

TOWN OF AMHERST
PLAN COMMISSION ORDINANCE

The Town Board for the Town of Amherst, Portage County, Wisconsin, do ordain as follows:

Section One: Title/Purpose. This Ordinance is entitled Town of Amherst Plan Commission Ordinance. The purpose of this Ordinance is to create a Plan Commission in order to engage in certain planning and land use activities. The Plan Commission can be of assistance to the Town Board by involving citizens, developing expertise in planning, and advising in policy-making.

Section Two. Authority .The Town Board of the Town of Amherst has been authorized by the Town meeting under sec. 60.11(2)(c), Wis. Stats. to exercise village powers, and the Town has a population of less than 2,500, according to the most recent regular or special federal census, sec. 990.01(29), Wis. Stats. The Town Board hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a five (5) member Plan Commission under secs. 60.62(4), 61.35 and 62.23, Wis. Stats. The Plan Commission shall be considered the “Town Planning Agency” under secs. 236.02(13) and 236.45, Wis. Stats., which authorize, but do not require, Town adoption of a subdivision or other land division ordinance.

Section Three: Membership The Plan Commission shall consist of five (5) members plus an alternative. Appointees may be members of the Town Board or other town elected or appointed officials, except that the Commission shall always have at least three (3) citizen members who are not town officials.

Section Four: Appointment of Members All members of the Commission shall be appointed by the Town Board chairperson, subject to confirmation by the Town Board. The Town Board chairperson shall make appointments during the month of April for terms that expire in April or at such other time as the terms expire. In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Board chairperson shall be made after the election and qualification of the Town Board members elected. The Town chairperson shall also select the Plan Commission chairperson at the April meeting. Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under secs. 19.01 and 60.31, Wis. Stats.

Section Five: Terms of Office 1. The citizen members appointed to the Plan Commission shall be appointed for staggered terms and shall serve for a period of three (3) years. 2. The Town Board member or Town Board chairperson, shall serve for a period of two (2) years, as allowed under sec. 66.0501(2), Wis. Stats., concurrent with his or her term on the Town Board

Section Six: Vacancies The Town Board chairperson shall make appointments at any time if a vacancy occurs during the middle of a term, except that an appointee to the Town Plan Commission may be removed before the expiration of the appointee’s term by a majority vote of the Town Board under 60.62(4)(d), Wis. Stats. A person who is appointed to fill a vacancy shall serve for the remainder of the term.

Section Seven: Compensation Members, alternate, and secretary shall be granted a per diem that shall be reviewed every year by the Town Board at budget time and become effective Jan. 1st the following year as allowed under sec. 66.0501(2), Wis. Stats. In addition, the Town Board may reimburse reasonable costs and expenses as allowed under sec. 60.321, Wis. Stats.

Section Eight: Experts & Staff The Plan Commission may, under Sec. 62.23(1), Wis. Stats. employ experts and staff, and pay for their services and necessary and proper expenses, within the limits of any appropriation made to the Commission by the Town Board for such purposes, and subject to the Town Board ordinances and resolutions.

Section Nine: Rules & Records The Plan Commission, under 62.23(2), Wis. Stats., may adopt rules for the transaction of its business, subject to Town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under sec. 19.21-19.39, Wis. Stats.

Section Ten: Chairperson & Officers (1) The Plan Commission chairperson shall be appointed and serve a term as provided in sections 4 & 5 of this ordinance. The chairperson shall, subject to Town ordinances and Commission rules: (a) provide leadership to the Commission; (b) set Commission meeting and hearing dates; (c) provide notice of Commission meetings and hearings and set their agendas, personally or by his or her designee; (d) preside at Commission meetings and hearings; and (e) ensure that the laws are followed. (2) Vice-Chairperson. The Plan Commission may elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., a vice-chairperson to act in the place of the chairperson when the chairperson is absent or incapacitated for any cause. (3) Secretary. The Plan Commission shall elect by open vote or secret ballot under sec. 19.88(1), Wis. Stats., one of its members to serve as secretary, or with the approval of the Town Board, designate the Town clerk or other Town officer or employee as secretary.

Section Eleven: Commission Members as Local Public Officials. All members of the Plan Commission shall faithfully discharge their official duties to the best of their abilities, as provided in the oath of office, sec. 19.01, Wis. Stats., in accordance with, but not limited to, the provision of the Wis. Stats. on: Public Records, secs. 19.21-19.39; Code of Ethics for Local Government Officials, secs. 19.42, 19.58 & 19.59; Open Meetings, secs. 19.81-19.89; Misconduct in Office, sec. 946.12; and Private Interests in Public Contracts, sec. 946.13. Commission members shall further perform their duties in a fair and rational manner and avoid arbitrary actions.

