

**TOWN OF ATHELSTANE  
TOWN PLAN COMMISSION ORDINANCE  
ORDINANCE #24**

**SECTION I – TITLE**

This ordinance is entitled the “Town of Athelstane Town Plan Commission Ordinance.”

**SECTION II – PURPOSE**

The purpose of this ordinance is to establish a Town of Athelstane Plan Commission and set forth its organization, powers and duties, to further the health, safety, welfare and wise use of resources for the benefit of current and future residents of the Town and affected neighboring jurisdictions, through the adoption and implementation of comprehensive planning with significant citizen involvement.

**SECTION III – AUTHORITY: ESTABLISHMENT (5-MEMBER)**

The Town Board of the Town of Athelstane has been authorized by the Town meeting under sec 60/11(2). 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 235.45, Wis Stats, which authorize, but do not require, Town adoption of a subdivision or other land division ordinance.

**SECTION IV – MEMBERSHIP (5-MEMBER)**

The Plan Commission consists of one (1) member of the Town Board, who may be the Town Board Chairperson, and four (4) citizen members, who are not otherwise Town officials, and who shall be persons of recognized experience and qualifications.

**SECTION V – APPOINTMENTS**

The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the month of April to fill any expiring term. The Town Board Chairperson may appoint himself or herself or another Town Board member to the Plan Commission and may designate himself or herself, the other Town Board member, or a citizen

member as Chairperson of the Plan Commission. (All appointments are subject to the advisory approval of the Town Board.) In a year in which any Town Board member is elected at the spring primary, any appointment or designation by the Town Board Chairperson shall be made after the election and qualification of the Town Board members elected. 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 VI – TERMS OF OFFICE (WITH CITIZEN MEMBER TERMS STAGGERED)**

The Term of office for the Plan Commission Chairperson and each Commission member shall be for a period of three (3) years, ending on April 30<sup>th</sup>, or until a successor is appointed and qualified, except:

- (1) Initial Terms: (5-Member) The citizen members initially appointed to the Plan Commission shall be appointed for staggered terms as follows:
  - a. One (1) person for a term that expires one (1) year from the previous April 30<sup>th</sup>
  - b. Two (2) persons for a term that expires two (2) years from the previous April 30<sup>th</sup>
  - c. One (1) person for a term that expires three (3) years from the previous April 30<sup>th</sup>

## **SECTION VII - VACANCIES**

A person who is appointed to fill a vacancy on the Plan Commission shall serve for the remainder of the term.

## **SECTION VIII – COMPENSATION/EXPENSES**

The Town Board of the Town of Athelstane hereby sets a per diem allowance of \$25.00 per meeting for a citizen and Town Board members of the Plan Commission, 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 IX – EXPERTS & STAFF**

The Plan Commission may, under sec 62.23(1), Wis Stats, recommend to the Town Board the employment of experts and staff, and may review and recommend to the approval authority proposed payments under any contract with an expert.

## **SECTION X – RULES**

The Plan Commission, under sec 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 secs 19.21-19.30, Wis Stats.

## **SECTION XI – CHAIRPERSON & OFFICERS**

- (1) Chairperson: The Plan Commission Chairperson shall be appointed and serve a term as provided in Sections 5 and 6 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 meeting and hearings and set their agendas, personally or by his or her designee
  - d. Preside at Commission meetings and hearings
  - 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, 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 XII – 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 provisions of the Wisconsin Statutes 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 XIII – 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.

#### **SECTION XIV – TOWN COMPREHENSIVE PLANNING: GENERAL AUTHORITY & 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 XV – 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 stage of preparation of the comprehensive plan. These written procedures shall include open discussion, communication programs, information services and noticed public meeting. 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) Resolution: 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 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 the clerk or secretary is directed to record 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 that is adjacent to the Town.
  - c. The Wisconsin Land Council.
  - d. After September 1, 2003, the Department of Administration.
  - e. The regional planning commission in which the Town is located.
  - f. The public library that serves the area in which the Town is located.

