

ENROLLED ORDINANCE 176-101

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY REPEALING AND RECREATING APPENDIX B (13.12) OF CHAPTER 36, RELATING TO THE DEVELOPMENT REQUIREMENTS FOR FEDERAL FIREARMS LICENSES.
(RZ92)

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 November 3, 2021; 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.

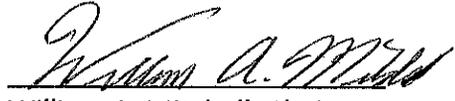
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Mukwonago Zoning Code, adopted by the Town of Mukwonago on November 30, 2020, is hereby amended to repeal and recreate Appendix B (13.12) of Chapter 36, relating to the development requirements for federal firearms licenses, 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 RZ92, is hereby approved.

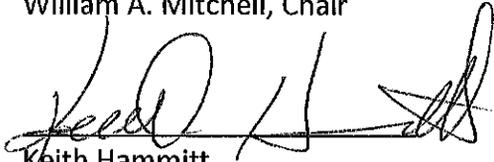
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

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

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY REPEALING AND RECREATING APPENDIX B (13.12) OF CHAPTER 36, RELATING TO THE DEVELOPMENT REQUIREMENTS FOR FEDERAL FIREARMS LICENSES (RZ92)

Presented by:
Land Use, Parks, and Environment Committee

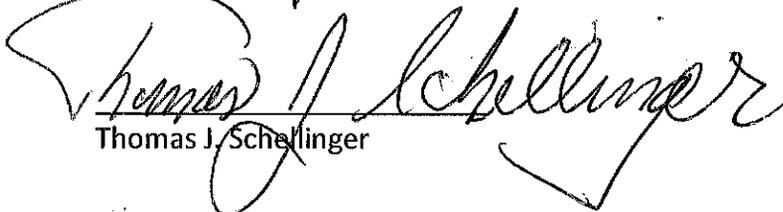

William A. Mitchell, Chair


Keith Hammitt


Thomas A. Michalski


Chris Mommaerts


Richard Morris


Thomas J. Schellinger

Absent

Steve Whittow

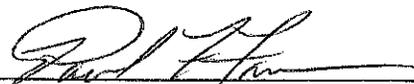
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 2/25/2022, 
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: _____

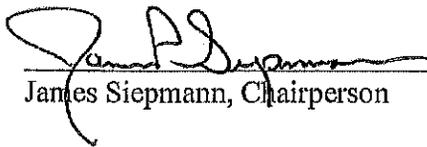
Date: 2/25/2022, 
Paul Farrow, County Executive

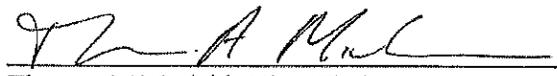
COMMISSION ACTION

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 Mukwonago Zoning Code hereby recommends approval of RZ92 (Town of Mukwonago Board) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

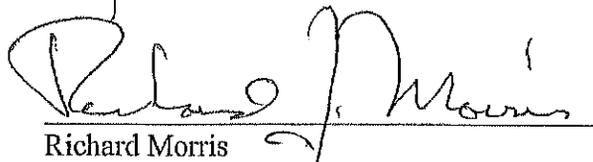
January 20, 2022

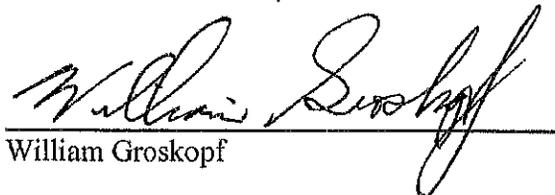

James Siepmann, Chairperson


Thomas Michalski, Vice Chairperson


William Mitchell


Robert Peregrine


Richard Morris


William Groskopf

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

FILE NO: RZ92
TAX KEY NUMBER: N/A
DATE: January 20, 2022
NAME OF PETITIONER: Town Board of Mukwonago
Town of Mukwonago Hall
W320 S8315 Beulah Road
Mukwonago, WI 53149

NATURE OF REQUEST:

Repeal and recreate Appendix B (13.12) of Chapter 36 of the Town of Mukwonago Zoning Code relating to the development requirements for federal firearms licenses.

PUBLIC HEARING DATE:

November 3, 2021

PUBLIC REACTION:

One person stated that he would like to see the Knox box requirement be removed. He was in favor of having a box but felt it should be optional.

TOWN PLAN COMMISSION ACTION:

At their meeting of November 3, 2021, the Town of Mukwonago Plan Commission recommended approval of the proposed text amendments to the Town Board.

