

ORDINANCE NO. 2014-03

**AN ORDINANCE TO REPEAL AND RECREATE  
SECTION 17.04 5. N. 5. d., REGARDING  
OPEN SPACE IN THE P-1 PARK AND RECREATION DISTRICT,  
OF THE TOWN OF DELAFIELD ZONING ORDINANCE**

WHEREAS, the P-1 Park and Recreation District is currently mapped to include primarily, if not exclusively, land that is owned by the public, whether by the Town of Delafield, Waukesha County, or the State of Wisconsin, and this is likely to continue due to the very restrictive permitted uses in the district regulations; and

WHEREAS, allowing the State of Wisconsin, Waukesha County, and the Town of Delafield additional flexibility regarding the open space for lands that are zoned in the P-1 Park and Recreation District, will help to ensure that the public interest and general welfare of the Town of Delafield are preserved; and

WHEREAS, this flexibility is necessary to ensure that the public interest is preserved regarding public land, for the purpose of promoting health, safety, morals or the general welfare of the community, pursuant to Wisconsin Statutes Sections 60.62, 61.35 and 62.23(7)(am) and per the Town of Delafield Zoning Code, Section 17.01 4. C., and so that the ordinance does not unnecessarily prevent the public interests being served for the greater good of the Town of Delafield; and

WHEREAS, the Town Board of the Town of Delafield, has therefore initiated this zoning amendment pursuant to Section 17.10 5. B., to provide flexibility with regard to open space within the P-1 Park and Recreation District, and the Town Board has referred this matter to the Town Plan Commission for its consideration pursuant to Section 17.10 5. E. 1. of the Town of Delafield Zoning Code; and

WHEREAS, the Town of Delafield Plan Commission has conducted the necessary investigation and has reported its recommendation to the Town Board; and

WHEREAS, upon receipt of the Town Plan Commission's report, the Town Board has held a public hearing in the matter, pursuant to Section 17.10 5. F. on May 27, 2014, upon due notice as described in Section 17.10 6. of the Town of Delafield Zoning Code; and

WHEREAS, the Town Board of the Town of Delafield having carefully reviewed the recommendation of the Plan Commission of the Town of Delafield, having determined that all procedural requirements and notice requirements have been

satisfied, having given the matter due consideration, and having based its determination on the effect of the zoning amendment on the health, safety and welfare of the community, and the immediate areas where the zoning amendment will be effective, and having given due consideration to the municipal problems involved as well as the impact on surrounding properties as to noise, dust, smoke and odor, hereby determines that the zoning amendment will not violate the spirit or intent of the Zoning Code for the Town of Delafield, will not be contrary to the public health, safety or general welfare of the Town of Delafield, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the affected neighborhood, and that the amendment is consistent with the recommendations found in the Town of Delafield Comprehensive Plan.

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 17 of the Town of Delafield Municipal Code entitled, "Zoning Ordinance," Section 17.04, entitled "Zoning Districts," subsection N., entitled "P-1 Park and Recreation District," subsection 5., entitled "Area Regulations," subsection d., entitled "Open Space," is hereby repealed and recreated as follows:

**d. Open Space**

~~With the exception of rustic structures which shall be permitted, Ninety Percent (90%) of each lot shall remain as open space except as follows. (1) The footprint of rustic structures shall not be counted as impervious area in the open space calculation. (2) The open space may be reduced pursuant to a conditional use for public and semi-public buildings and uses, granted pursuant to Section 17.05 5. AH., provided that the open space is not reduced below 60%.~~

SECTION 2: SEVERABILITY.

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: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law, following approval of Waukesha County per Section 17.10 5. I. of the Town of Delafield Zoning Code.

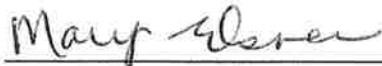
Dated this 27<sup>th</sup> day of May, 2014.

TOWN OF DELAFIELD



Paul L. Kanter, Town Chair

ATTEST:



Mary Elsner, Town Clerk

~~Published and/or posted~~ this 28<sup>th</sup> day of August, 2014.

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