## **SECTION XVI – PLAN IMPLEMENTATION & ADMINISTRATION**

- (1) Ordinance development: If directed by resolution or motion of the Town Board, the Plan Commission shall prepare the following:
  - a. Official map: A proposed official map ordinance under sec 62.23(6), Wis Stats
  - b. Other: Any other ordinance specified by the Town Board (*Note*: e.g. historic preservation, design review, site plan review)
- (2) Ordinance amendment: The Plan Commission, on its own motion, or at the direction of the Town Board by its resolution or motion may proposed amendments to the Town's ordinances relating to comprehensive planning and land use.
- (3) Non-regulatory programs: The Plan Commission, on its own motion, or at the direction of the Town Board by its resolution or motion may propose non-regulatory programs to implement the comprehensive plan, including programs relating to topics such as education, economic development and tourism promotion, preservation of natural resources through the acquisition of land or conservation easements and capital improvement planning.
- (4) 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.

## **SECTION XVII – REFERRALS TO THE PLAN COMMISSION**

- (1) Required referrals under 62.23(5), Wis Stats. The following shall be referred to the Plan Commission for report:
  - a. The location and architectural design or any public building
  - b. The location of any statue or other memorial
  - c. The location, acceptance, extension, alteration, vacation abandonment, change of use, sale, acquisition of land for or lease of land for any
    - i. Street, alley or other public way
    - ii. Park or playground
    - iii. Area for parking vehicles; or
    - iv. Other memorial or public grounds
  - d. The location, extension, abandonment or authorization for any publicly or privately owned public utility.
  - e. The amendment or repeal of any ordinance adopted under sec 62.23 Wis Stats, including ordinances relating to: The Town Plan Commission; the Town master plan or the Town comprehensive plan under sec 66.1001, Wis Stats, a Town official map and Town zoning under village powers.
- (2) Required referrals under sections of the Wisconsin Statutes other than sec 62.23(5), Wis Stats. The following shall be referred to the Plan Commission for report:
  - a. Proposed designation of a street, road or public way.
  - b. The adoption or amendment of a Town subdivision or other land division ordinance under sec 236.45(4), Wis Stats.
  - c. Any other matter required by the Wisconsin Statutes to be referred to the Plan Commission.
- (3) Required referrals under this ordinance. In addition to referrals required by the Wisconsin Statutes, the following matters shall be referred by the Plan Commission for report:
  - a. Proposed regulations or amendments relating to historic preservation under sec 60.64, Wis Stats.
  - b. A proposed driveway access ordinance or amendment.
  - c. A proposed Town official map ordinance under sec 62.23(6), Wis Stats, or any other proposed Town ordinance under sec 62.23, Wis Stats, not specifically required by the Wisconsin Statutes to be referred to the commission.
  - d. A proposed boundary changed pursuant to an approved cooperative plan agreement under sec 66.0307 Wis Stats or a proposed boundary agreement under sec 66.0225 Wis Stats or other authority.

- e. Any proposed plan, element of a plan or amendment to such plan or element developed by the regional planning commission and sent to the Town for review or adoption.
  - f. Any proposed contract, for the provision of information, or the preparation of a comprehensive plan, an element of a plan or an implementation measure, between the Town and the regional planning commission, under sec 66.0309, Wis Stats, another unit of government, a consultant or any other person or organization.
  - g. A proposed ordinance, regulation or plan, or amendment to the foregoing, relating to a mobile home park under sec 66.0435, Wis Stats.
  - h. Other (specify)
  - i. Any other matter required by any Town ordinance or Town Board resolution or motion to be referred to the Plan Commission.
- (4) Discretionary referrals. The Town Board, or other town officer or body with final approval authority or referral authorization under the Town ordinances, may refer any of the following to the Plan Commission for report:
- a. A proposed county development plan or comprehensive plan, proposed element of such a plan, or proposed amendment to such plan.
  - b. A proposed county plan, under sec 236.46, Wis Stats, or the proposed amendment or repeal of the ordinance adopting such plan, for a system of town arterial thoroughfares and minor streets, and the platting of lots surrounded by them.
  - c. Any other matter deemed advisable for referral to the Plan Commission for report.
- (5) Referral period. 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 for referrals required by the Wisconsin Statutes 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 Wisconsin Statutes, 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.

**SEVERABILITY**

In the event that any section or sections herein shall be ruled unconstitutional by any competent court, such determination shall not affect the validity or effectiveness of the others sections of this Ordinance and the remainder of said Ordinance shall remain in effect.

This ordinance adopted by the Town Board of the Town of Athelstane on this 9<sup>th</sup> day of February, 2016.

The Town Board of Athelstane

By: \_\_\_\_\_ Attest \_\_\_\_\_  
John Dobratz - Chairman Janice DuChateau - Clerk

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Harold Tesch Jr - Supervisor

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David Jose - Supervisor