TOWN BOARD ACTION:

At their meeting of November 3, 2021, the Town of Mukwonago Board approved the proposed text amendments to Town of Mukwonago Zoning Code.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (WCCDP) AND THE TOWN OF MUKWONAGO COMPREHENSIVE PLAN:

The text amendments have been prepared in a manner that considers public welfare and safety. Therefore, they are consistent with the plans.

STAFF ANALYSIS:

The Town of Mukwonago is proposing to amend the specific standards within the town code relative to federal firearms licenses. The proposed changes are shown in track changes on the attached Exhibit A. The code allows for individuals to sell firearms from residential properties, subject to approval and certain conditions. The changes would allow for such operations to have one non-resident employee to be considered on a case by case basis. A number of other standards are being introduced to be responsive to the various aspects of this particular business type. There is some additional flexibility being added to allow sales of all gun types and that limited on-site sales (maximum five per month) and customer drop offs may be allowed on a

case by case basis. Extra precautions are also proposed to require storage of guns in a locked gun safe and that the fire department be made aware of the use and that a Knox Box can be requested by the fire department to allow for easy entry in event of a fire.

The transmitted town ordinance erroneously referenced the applicable section as 13.11. The town will correct the section number to 13.12.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends **approval** of the Town of Mukwonago's request. The amendments further refine the town's existing federal firearms license rules making administration of such uses more clear while ensuring safety.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachments: Town Ordinance No. 2021-O-56
Exhibit A

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STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE 2021-O-56

AN ORDINANCE TO AMEND CHAPTER 36 OF THE MUNICIPAL CODE

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 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, the Plan Commission at their meeting on October 6, 2021, recommended various revisions to the zoning code as set forth herein; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on November 3, 2021, to consider the amendment and to accept public comment; and

WHEREAS, the Plan Commission recommended approval at their meeting on November 3, 2021; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on November 3, 2021; and

WHEREAS, the Town Board finds that the recommended revisions to the Town's zoning regulations could potentially be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Town Board for passage and adoption; 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. Repeal and recreate the development requirements for "Federal firearms license" as set forth in Appendix B (13.11) to read as follows:

Development Requirements:

- (a) **License required.** The operator shall obtain a federal firearms license (FFL) from the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, and maintain such license for the duration of the use. Upon issuance, the operator shall provide a copy of the license to the town clerk.
- (b) **Compliance with FFL.** The operator shall comply with all requirements related to the federal firearms license. Any violation of such license constitutes a violation of this zoning code.
- (c) **Employees.** Employees working under the federal firearms license on the premises shall be limited to the petitioner. One non-resident employee may be approved on a case-by-case basis as part of the review process.
- (d) **Hours of operation.** The hours of operation shall be by appointment only. There shall be no appointments before 8:00 am or after 8:00 pm.
- (e) **Test firing.** On-site test firing is prohibited, except that a commercially available indoor bullet trap may be approved on a case-by-case basis as part of the review process.
- (f) **Transfer of approval prohibited.** An approved conditional use is personal to the person or the business listed on the federal firearms license and is therefore not transferrable to a subsequent property owner.
- (g) **Conditions of approval.** Although a federal firearms license issued by U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives allows for certain activities to occur under said license, the plan commission may recommend and the town board may restrict or place conditions on the activities allowed under the license. For example, the town may establish a limit on the number of number of transactions occurring on the premises (i.e., to address customer traffic) to ensure the use is in keeping with the character of the surrounding area. If the town board does not establish such a limit at the time of approval, the town board reserves the right to establish a limit at any time with written notice to the operator. Additionally, the town board reserves the right to change any such limitation with written notice to the operator if it determines that the amount of customer traffic is having a detrimental effect on the surrounding area.
- (h) **Periodic review.** The conditional use permit shall be reviewed every year 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 article 5.
- (i) **Storage.** All guns kept under the federal firearms license must be stored in a locked gun safe.
- (j) **Signage.** Outdoor signage related to this use is prohibited.
- (k) **Type of guns.** All types of legal firearms may be sold without restriction.
- (l) **Sale of ammunition.** The sale of ammunition is limited to 500 rounds per calendar month.
- (m) **Limitation on retail sales.** Retail sales are limited to 5 per month.

