

COMMON COUNCIL  
OF THE  
CITY OF MEQUON

ORDINANCE 2020-1569

An Ordinance Creating Section 58-42(k) and Amending Section 58-64 of the Mequon Municipal Code Relating to the Establishment of a Local Protest Petition Process for Certain Zoning Applications

**RECITALS**

A. In 2017 Wis. Act 243, the Wisconsin legislature eliminated the statutory provision that authorized protest petitions for rezoning applications throughout the State.

B. The Mequon zoning code does not contain any protest petition provisions for general rezoning applications, but it does authorize protest petitions for applications involving the expansion of nonconforming uses.

C. Following the input of the Planning Commission and a public hearing, the Common Council desires to adopt provisions allowing for protests to any proposed rezoning of lands within the City; and also to standardize the protest petition requirements within the code.

D. Establishing regulations related to the processing of zoning applications furthers the protection of the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

**SECTION I**

Section 58-42(k) of the Mequon Municipal Code is created to read as follows:

(k) *Protest Petitions.* In the event of a written protest against any amendment to the zoning district classification for any property, duly signed and acknowledged by either the owners of 51 percent or more of the area of the land included in such proposed amendment or the owners of 51 percent or more of the parcels of land located in or whole or in part within 1,320 feet of the property line of the land included in such proposed amendment, such amendment shall not become effective except by the favorable vote of six members of the common council. Each page of the protest shall describe the land that is the subject of the proposed amendment, a statement that the people signing the petition oppose the proposed amendment and a statement describing the reasons for the opposition to the proposed amendment. Any person signing a petition on behalf of an entity owner shall specify in the petition the name of the entity and the legal capacity on

behalf of the entity in which he or she is signing the petition. The city shall conclusively determine which parcels are in or whole or in part within 1,320 feet of the land included in such proposed amendment by utilizing the buffer or notification feature of the current version of the City's GIS software. Any such protest must be filed with the clerk not later than 12:00 noon on the Friday preceding the common council meeting at which the second reading of the proposed amendment is on the agenda. In the case of a petition circulated by one or more individuals among multiple owners (as opposed to an individual acknowledgment by any singular owner), each circulator shall include an acknowledgment under penalty of perjury on the petition certifying that the circulator is an owner qualified to protest under this section; that the circulator personally circulated the petition and personally obtained each of the signatures; that the circulator knows that the signers are also owners qualified to protest under this section and that the address of each owner is correctly included on the petition; that the circulator knows the owners signed the petition with full knowledge of its content; and, that the circulator knows each signer signed on the date stated opposite his or her name.

## SECTION II

Section 58-64 is amended to read as follows (NOTE: Added text is underlined, deleted text is ~~struck through~~):

The enlargement, expansion, or intensification of a nonconforming use may be allowed by the planning commission following a public hearing duly noticed and held by the planning commission, provided that the planning commission shall review, determine and set forth the following in writing with its approval:

- (1) Such enlargement, expansion, or intensification is consistent with the public interest; and
- (2) Such enlargement or extension will not have a deleterious effect on property in the surrounding neighborhood due to visual appearance, increased pedestrian or vehicular traffic, noise, smoke, odor, or other similar factors. Furthermore, no such enlargement, expansion, or intensification of a nonconforming use shall be permitted unless all building height, yard, coverage, and off-street parking and other requirements of this chapter for the district in which such use is located are adhered to.

In the event that a written protest against any enlargement, expansion or intensification of a nonconforming use, duly signed and acknowledged by the owners of 20 percent of the property immediately adjoining therefrom, or by the owners of 20 percent of the frontage directly across the street therefrom 51 percent or more of the parcels of land located in whole or in part within 1,320 feet of the property line of the land upon which the enlargement, expansion or

intensification is to occur, is filed with the clerk of the City of Mequon, such enlargement, expansion or intensification shall not be allowed, except by board of appeals approval. Each page of the protest shall describe the land that is the subject of the proposed enlargement, expansion or intensification, a statement that the people signing the petition oppose the proposed enlargement, expansion or intensification and a statement describing the reasons for the opposition to the proposed enlargement, expansion or intensification. Any person signing a petition on behalf of an entity owner shall specify in the petition the name of the entity and the legal capacity on behalf of the entity in which he or she is signing the petition. The city shall conclusively determine which parcels are in whole or in part within 1,320 feet of the land upon which the enlargement, expansion or intensification is to occur by utilizing the buffer or notification feature of the current version of the City's GIS software. Any such protest must be filed with the clerk not later than 12:00 noon on the Thursday preceding the planning commission meeting at which the proposed enlargement, expansion or intensification is on the agenda. In the case of a petition circulated by any individual(s) among multiple owners (as opposed to an individual acknowledgment by any singular owner), each circulator shall include an acknowledgment made under penalty of perjury on the petition certifying that the circulator is an owner qualified to protest under this section; that the circulator personally circulated the petition and personally obtained each of the signatures; that the circulator knows that the signers are also owners qualified to protest under this section and that the address of each owner is correctly included on the petition; that the circulator knows the owners signed the petition with full knowledge of its content; and, that the circulator knows each signer signed on the date stated opposite his or her name.

### **SECTION III**

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

### **SECTION IV**

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

### **SECTION V**

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: John Wirth, Mayor

Date Approved: May 12, 2020

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 12, 2020.

Caroline Fochs, City Clerk

Published: June 23, 2020