Zoning Overview

Zoning is a practice that regulates the allowable uses of land, lot size and the location, height and bulk of structures within specified zones or districts in a governmental jurisdiction. According to the American Planning Association, there are four main reasons that communities decide to utilize zoning:
1. To separate potentially conflicting land uses;
2. To ensure new development is located according to a community’s comprehensive plan, land use plan, or other local plan which is linked directly with the community’s vision, values, and goals;
3. To promote quality development that will not harm the health, safety and welfare of the public; and
4. To balance individual property rights with the rights of the general public to have a healthy, safe, and orderly living environment.

When a community decides that zoning is an appropriate form of land use regulation, a zoning ordinance is developed and adopted. In addition to specifying and designating appropriate land uses within different zoning districts (e.g. general agriculture, farmland preservation, residential, industrial), a zoning ordinance also specifies “conditional” uses that can be allowed with restrictions or special conditions after a public hearing process.

Why is the Town of Stockbridge considering zoning?
The Town of Stockbridge worked with Calumet County to develop the Town and County Comprehensive Plans, including the town’s land use map, showing what land uses are planned for the Town of Stockbridge. This plan was adopted by the town on December 10, 2007. The town also cooperated with Calumet County to develop the Farmland Preservation Plan and map (required by state law) that shows the farmlands to be preserved and areas to be developed. These plans and maps, as adopted, identify the town’s vision for:
- preserving land for agriculture;
- developing as a mixed residential and agricultural community; and
- protecting water quality — both ground and surface — when approving development in the town.

In order to implement the town’s future visions, town residents voted at the 2008 Annual Meeting to authorize development of a town zoning ordinance.
An Overview of Stockbridge’s Proposed Zoning Ordinance

This description of the five major sections of the town’s proposed zoning ordinance is intended to give property owners an overall understanding of the ordinance. Contact the Town of Stockbridge for more information on how the ordinance applies to a specific landowner’s situation.

Section 24.100 Statutory Authority and Purpose
The important part of this section is 24.102 which states the Town’s purpose in adopting a zoning ordinance.

Section 24.200 Definitions
A zoning ordinance contains many words and phrases that are specific to the regulation of land uses. This section clarifies what these words and phrases mean.

Section 24.300 Zoning Districts/Maps
The zoning districts in the Town of Stockbridge proposed zoning ordinance are based on the Town’s Comprehensive Plan, which outlines what type of growth the Town expects in the future, where that growth will occur, and on the existing land uses in the town. The Town expects continued development along Lake Winnebago, a mix of residential and agricultural uses from the lakeshore east to a line just east of STH 55, and mostly agricultural in the easternmost part of the Town. The proposed zoning ordinance has four zoning districts – Rural Character Agricultural; Rural Character Residential; Rural Character Lakeshore; and Rural Hamlet.

Property owners should look at the proposed zoning map and see which zoning district their property is in. Next, they should check the list of uses for that zoning district to see if their use of their property is a permitted use or a conditional use. If it is a permitted use, for example crop production or livestock in the Rural Character Agricultural Zoning District, or a home business in the Rural Character Residential Zoning District, they will be able to continue to use their property as they have been. If it is a conditional use, (for example, a day care in a Rural Character Agricultural Zoning District or a plumbing, electrical, or heating equipment dealer in a Rural Character Residential Zoning District) they will be able to continue to use the land in that way until they want to make a change to the intended use. The change may result in the Town requiring them to apply for a conditional use permit (see Section 24.412).

If a current property use does not appear in the draft zoning code listed, a property owner should ask the Town Plan Commission to determine if it is similar to another permitted or conditional use listed in the zoning district. If it is, they will be able to continue to use the property. If it is not, the Town will decide on adding this use as a permitted or conditional use. If it decides not to add their use, the use will be a non-conforming use (see Section 24.413 and the explanation of nonconforming uses, structures, and lots on page 3.)

Section 24.400 General Provisions

24.401 through 24.405
The important part of this subsection is that Calumet County has ordinances that also apply to the development of land in the Town of Stockbridge. When a property owner starts thinking about developing his/her property or adding a new building or structure, he/she must make sure to contact the County to determine if any of the County’s ordinances will apply to his/her property. In particular, property owners should be aware of the County’s regulations for development that is proposed to occur near a wetland, stream, river, pond or lake.

