

AN ORDINANCE AMENDING THE TOWN OF BELLE PLAINE
ZONING ORDINANCE SECTION 2, I ON NON CONFORMING
USES; SECTION II, CONDITIONAL USES; AND SECTION 8,
CHANGES AND AMENDMENTS

WHEREAS, the Town Board of the Town of Belle Plaine has determined that the Town of Belle Plaine Zoning Ordinance be amended to incorporate state statutory zoning changes and to incorporate certain procedural revisions to the Town Zoning Ordinance as set forth below:

A1. Section 2, I, "Non-Conforming Uses," and its sub parts 1 through 4, as set forth below, is repealed in its entirety as inconsistent with statutory provisions:

I. ~~Non-Conforming Uses~~

- ~~1. The existing lawful use of a building or premises at the time of the enactment of this ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this ordinance for the district in which it is located, but such non-conforming use shall not be extended.~~
- ~~2. If no structural alterations are made, the non-conforming use of a building may be changed to another non-conforming use of the same or a more restricted classification. Whenever a non-conforming use has been changed to a more restricted non-conforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.~~
- ~~3. If a non-conforming use of a building or premises is discontinued for a period of 12 months, any future use of the building or premises shall conform to the regulation for the district in which it is located.~~
- ~~4. Whenever a building containing a non-conforming use is damaged by fire, explosion, act of God or the Public Enemy to the extent of more than 50 per cent of its current assessed value, it shall not be restored except in conformity with the regulations of the district in which it is located. The total cost of structural repairs or alterations to any non-conforming use shall not exceed 75 per cent of the assessed value of the building at the time of it becoming a non-conforming use, unless permanently changed to a conforming use.~~

A2. Section 2, I, "Non-Conforming Uses" is recreated in its entirety as follows:

I. Non-Conforming 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 this 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 this zoning ordinance may not be prohibited although the use does not conform to the provisions of the ordinance. The nonconforming use, building, premises, structure or fixture may not be extended. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform.
 - a. In this section:
 - i. "Development regulations" means the part of this ordinance that applied to elements including setback, height, lot coverage, and side yard.
 - ii. "Nonconforming structure" means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.
 - b. This ordinance does not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.
3. This ordinance does 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.
4. This ordinance allows 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.
5. 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.
6. In any district, any permitted or permissible use may commence, or structure may be erected on a single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, lot frontage or all three for the district in which it is located, and provided that all other requirements for the district are met.

7. The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

B1. Section 11, "Conditional Use Permit" paragraph 3 is amended as follows:

3. Hearing on Application

Upon receipt of the Conditional Use Permit application, the Town Planning Committee shall hold at least one (1) public hearing on the proposed conditional use. Notice of such public hearing specifying the time, place and matters to come before the Committee shall be given as a ~~Class 1~~ Class 2 notice as referred to in Chapter 985 of the Wisconsin Statutes. Due notice of the hearing shall be given to the parties of interest as well as the owners of property ~~within 200 feet of~~ adjacent to the property boundary of the proposed conditional use.

C1. Section 11, "Conditional Use Permit" paragraph 5, "Conditions Attached to Conditional Use Permit" is renumbered paragraph 5. A.

5. Conditions Attached to Conditional Use Permit

- A. Upon consideration of the factors listed above, the Town Planning Committee may attach such conditions, in addition to those otherwise specifically listed, that it deems necessary. The conditions may include, but are not limited to landscaping, architectural design, type of construction, construction commencement and completion date, lighting, fencing, location, size and number of signs, hours of operation, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces, streambank protection, planting screens operational restrictions, highway access restrictions, increased yards. Any conditions stipulated by the Town Planning Committee shall be attached to and made part of the conditional use permit. A file containing the conditional use permit applications shall be maintained in the office of the Town Clerk.

D1. Section 11, "Conditional Use Permit" paragraph 5. B., is created and added as follows:

- B. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this ordinance, and those imposed by the Plan Committee, the Plan Committee shall grant the conditional use permit. Any condition imposed must be related to the purpose of this 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 person would accept in support of a conclusion.

E1. Section 11, "Conditional Use Permit" paragraph 5. C., is created and added as follows:

C. 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 Plan Committee relating to the Conditional Use Permit are or shall be satisfied, both of which must be supported by substantial evidence. The Plan Committee decision to approve or deny the permit must be supported by substantial evidence.

F1. Section 8, "Changes and Amendments" paragraph 2.a, and 2.b, are amended as follows:

- a. Plot plan drawn to scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and current use of all properties ~~within five hundred (500) feet of~~ adjacent to the area proposed to be rezoned.
- b. Owner's names and addresses of all properties ~~lying within five hundred (500) feet of~~ adjacent to the area proposed to be rezoned.

G1. Section 8, "Changes and Amendments" paragraphs 3.1 and 3.2 are amended as follows:

3. Findings and Recommendations

1. The Town Planning Committee ~~shall make written findings of fact~~ shall provide written reasons and shall submit the same together with its recommendations to the Town Board ~~prior to~~ after the Plan Committee public hearing.
2. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the Town Planning Committee shall ~~make findings~~ state written reasons based upon the evidence presented to it in each specific case with respect to the following matters:
 - a. Existing uses of property within the general vicinity of the proposed amendment.
 - b. Zoning classification of property within the general vicinity of the proposed amendment.

H1. Section 8, "Changes and Amendments" paragraph 4 is amended as follows:

4. Hearings

The Town Clerk shall notify all property owners ~~within five hundred (500) feet adjacent to~~ the land parcel or parcels in question and cause a class 2 notice to be published complying with Chapter 985 of the Wisconsin Statutes. Such notice shall list the time,

place of the public hearing, and describe the proposed changes or amendments proposed. The Town Clerk shall also give ~~at least ten (10) days prior~~ written notice to the Clerk of ~~the any contiguous~~ municipality within one thousand (1000) feet of any land to be affected by the proposed change or amendment. The public notice shall include either a map showing the property affected by the amendments or a description of the property affected by the amendment and a statement that a map may be obtained from the Town.

11. Section 8, "Changes and Amendments" paragraph 1, 2 and 3 are repealed in entirety, and recreated as follows:

5. Town Board Action

1. ~~The Town Board shall not act upon a proposed amendment to this Ordinance until it shall have received a written report and recommendation from the Town Planning Committee on the proposed amendment.~~
2. ~~The Town Board may grant or deny any application for an amendment, provided however, that in the event of a written protest against any proposed amendment to this Ordinance, being duly signed and acknowledged by the owners of 20 percent or more either of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changed or amendments shall not become effective except by the favorable vote of the full Town Board membership.~~
3. ~~If an application for a proposed amendment is not acted upon finally by the Town Board within 90 days of the date upon which such application is received by the Town Board, it shall be deemed to have been denied.~~

5. Town Board Action

1. Unless the Plan Committee makes it report and recommendation within 30 days, or such longer period as may be stipulated, the Town Board must take final action without it.
2. The Town Board may grant or deny any application for an amendment and shall state its reasons for the action.

NOW THEREFORE, BE IT ORDAINED that after public notice and hearing and recommendation of the Town Plan Committee the above amendments as set forth in paragraphs A1 through I1 be adopted as amendments to the Town of Belle Plaine Zoning Ordinance effective after publication.

Adopted this 9th day of June, 2025.


Alvin Bartz, Chair


Kristin Vomastic, Clerk