

Amendatory Ordinance No. 9-0718

To the Honorable Iowa County Board of Supervisors:

Whereas, the Wisconsin Legislature enacted 2017 Wisconsin Act 67 effective November 27, 2017 relating, in part, to the regulation of nonconforming structures and substandard lots in a general zoning area under §59.69 WI Stats.;

Whereas, said Act also codified the standards for granting variances by a county board of adjustment under §59.694 WI Stats.;


Whereas, as a result of said Act, the Iowa County Zoning Ordinance was deemed by the Iowa County Planning & Zoning Committee to require revision in order to be consistent with this new State law and, while undergoing this process, determined other areas needing revision;

Whereas, after holding several working meetings, the Committee held a public hearing on April 26, 2018 on proposed revisions to said ordinance and took action to recommend adoption by the Iowa County Board of Supervisors;

Now Therefore Be It Resolved that the Iowa County Zoning Ordinance be revised as shown in Appendix A.

Respectfully submitted by the Iowa County Planning & Zoning Committee.

I, the undersigned Iowa County Clerk, hereby certify that this Amendatory Ordinance was X approved as recommended: _____ approved with amendment: _____ denied as recommended; _____ rereferred to the Iowa County Planning & Zoning Committee by the Iowa County Board of Supervisors on **July 24, 2018**. The effective date of this ordinance shall be **July 24, 2018**.



Greg Klusendorf
Iowa County Clerk

Date: 7/25/18

Appendix A

Revisions to the Iowa County Zoning Ordinance as follows:

1. Replace the word "Commission" with "Committee" throughout to reflect the change in name of the oversight committee.
2. Revise the second paragraph of Section 2.4 Certificate of Compliance as follows:

"The Office shall ~~within ten (10) working days after receipt of such notification from the applicant~~ issue a Certificate of Compliance only if the building or premises and the proposed use thereof conform with all the requirements of this Ordinance."
3. Revise item number 5 under General Provisions of the AC-1 Exclusive Agricultural Conservancy Overlay District in Section 3.2 as follows:

"Applications for removal of lands from this overlay district may be made either by a Town Board, ~~or the Committee~~ or owner of the affected land."
4. Revise item number 2 under Permitted Principal Uses of the C-1 Conservancy District in Section 3.3 as follows:

"Agricultural livestock pasturing is allowed, following the animal unit allowances of Section 3.4 ~~if for the purpose of earning an income or livelihood for lots under 40 acres.~~"
5. Revise item number 1 under Permitted Principal Uses of the CR-1 Conservancy Recreational District in Section 3.3 as follows:

~~"None Agricultural uses, such as but not limited to, cropping and pasturing. The animal unit allowances of Section 3.4 shall be followed for lots under 40 acres."~~
6. Revise items 1 and 2 under Conditional Uses of the CR-1 Conservancy Recreational District in Section 3.3 as follows:

"1. ~~_Church and other n~~Not-for-profit camps which may contain lodging accommodations, including motels, hotels, cottage type facilities or tents owned by the management, eating and drinking establishments may be requested.

2. ~~Agricultural uses, such as but not limited to, cropping and pasturing. The animal unit allowances of Section 3.4 shall be followed.~~"
7. Revise item number 1 under Conditional Uses of the AR-1 Agricultural Residential District in Section 3.4 as follows:

"The division of an existing AR-1 lot, ~~where the result is the creation of a new lot that meets the dimensional standards of this section, may be requested.~~"
8. Revise item number 1 under Principal Uses of the RB-1 Recreational Business District in Section 3.5 as follows:

~~"None. Agricultural cropping"~~

9. Revise item number 1 under Conditional Uses of the RB-1 Recreational Business District in Section 3.5 as follows:

"The division of an existing RB-1 lot ~~where the result is the creation of a new lot that meets the dimensional standards of this section may be requested.~~"

10. Strike item number 13 under Conditional Uses of the RB-1 Recreational Business District in Section 3.5, which reads "Agricultural uses may be requested."
11. Revise the Permitted Principal Uses in the AB-1 Agricultural Business District under Section 3.5 to strike "None" and replace with "Agricultural cropping".
12. Strike item number 7 under Conditional Uses of the AB-1 Agricultural Business District in Section 3.5, which reads "Agricultural uses may be requested."
13. Revise the purpose statement of the B-1 Local Business District in Section 3.5 as follows:

This district is intended for compact, clustered developments, such as ~~unincorporated hamlets~~, mini-malls or retail shopping outlets.