24.410 through 24.419
The requirements for a specific zoning district are listed in Section 24.300. This subsection describes the requirements that are general in nature. The process for applying for a conditional use permit is included here. Also included is what a property owner can and can’t do if a use or struc-
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In this ordinance, an area is nonconforming.

24.420 through 24.499
Some uses are required to meet standards that are above and beyond those listed in a zoning district. This sub-section includes detailed requirements for signs, telecommunication towers and antennas, and nonmetallic mining. Adult-oriented establishments and wind energy facilities are also subject to separate ordinances.

Section 24.500 Administration and Enforcement
This section describes who will administer and enforce the zoning ordinance. It provides for an appeal process that a property owner can use if they do not agree with a decision made by the Town in administering and enforcing the ordinance. It also describes how the ordinance can be amended, either by changing the zoning map or amending the text of the ordinance.

Adopting and Administering a Zoning Ordinance
The decision to establish a zoning ordinance includes several steps involving public input. Since Spring of 2008, the Town Board has worked with the firm, Martenson & Eisele (M & E), on planning and zoning-related projects, including preparing a draft town zoning ordinance. In September, 2010, the draft ordinance was completed.

Following a public hearing and, assuming a favorable recommendation by the Plan Commission, the draft ordinance will be considered for adoption by the Town Board. After adoption by the Town Board, the zoning ordinance must be sent to the County for approval.

Town with a town zoning ordinance are required by state law to have:
- a Zoning Administrator to issue permits and accept applications;
- a 5 or 7-member Plan Commission, the members of which are appointed for 3-year terms by the Town Chairman; and
- a 5 member (plus 2 alternates) Zoning Board of Appeals.

According to WI law, primary roles of the Plan Commission are development of the Comprehensive Plan (s.62.23(2) & (3) Wis. Stats), recommending changes in the zoning ordinance to the Town Board, and reviewing certain types of development as required by state law (s62.23(5) Wis. Stats). Plan Commissions may also be given authority to address other issues such as conditional uses or subdivision ordinances.

Roles of the Zoning Board of Appeals are to handle variances to the zoning ordinance, administrative appeals, and conditional uses, if assigned.

County Involvement in the Town
Wisconsin law requires the County to adopt and enforce shoreland zoning regulations, which it does through its zoning ordinance (Ch. 82 Calumet County Code of Ordinances). In addition, the County also administers and enforces a land division ordinance (Ch 62), a floodplain zoning ordinance (Ch 51), and stormwater and erosion control ordinances (Ch 10), along with a few additional ordinances. All of these ordinances are administered in the town as applicable, regardless of whether the town adopts a zoning ordinance.

If the town adopts a zoning ordinance, that ordinance and the accompanying maps need County approval prior to going into effect.
Nonconforming Uses, Structures, and Lots

When a new zoning ordinance is adopted, there will be situations where an existing land use, building or lot does not conform to the requirements of the new zoning ordinance. With the proposed zoning ordinance, the town has attempted to write the ordinance in a way that recognizes most current uses as being in compliance, or conforming, with the ordinance. Section 24.310 of the ordinance contains the details.

**Nonconforming Use:** A nonconforming use can continue as if it were a permitted or conditional use except that the use cannot be expanded. If you stop using the property for the nonconforming use for a period of twelve (12) consecutive months, any future use of your property must conform to the requirements of the zoning district.

**Nonconforming Structure:** One of the requirements for a zoning district is that buildings must be a certain distance from a property line. If a building is closer to the property line than allowed in the zoning district, the building will be a nonconforming structure. While the zoning ordinance restricts how much a nonconforming structure can be expanded or altered, it can be rebuilt if it is destroyed or damaged, for example, by wind or fire.

**Nonconforming Use of a Structure:** When a building meets the requirements of the zoning district (i.e. it is a conforming structure), but the use of the building is a nonconforming use, the zoning ordinance limits what can be done with the building. It cannot be expanded and if it is damaged or destroyed beyond 50% of its fair market value, it cannot be rebuilt.

**Nonconforming Lot:** Nonconforming lots that were recorded lots as of the date the zoning ordinance was adopted can be built on even if they do not meet the area or width requirements. The building must, however, meet requirements for the distance between the building and the property line.

To obtain a full copy of the Town of Stockbridge proposed zoning ordinance, see the town’s website at http://www.townofstockbridgewi.com/ or pick up a copy at the town hall.

**Sources:** (1) American Planning Association Press, Small Town Planning Handbook (2) Bartz, Jonathan, consultant with Martenson & Eisele (3) Calumet County Planning & Zoning Department

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