Section Twelve: General & Miscellaneous Powers. The Plan Commission under Sec. 62.23(4) Wis. Stats. shall have the power:

1. Necessary to enable it to perform its functions and promote Town planning.
2. To make reports and recommendations relating to the plan and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
3. To recommend to the Town Board programs for public improvements and the financing of such improvements.
4. To receive from public officials, within a reasonable time, requested available information required for the Commission to do its work.
5. For itself, its members and employees, in the performance of their duties, to enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

Section Thirteen: Town Comprehensive Planning: General Authority and Requirements

1. The Plan Commission shall make and adopt a comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats., which contains the elements specified in sec. 66.1001(2), Wis. Stats, and follows the procedures in sec. 66.1001(4), Wis. Stats.
2. The Plan Commission shall make and adopt the comprehensive plan within the time period directed by the Town Board, but not later than a time sufficient to allow the Town Board to review the plan and pass an ordinance adopting it to take effect on or before January 1, 2010, so that the Town Comprehensive plan is in effect by the date on which any Town program or action affecting land use must be consistent with the Town Comprehensive plan under sec. 66.1001(3), Wis. Stats.
3. In this section the requirement to “make” the plan means that the Plan Commission shall ensure that the plan is prepared, and oversee and coordinate the preparation of the plan, whether the work is performed for the Town by the Plan Commission, Town staff, another unit of government, the regional planning commission, a consultant, citizens, an advisory committee, or any other person, group or organization.

Section Fourteen: Procedure for Plan Commission Adoption & Recommendation of a Town Comprehensive Plan or Amendment. The Plan Commission, in order to ensure that the requirements of sec. 66.1001(4), Wis. Stats. are met, shall proceed as follows:

1. Public participation verification Prior to beginning work on a comprehensive plan, the Plan Commission shall verify that the Town Board has adopted written procedures designed to foster public participation in every state of preparation of the comprehensive plan. These written procedures shall include open discussion, communication programs, information services, and noticed public meetings. These written procedures shall further provide for wide distribution of proposed, alternative or amended elements of a comprehensive plan and shall provide an opportunity for written comments to be submitted by members of the public to the Town Board and for the Town Board to respond to such written comments.

2. The Plan Commission, under sec. 66.1001(4)(b), Wis. Stats., shall recommend its proposed comprehensive plan or amendment to the Town Board by adopting a resolution by a majority vote of the entire Plan Commission. The vote shall be recorded in the minutes of the Plan Commission. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of the comprehensive plan. The resolution adopting a comprehensive plan shall further recite that the requirements of the comprehensive planning law have been met, under sec. 66.1001, Wis. Stats., namely that:

- (a) The Town Board adopted written procedures to foster public participation and that such procedures allowed public participation at each stage of preparing the comprehensive plan;
- (b) The plan contains the nine (9) specified elements and meets the requirements of those elements;
- (c) The (specified) maps and (specified) other descriptive materials relate to the plan;
- (d) The plan has been adopted by a majority vote of the entire Plan Commission, which is recorded in the minutes; and
- (e) The Plan Commission clerk, or secretary is directed to send a copy of the comprehensive plan adopted by the Commission to the governmental units specified in sec. 66.1001(4), Wis. Stats., and sub. (3) of this section.

3. Transmittal. One copy of the comprehensive plan or amendment adopted by the Plan Commission for recommendation to the Town Board shall be sent to:

- (a) Every governmental body that is located in whole or in part within the boundaries of the Town, including any school district, Town sanitary district, public inland lake protection and rehabilitation district or other special district.
- (b) The clerk of every city, village, town, county and regional planning commission hat is adjacent to the town.
- (c) The Wisconsin Land Council.
- (d) After September 1, 2003, the Department of Administration.
- (e) The Regional Plan Commission in which the town is located.
- (f) The public library that serves the area in which the town is located.

Section Fifteen: Plan Implementation & Administration

1. Ordinance Development If directed by resolution or motion of the Town Board, the Plan Commission shall create certain ordinances or maps relating to comprehensive planning or land use;

2. Ordinance amendment. The Plan Commission, on its own motion, or at the direction of the Town Board by resolution or motion may prepare proposed amendments to the Town's ordinances relating to comprehensive planning or land use;

3. Consistency. Any ordinance, amendment or program proposed by the Plan Commission, and any Plan Commission approval, recommendation for approval or other action under Town ordinances or programs that implement the Town's comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats., shall be consistent with that plan as of January 1, 2010. If any such Plan Commission action would not be consistent with the comprehensive plan, the Plan Commission shall use this as information to consider in updating the comprehensive plan.

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Section Sixteen: Referrals to the Plan Commission Required items under sec. 62.23(5) [e.g. location, acceptance, extension, alteration, vacation, abandonment, change of use, sale acquisition of land for or lease of land, all plats under ch. 236.5 or 236.45, Wis. Stats.] and other sections of the Wis. Stats [e.g. initial licensure of a community-based residential facility under sec. 50.03(4) Wis. Stats., adoption or amendment of a land division ordinance under sec. 236.45(4), Wis. Stats.] and, in addition, items relating to zoning, conditional uses ,and exceptions shall be referred to the Plan Commission as well as any other matter required by any Town ordinance or Town Board motion.

No final action may be taken by the Town Board or any other officer or body with final authority on a matter referred to the Plan Commission until the Commission has made its report, or thirty (30) days, or such longer period as stipulated by the Town Board has passed since referral. The thirty (30) day period for referrals required by the Wis. Stats. may be shortened only if so authorized by statute. The thirty (30) day referral period, for matters subject to required or discretionary referral under the Town’s ordinances, but not required to be referred under the Wis. Stats. may be made subject by the Town Board to a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.

Section Seventeen: Effective Date: Following passage by the Town Board, this revised ordinance shall take effect the day after the date of publication or posting as provided by sec. 60.80, Wis. Stats.

Adopted this ____ day of _____ 2007. Published/Posted this ____ day of _____ 2007.

_____(Town Board Chairperson)
Michael Peplinski, Sr.

ATTEST: _____(Town Clerk)

AMENDMENT ADOPTED ON 3-15-2007