14. Revise item number 1 under Conditional Uses of the B-1 Local Business District in Section 3.5 as follows:

"The division of an existing B-1 lot ~~may be requested where the result is the creation of a new lot that meets the dimensional standards of this section.~~"

15. Strike item number 10 under Conditional Uses of the B-1 Local Business District in Section 3.5, which reads "Agricultural uses may be requested."
16. Revise the Permitted Principal Uses in the B-2 Highway Business District under Section 3.5 to strike "None" and replace with "Agricultural cropping".
17. Revise item number 1 under Conditional Uses of the B-2 Highway Business District in Section 3.5 as follows:

"The division of an existing B-2 lot ~~may be requested where the result is the creation of a new lot that meets the dimensional standards of this section.~~"

18. Strike item number 13 under Conditional Uses of the B-2 Highway Business District in Section 3.5, which reads "Agricultural uses may be requested."
19. Revise the Permitted Principal Uses in the B-3 Heavy Business District under Section 3.5 to strike "None" and replace with "Agricultural cropping".
20. Revise item number 1 under Conditional Uses of the B-3 Highway Business District in Section 3.5 as follows:

"The division of an existing B-3 lot ~~may be requested where the result is the creation of a new lot that meets the dimensional standards of this section.~~"

21. Strike item number 13 under Conditional Uses of the B-3 Heavy Business District in Section 3.5, which reads "Agricultural uses may be requested."
22. Revise the Permitted Principal Uses in the B-4 Industrial Business District under Section 3.5 to strike "None" and replace with "Agricultural cropping".

23. Revise item number 1 under Conditional Uses of the B-4 Industrial Business District in Section 3.5 as follows:

~~“The division of an existing B-4 lot may be requested where the result is the creation of a new lot that meets the dimensional standards of this section.”~~

24. Strike item number 10 under Conditional Uses of the B-4 Industrial Business District in Section 3.5, which reads “Agricultural uses may be requested.”

25. Revise the B-5 Adult Entertainment Business District under Section 3.5 as follows:

B-5 Adult Entertainment Business District

The intent of this district is to provide for Adult Entertainment businesses where so designated within the Iowa County Comprehensive Plan.

General Conditions:

1. No adult entertainment business shall be located closer than 1320 feet from any residential zoning district.
2. No adult entertainment business shall be allowed within 1320 feet from an existing adult entertainment business.
- 1.3. No adult entertainment business shall be located closer than 1320 feet from any religious institution, school, park, playground or public building.

Permitted Principal Uses:

None

1. Adult bookstores, being establishments that sell or rent materials that depict, describe, or relate to specified sexual activities.
2. Adult entertainment, being establishments that feature topless or bottomless dancers, waitresses, waiters or entertainers or that include a theatre in which the primary or principal attraction is the presentation of material that relates to specified sexual activities.
3. Casinos and other gambling, gaming or wagering establishments.

Conditional Uses:

- ~~1.— The division of an existing B-5 lot may be requested where the result is the creation of a new lot that meets the dimensional standards of this section.~~
- ~~2.— Adult bookstores, being establishments that sell or rent materials that depict, describe, or relate to specified sexual activities.~~
- ~~3.— Adult entertainment, being establishments that feature topless or bottomless dancers, waitresses, waiters or entertainers or that include a theater in which the primary or principal attraction is the presentation of material that relates to specified sexual activities.~~
- ~~4.— Casinos and other gambling, gaming or wagering establishments.~~
- 5.1. Agricultural uses may be requested.

General Conditions:

- ~~1.— No adult entertainment business shall be located closer than 1320 feet from any residential zoning district.~~
- ~~2.— No adult entertainment business shall be allowed within 1320 feet from an existing adult entertainment business.~~
- ~~3.— No adult entertainment business shall be located closer than 1320 feet from any religious institution, school, park, playground or public building.~~

26. Revise item number 5 under Section 7.1 Height as follows:

“Accessory structures shall not exceed ~~twenty-three~~ (320) feet in height unless otherwise stated within this Ordinance.”