- (n) **Limitation on buying of guns.** Buying of guns on site may be allowed on a case-by-case basis as part of the review process.
- (o) **Limitation on customer drop offs.** Customer drop offs may be allowed on a case-by-case basis as part of the review process.
- (p) **Notice.** Prior to establishing this use, the property owner shall notify the local fire department of the proposed use.
- (q) **Knox box.** The property owner shall install a Knox box if requested by the local fire department.
- (r) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

Section 2. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a 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. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Section 3. 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 4. 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.

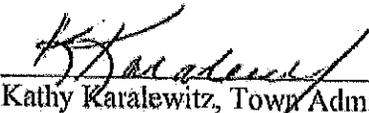
Adopted by a vote in favor by two-thirds of the members-elect of the Town Board, or more, this 3rd day of November 2021

TOWN OF MUKWONAGO



Peter Topczewski, Town Chair

ATTEST:



Kathy Karalewitz, Town Administrator

Published and/or posted this 9 day of November, 2021

EXHIBIT A

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE 2021-O-__

- Public Hearing Draft -

AN ORDINANCE TO AMEND CHAPTER 36 OF THE MUNICIPAL CODE

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 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, the Plan Commission at their meeting on October 6, 2021, recommended various revisions to the zoning code as set forth herein; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on _____, 2021, to consider the amendment and to accept public comment; and

WHEREAS, the Plan Commission recommended approval at their meeting on _____, 2021; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on _____, 2021; and

WHEREAS, the Town Board finds that the recommended revisions to the Town's zoning regulations could potentially be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Town Board for passage and adoption (to be verified); 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. Repeal and recreate the development requirements for "Federal firearms license" as set forth in Appendix B (13.11) to read as follows:

Development Requirements:

(a) License required. The operator shall obtain a federal firearms license (FFL) from the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, and maintain such license for the duration of the use. Upon issuance, the operator shall provide a copy of the license to the town clerk.

(b) Compliance with FFL. The operator shall comply with all requirements related to the federal firearms license. Any violation of such license constitutes a violation of this zoning code.

(c) Employees. Employees working under the federal firearms license on the premises shall be limited to ~~only those persons living on the premises the petitioner.~~ One non-resident employee may be approved on a case-by-case basis as part of the review process.

(d) Hours of operation. The hours of operation shall be by appointment only. There shall be no appointments before 8:00 am or after 8:00 pm.

(e) Test firing. ~~Test firing into an indoor bullet trap is allowed. All other test firing is prohibited. On-site test firing is prohibited, except that a commercially available indoor bullet trap may be approved on a case-by-case basis as part of the review process.~~

(f) Transfer of approval prohibited. An approved conditional use is personal to the person or the business listed on the federal firearms license and is therefore not transferrable to a subsequent property owner.

(g) Conditions of approval. Although a federal firearms license issued by U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives allows for certain activities to occur under said license, the plan commission may recommend and the town board may restrict or place conditions on the activities allowed under the license. For example, the town may establish a limit on the number of number of transactions occurring on the premises (i.e., to address customer traffic) to ensure the use is in keeping with the character of the surrounding area. If the town board does not establish such a limit at the time of approval, the town board reserves the right to establish a limit at any time with written notice to the operator. Additionally, the town board reserves the right to change any such limitation with written notice to the operator if it determines that the amount of customer traffic is having a detrimental effect on the surrounding area.

(h) Periodic review. The conditional use permit shall be reviewed every ~~two years~~ year 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 article 5.

(i) Storage. All guns kept under the federal firearms license must be stored in a locked gun safe.

(j) Signage. Outdoor signage related to this use is prohibited.

(k) Type of guns. All types of legal firearms may be sold without restriction.

(l) Sale of ammunition. The sale of ammunition is limited to 500 rounds per calendar month.

(m) Limitation on retail sales. Retail sales are limited to 5 per month.

(n) Limitation on buying of guns. Buying of guns on site may be allowed on a case-by-case basis as part of the review process.

(o) Limitation on customer drop offs. Customer drop offs may be allowed on a case-by-case basis as part of the review process.

(p) Notice. Prior to establishing this use, the property owner shall notify the local fire department of the proposed use.

(q) Knox box. The property owner shall install a Knox box if requested by the local fire department.

(ir) Application fee. This use is classified as a Type 1 conditional use in the fee schedule.

Section 2. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a 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. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Section 3. 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 4. 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 by a vote in favor by two-thirds of the members-elect of the Town Board, or more, this __ day of _____ 2021

TOWN OF MUKWONAGO

Peter Topczewski, Town Chair

ATTEST:

Kathy Karalewitz, Town Administrator

Published and/or posted this ____ day of _____, 2021