

ORDINANCE NO. 2013-02

AN ORDINANCE TO REPEAL AND RECREATE SECTIONS 17.10(4)(A)(1)(a),
17.10(4)(C), 17.10(4)(D), and 17.10(4)(F)(1) OF THE TOWN OF DELAFIELD ZONING
ORDINANCE CONCERNING THE ADMINISTRATION AND AUTHORITY OF THE
BOARD OF APPEALS

WHEREAS, Section 17.10(4) of the Town of Delafield Code of Ordinances provides for the establishment, administration, and authority of a Board of Appeals pursuant to Section 62.23(7)(e) of the Wisconsin Statutes; and

WHEREAS, the Town Board has referred proposed revisions of certain specified provisions of Section 17.10(4) of the Town of Delafield Code of Ordinances to reflect statutory changes in the provisions of Section 62.23(7)(e) of the Wisconsin Statutes pursuant to Section 17.10(5)(A) of the Town of Delafield Code of Ordinances; and

WHEREAS, the Plan Commission for the Town of Delafield has recommended that the Town Board revise certain specified provisions of Section 17.10 of the Town of Delafield Code of Ordinances to reflect statutory changes in the provisions of Section 62.23 of the Wisconsin Statutes; and

WHEREAS, following Class 2 notice, the Town Board of the Town of Delafield held a public hearing concerning the recommendation of the Plan Commission, as provided in Section 62.23(7)(d) of the Wisconsin Statutes and Section 17.10(6) of the Town of Delafield Code of Ordinances; and

WHEREAS, the Town Board has determined that the adoption of the Plan Commission's recommendation will promote the public health, safety and general welfare of the community;

NOW, THEREFORE, THE TOWN BOARD OF THE TOWN OF DELAFIELD DO
ORDAIN AS FOLLOWS:

SECTION 1: Chapter 17 of the Town of Delafield Municipal Code, entitled "The Zoning Ordinance for the Town of Delafield," Section 17.10, entitled "Administration and Enforcement," subsection 4, entitled "Board of Appeals," subsection A, entitled "General Administration", subsection (1) entitled "Establishment," subsection "a", entitled "Authority," is hereby repealed and recreated to read as follows:

a. Authority.

- (1) There is hereby created a Board of Appeals, pursuant to § 62.23(7)(e), Wis. Stats., to consist of 5 members to be appointed by the Chair of the Town, subject to confirmation by the Town Board

for terms of three years, except those first appointed, one shall serve for one year, two for two years and two for three years, respectively; and, thereafter, on January 1 of each year, the new appointments shall be for three year terms. The Town Chair shall also appoint, for staggered terms of three years, two alternate members, to serve as required and established pursuant to § 62.23(7)(e)(2), Wis. Stats. The Board of Appeals is encouraged to establish a procedure which allows all members and alternates to serve on an alternating, random or periodic basis, so that all members and alternates share equivalent work loads and gain equivalent experience.

- (2) Members and alternates of the Board of Appeals shall be removable by the Town Chair, for cause, upon written charges and after public hearing.

SECTION 2: Chapter 17 of the Town of Delafield Municipal Code, entitled "The Zoning Ordinance for the Town of Delafield," Section 17.10, entitled "Administration and Enforcement," subsection 4, entitled "Board of Appeals," subsection C, entitled "Additional Variance Requirements," is hereby repealed and recreated to read as follows:

C. Additional Variance Requirements.

In making its determination the Board shall consider whether the proposed variance would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to locations, construction, maintenance and operation, in addition to any which may be stipulated in this chapter, as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare. Any action authorized by a variance granted by the Board shall be completed no later than two years of the date such variance is granted, except as follows. The Board may specify in the variance a specific date by which the action authorized by the variance must be completed, which shall control, provided that such date is less than 2 years from the date the variance is granted.

SECTION 3: Chapter 17 of the Town of Delafield Municipal Code, entitled "The Zoning Ordinance for the Town of Delafield," Section 17.10, entitled "Administration and Enforcement," subsection 4, entitled "Board of Appeals," subsection D, entitled "Required Vote," is hereby repealed and recreated to read as follows:

D. Required Vote.

If a quorum is present, the Board may take action under this Section by

a majority vote of the members present, including such alternate members as may form part of the quorum. The grounds of every such determination shall be stated.

SECTION 4: Chapter 17 of the Town of Delafield Municipal Code, entitled "The Zoning Ordinance for the Town of Delafield," Section 17.10, entitled "Administration and Enforcement," subsection 4, entitled "Board of Appeals," subsection F entitled "Appeals," subsection 1, entitled "How Filed," is hereby repealed and recreated to read as follows:

F. Appeals.

1. How Filed.

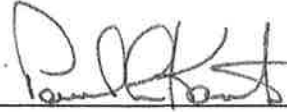
- a. Appeals to the Board of Appeals may be taken by any person aggrieved or by any taxpayer or any officer, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be taken within 20 days from the date of the decision appealed from by filing with the administrative officer from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the grounds thereof. The administrative officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- b. The Town Board may, by ordinance or resolution, establish reasonable filing fees for the filing of an appeal to the Board of Appeals. Such filing fees shall be paid at the time of filing of the appeal.

SECTION 5: 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 this ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances having terms in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.


SECTION 6: This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and approved this 11th day of June, 2013.

Town of Delafield

By: 
Paul L. Kanter, Town Chairman

ATTEST:


Mary Elsher, Town Clerk