27. Revise Section 9.0 Nonconforming Uses, Structures and Lots as follows:

9.1 Existing Nonconforming Uses

~~A nonconforming use is the use of land or a structure that lawfully existed prior to the adoption of land use regulations but does not comply with said regulations. A nonconforming use. The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance~~ may be continued although the use does not conform with the provisions of this Ordinance; however:

- ~~1. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except:~~
- ~~2. when required to do so by law or order or so as to comply with the provision of this Ordinance or;~~
- ~~3. provided there is not an increase in excess of 25% of the existing living area for a residence and an increase in the nonconformity of the structure or;~~
- ~~4.1. provided there is not an increase in excess of 25% of the existing footprint area of a nonresidential structure and an increase in the nonconformity of the structure. when required to do so by law or order or so as to comply with the provisions of this Ordinance.~~
- ~~5.2. Substitution of new equipment may be permitted if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.~~

Any legal nonconformity under any previous ordinances repealed by this Ordinance is also a legal nonconformity under this Ordinance, as long as the situation that resulted in the nonconforming status under the previous ordinances continues to exist.

~~Any zoning change or conditional use permit approved under a previous version of this Ordinance shall remain valid even if not consistent with a subsequent revision to this Ordinance. Any conditions imposed previously shall remain in force unless duly modified or rescinded by the Committee.~~

9.1a Nonconforming Structures

~~A nonconforming structure is one that lawfully existed prior to the adoption of land use regulations but does not comply with said regulations. A nonconforming structure may be repaired, maintained, renovated, rebuilt or remodeled provided:~~

- ~~1. All permits required under this Ordinance are obtained, and~~
- ~~4.2. The three-dimensional footprint is not enlarged.~~

~~As part of the permit application process, evidence must be supplied by the owner/applicant that verifies the structure at issue is a lawful nonconforming structure. If deemed a lawful nonconforming structure by the Office, the owner/applicant may be required to provide a site plan prepared by a professional surveyor or engineer that clearly defines the existing structure's three-dimensional footprint and the distance said structure is in feet from the nearest lot line and centerline of the nearest public road.~~

9.2 Abolishment or Replacement

If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Ordinance. It is the applicant's burden to prove a nonconforming use has not been discontinued or terminated. The

restoration of a nonconforming structure that has been damaged or destroyed on or after March 2, 2006 due to violent wind, vandalism, fire, flood, ice, snow, mold or infestation may take place provided it is restored to the size, location and use that it had immediately before the damage or destruction occurred. The size of the structure can be larger than the size it was immediately before the damage or destruction only if necessary for the structure to comply with applicable state or federal requirements.

9.3 Nonconforming Uses and Structures

Any nonconforming use or structure under previous ordinances repealed by this Ordinance shall continue to be nonconforming under this Ordinance and be subject to penalties and enforcement under this Ordinance, unless the use, development, construction, or other activity complies with the provisions of this Ordinance. All other nonconforming uses or structures created while this Ordinance is in effect shall be considered violations and subject to enforcement.

9.4 Changes and Substitutions

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substitute use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Adjustment.

9.5 Substandard Lots

~~In any residential district, a single-family residence and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deeds Office before the effective date or amendment of this Ordinance. A substandard lot is a lot that was legally created and met any applicable lot size requirement when created, but does not meet current lot size requirements. A nonconforming lot may:~~

- ~~1. Be conveyed in its entirety. The alteration of the lot description may eliminate the substandard status and require compliance with current lot size requirements and land division requirements.~~
- ~~2. Be used as a building site provide:

 - ~~a. The substandard lot has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.~~
 - ~~b. The substandard lot is developed to comply with all other County ordinances.~~~~

In the A-1 District a parcel of record, less than 40 acres in separate ownership, on file in the County Register of Deeds Office on or before October 17, 1978, may be subject to a conditional use permit request for construction of a single family residence and accessory structures provided Ch. 91.46(2)(c) WI Stats is complied with.

