

**AN ORDINANCE AMENDING THE TOWN OF BELLE PLAINE ZONING
ORDINANCE #34-94 REGARDING DRIVEWAYS, FENCES, NON
CONFORMITIES AND CONDITIONAL USES**

WHEREAS, the Town of Belle Plaine Town Board of Supervisors has determined that the Town of Belle Plaine Zoning Ordinance #34-94 does not have sufficient clarity with respect to driveways and fences and does not reflect current statutory requirements for regulating nonconformities and conditional uses; and

WHEREAS, the Town Board deems it necessary to promote the public health, safety and general welfare of the Town to articulate clear regulatory standards for driveways and fences and to incorporate current statutory requirements for nonconformities and conditional uses in the Town of Belle Plaine Zoning Ordinance.

NOW THEREFORE BE IT ORDAINED as follows:

1. The following provisions shall be added to the Zoning Ordinance as Section 2, General Provisions, subparagraphs K and L.

K. Driveways.

1. Any driveway that serves as access for emergency vehicles or that is required for access by emergency vehicles shall be cleared and grubbed to provide not less than a 16 foot horizontal clearance and a 14 foot vertical clearance and shall provide not less than a 12 foot wide hard surface travel lane.
2. Any driveway that serves as access for emergency vehicles or that is required for emergency vehicles shall maintain a road entrance culvert of sufficient width for truck entry and a road entrance slope away from the yard so that water does not drain on the roadway.

L. Fences.

1. On parcels with agricultural use: all fencing shall comply with the provisions of Chapter 90 of the Wisconsin Statutes.
2. On parcels with residential use: No fence shall be constructed in the road right-of-way. Beginning at the right-of-way, the first 10 feet shall not exceed three feet high, the maximum height after that is six feet. Front yard along the right of way shall not exceed three feet.
3. Fences may be placed on the property line.
4. Fences on riparian parcels shall comply with the Shawano County Shoreland regulations.

2. Section 2, General Provisions, subparagraph 1, Nonconforming Uses shall be repealed in its entirety and recreated as set forth below.

1. Nonconforming Uses.

1. Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of the ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed nonconforming. It is the intent of this ordinance to permit such nonconformities to continue, subject to certain restrictions listed within this section unless otherwise noted within this ordinance.

2. The continued lawful use of a building, premises, structure, or fixture existing at the time of the adoption or amendment of a zoning ordinance will not be prohibited although the use does not conform with the provisions of the ordinance. The nonconforming use, building, premises, structure or fixture may not be extended. The total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the ordinance. This section does not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

3. Restrictions that are applicable to damaged or destroyed nonconforming structures do not prohibit the restoration or replacement of a nonconforming structure if the structure will be restored to, or replaced at, the size, subject, location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:

- a. The nonconforming structure was damaged or destroyed on or after March 2, 2006.
- b. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
- c. The restrictions above allow for the size of a structure to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

4. When a structure becomes nonconforming as to setback from a public right-of-way because the public right-of-way was dedicated, reserved, widened, or relocated, such structure shall not be considered a nonconforming structure under this section. However, no such structure shall thereafter be added to or rebuilt closer to the public right-of-way.

3. Section II, Conditional Use Permit, subsection 3 shall be revised to require a class 2 notice.

4. The following provisions shall be added to the Zoning Ordinance as Section 11, Conditional Use Permit, subparagraphs 5a., 5b., and 5c.

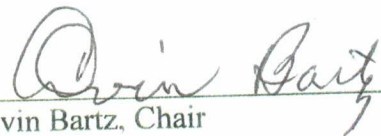
a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this ordinance or those imposed by the Town Planning Committee, the Town Planning Committee shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence. Substantial evidence is defined in § 62.23(7)(de)(2)(a) of the Wisconsin Statutes as facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

b. The requirements and conditions must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by Town Plan Committee relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Committee's decision to approve or deny the permit must be supported by substantial evidence.

c. If a conditional use permit application is denied, the applicant may appeal the decision to the circuit court.

After Town Plan Committee recommendation, a class 2 public notice, and public hearing, this Amendatory Ordinance is hereby adopted and shall take effect upon publication.

Adopted this 14th day of June, 2021.


Alvin Bartz, Chair

ATTEST:


Kristine Vomastic, Clerk