 0.2 foot-candles.
  3. Minimum Lighting Standards. All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset and where it is reasonable to expect pedestrian use shall provide artificial illumination in such areas at a minimum intensity to meet the standards set forth in the American National Standard Practice for Roadway Lighting and those standards set forth in the Illuminating Engineering Society of North America's Lighting for Parking Facilities.
  4. Flashing, flickering, or other distracting lighting which may distract motorists is prohibited. Lighting which creates or becomes a public nuisance is not permitted.
- f. General Landscaping and Buffering other than outlined in Section g(1)b shall be developed per the adopted Design Standards (Addendum E) of the Town of Lisbon for the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts.

Where incidences of residential uses and uses allowed in this district are located adjacent to one another, the proposed use shall provide a buffer from the existing use by means of landscaping and berms in accordance with the adopted Design Standards (Addendum E) and/or similar standards

if located in the Village of Sussex. Where the two uses are proposed simultaneously, a joint landscaping plan shall be developed by and between the two uses that satisfies the intent of the adopted Design Standards (Addendum E) and/or similar standards if located in the Village of Sussex and so that there is minimal overlap in the buffering provided.

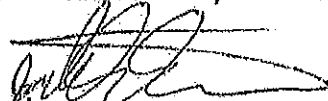
- g. Building and Structures and Materials shall be developed per the adopted Design Standards (Addendum E) of the Town of Lisbon for the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts.
- h. Other Site Planning and Design Issues shall be developed per the adopted Design Standards (Addendum E) of the Town of Lisbon for the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts.
- i. Signage shall be developed per the adopted Design Standards (Addendum E) of the Town of Lisbon for the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts.
- j. Pedestrian Orientation shall be developed per the adopted Design Standards (Addendum E) of the Town of Lisbon for the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts.
- k. Environmental Protection shall be developed per the adopted Design Standards (Addendum E) of the Town of Lisbon for the Industrial/Business Park Special Use and Commercial Special Use Zoning Districts.
- l. Erosion Control Developments must follow the Town's Erosion Control Ordinance, Land Disturbance Ordinance, the Waukesha County Storm Water Management Regulations, Wisconsin Department of Natural Resources NR-216, NR-151 and applicable Chapter 30 regulations.

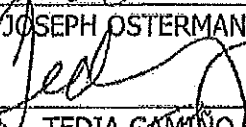
**SECTION 4:** All ordinances or parts of this ordinance conflicting or contravening the provisions of this ordinance are hereby repealed.

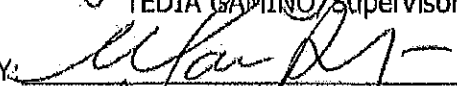
**SECTION 5:** This Ordinance shall take effect upon passage and posting as provided by law.

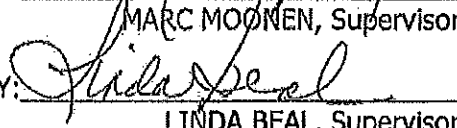
**PASSED AND ADOPTED** by the Town Board of the Town of Lisbon, Waukesha County, Wisconsin this 27<sup>th</sup> day of April, 2020.

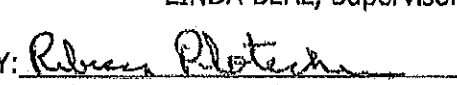
TOWN BOARD, TOWN OF LISBON  
WAUKESHA COUNTY, WISCONSIN

BY:   
JOSEPH OSTERMAN, Chairman

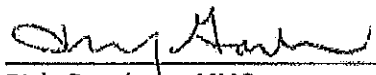
BY:   
TEDIA GAMINO, Supervisor

BY:   
MARC MOONEN, Supervisor

BY:   
LINDA BEAL, Supervisor

BY:   
REBECCA PLOTECHER, Supervisor

ATTEST:

BY:   
Rick Goeckner, MMC  
Interim Town Clerk