~~Such lot or parcel shall be in separate ownership from abutting lands. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:~~

SUBSTANDARD LOTS LOT DIMENSIONS AND BUILDING SETBACKS	
Lot Width	Minimum 50 feet
Lot Area	Minimum 7,500 sq. ft.
Principal Building Height	Maximum 50 feet
Street Yards	Minimum 25 feet, the second street yard on corner lots shall be not less than 10

	feet
Rear Yards	Minimum 25 feet
Side Yards	Minimum 16% of frontage, but not less than 5 feet

9.6 Nonconformity Due to Public Works

In the event that a public works project, such as highway expansion, public park creation, etc., where land title is transferred through the process of eminent domain, or similar means, and the transfer creates a lot or lots that are substandard in area for the present zoning district, the following shall apply:

1. Any existing legal uses on the resultant lot or lots ~~shall be considered legal nonconforming, meaning they~~ can continue, provided the scope and intensity is not significantly increased.
2. Any such lot that is vacant of structures or buildings ~~at the time of becoming nonconforming~~ shall not be eligible for any permit to build a structure or building without first making said lot compliant with the present zoning ordinance provisions.
3. Any such lot that has existing buildings may allow for the expansion of said buildings or construction of additional buildings, provided they are accessory to the existing legal uses and do not in any way constitute a new use for said lot. All such buildings or additions must comply with all setbacks in effect at the time of seeking a permit.
4. In no circumstance shall such a lot be eligible for the construction of a residence unless it is to replace an existing residence, provided all other requirements of this ordinance are met, without bringing the lot into conformity with the present ordinance requirements.

It shall be the responsibility of the property owner to provide all documentation necessary to justify the provisions of this section applying to his/her property. Further, it shall be the determination of the Director of the Office of Planning and Development to decide if the property at issue shall benefit from the provisions of this section. Said determination can be appealed following the provisions of Section 10 of this ordinance.

28. Revise item number 2 under Section 10.5 relating to the powers of the Board of Adjustment as follows:

~~“Variances. To hear and grant consider appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purpose of this Ordinance shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted. If compliance can be achieved without a variance, the variance shall not be granted. No variance shall be granted that increases the nonconformity of any existing nonconforming use or structure. Petitions for a variance to allow an addition to or alteration of a nonconforming structure shall only be considered provided the addition or alteration is not proposed within any yard setback and will not increase the footprint of the structure by more than 50%. Consistent with 59.694(7)(c) WI Stats.”~~

29. Revise starting at the seventh (7th) paragraph under Section 11.0 Changes and Amendments as follows:

In acting upon a petition, the County Board of Supervisors shall consider the stated purpose of the proposed zoning district and shall approve the rezoning petition only if it finds that:

1. ~~It is in compliance~~The petition is consistent with the Iowa County Comprehensive Plan and the comprehensive plan of any Town affected by said petition.
2. Adequate public facilities and services (including sewage and waste disposal, water, gas,

electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available ~~to serve the subject property as required by the petition~~ while maintaining adequate levels of service to existing development;

3. Provisions of public facilities to accommodate ~~development the petition~~ will not place an unreasonable burden on the ability of affected local units of government to provide them;
4. The ~~proposed development petition~~ will not result in significant adverse impacts upon surrounding properties or the natural environment, including air, water, noise, stormwater management, soils, wildlife and vegetation;
5. The land ~~proposed for rezoning associated with the petition~~ is suitable for the proposed development and said development will not cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas;
- ~~6. The proposed rezoning is consistent with the Iowa County Comprehensive Plan and the state purposes of this Ordinance~~
- ~~7. The proposed rezoning petition will not be used to legitimize a nonconforming use or structure; and~~
- ~~6.~~
- ~~7.~~ The ~~proposed rezoning petition~~ is the minimum action necessary to accomplish the intent of the petition, and an administrative adjustment, variance, or Conditional Use Permit could not be used to achieve the same result.
8. The petition will not result in illegal "spot zoning" (i.e. use is inconsistent with surrounding properties and serves only a private, rather than a public interest).

30. Revise the definition of a "Duplex and Two-Family Residence" under Section 13.0 as follows:

"A building with 2 dwelling units with a separate entrance for each.~~to be used by no more than two (2) families.~~"

31. Revise the definition of a "Dwelling Unit" under Section 13.0 as follows:

"One or more rooms designed ~~as a unit~~ for ~~occupancy by not more than one family~~ for living and sleeping purposes and may include such common residential accommodations such as furniture, appliances, a stove or other heat source, cabinetry, kitchenette, cots or beds."