

**CITY OF EDGERTON
ORDINANCE No. 20-02**

**AN ORDINANCE TO AMEND SECTIONS OF CHAPTER 22 “ZONING
ORDINANCES” OF THE CODE OF GENERAL ORDINANCES, CITY OF EDGERTON
ROCK AND DANE COUNTIES, WISCONSIN**

Aldersperson Jim Burdick introduced the following Ordinance and moved its adoption:

THE COMMON COUNCIL OF THE CITY OF EDGERTON, ROCK AND DANE
COUNTIES, WISCONSIN, DO ORDAIN AS FOLLOWS:

Chapter 22 “Zoning Ordinances” shall be amended as follows:

22.102 Definitions

Yard, required: The area between the lot line or right-of-way line and the required setback line.

22.302(13) Exceptions to setbacks for gore-shaped lots

If a side lot line of a gore shaped lot is less than 80’, the corner of the structure closest to that side lot line may intrude in the rear yard but not closer than fifteen (15’) feet from the rear lot line.

22.303 NONCONFORMING USES, STRUCTURES, LOTS.

Existing lawful nonconforming uses, structures, and lots shall meet the provisions of this Section, and those located within floodplains, shorelands, and shoreland-wetlands shall also comply with the City floodplain, shoreland, and shoreland-wetland regulations, whichever is more restrictive.

(1) Nonconforming Use Regulation.

- (a) **Definition:** A nonconforming use is an active and actual use of land or structures, or both; legally established prior to the effective date of this Chapter or subsequent applicable amendment thereto which has continued the same use to the present, and which would not be permitted under the current terms of this Chapter.
- (b) **Continuance of a Nonconforming Use:** Any nonconforming use lawfully existing upon the effective date of this Chapter may be continued at the size and in a manner of operation existing upon such date, except as specified in this Section.
- (c) **Modification of a Nonconforming Use:** Only that portion of the structure, fixture, land, or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, reconstructed, substituted, moved, or changed to another nonconforming use; unless such modification would make the nonconforming use have a more desirable effect in terms of implementing the purpose of this Chapter (as determined by the Plan Commission). If such a modification occurs, said use shall not be modified back to the original nonconforming use, or to any other nonconforming use which does not better accomplish the purpose of this Chapter.
- (d) **Discontinuance of a Nonconforming Use:** When any nonconforming use of any structure or land is changed into a conforming use or is discontinued for a period of 12

months, any future use of said structure or land shall be in complete conformity with the provisions of this Chapter.

- (e) **Maintenance of a Nonconforming Use:** Total lifetime structural repairs or alternations to a structure, fixture, or premise containing a nonconforming use shall not exceed 50 percent of the equalized assessed value of the structure, fixture, or premise at the time its use becomes nonconforming unless it is permanently changed to a conforming use in accordance with the use provisions of this Ordinance. Ordinary maintenance repairs are not considered structural repairs, modifications, or additions. Some examples of such repairs include painting, calking, decorating, paneling, and other nonstructural components; and the repair or replacement of doors, windows, utilities, and sewage treatment and water supply systems. Figure No. 1 reflects the method by which the Zoning Administrator shall determine when modifications to nonconforming uses and their structures are equal to 50 percent.
 - (f) **Destruction of a Nonconforming use:** A legal nonconforming use that is located in a structure or building which has been damaged by fire, flood, wind, explosion, earthquake, war, riot, unlawful act, or act of God, may be reestablished if it is reestablished within one year after such calamity, unless the damage to said structure or building equals or exceeds 50% of its equalized assessed value. In such cases, the use shall be limited to uses permitted by the provisions of this Chapter, unless the ability to reestablish a nonconforming use is specifically granted by the City Council following a public hearing. It should be noted that the reestablishing of a nonconforming use by the Council is only permitted under these circumstances.
 - (g) **Substitution of New Equipment:** The Plan Commission may permit the addition of new equipment serving a nonconforming use if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.
- (2) **Nonconforming Structure with a conforming use.**
- (a) **Definition:** A Nonconforming Structure is a dwelling, building, or other structure that existed lawfully at the time of the effective date of this Ordinance or an amendment thereto that does not conform to one or more of the Development Regulations of this Ordinance.
 - (b) A Nonconforming Structure with a conforming use lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform to the Development Regulations of this Ordinance.
 - (c) Nonconforming Structures with a conforming use may be repaired, maintained, renovated, rebuilt, or remodeled, subject to building code and other applicable requirements. No prohibition or limits based on cost may be imposed on the repair, maintenance, renovation, or remodeling of such structures.
 - (d) Nothing in this Chapter shall preclude the Building Inspector from remedial or enforcement actions when said structure or building is declared unsafe.
 - (e) When any lawful nonconforming structure or building in any district is modified so as to be in conformance with the provisions of this Chapter, any future modification of said structure or building shall be in conformance with the provisions of this Chapter.
 - (f) If a lawful nonconforming structure or building housing a conforming use has been damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity, it may be restored or replaced to the size, location, and use that it had immediately before the damage or destruction occurred, subject to

building code and other applicable requirements. No limits may be imposed on the costs of the repair, reconstruction, or improvement of said structure. The size of the structure may be larger than the size immediately before the damage or destruction occurred, if necessary, for the structure to comply with applicable State or Federal requirements. Any reconstruction shall conform to the Development Regulations of this Chapter, to the extent practicable, and shall commence within 24 months of the date of damage or destruction, unless an extension is granted by the Plan Commission.

- (g) Alterations, additions, and enlargements to existing nonconforming structures with a conforming use are permitted and shall conform to the established yard/setback, height, parking, loading, intensity requirements, other development regulations, and access provisions of this Chapter. Existing buildings and their additions shall not be permitted to encroach further upon established yard/setback and height requirements than the existing encroachment.
- (h) Existing Nonconforming Structures may be moved and shall conform to the established yard/setback, height, parking, loading, and access provisions of this Ordinance.
- (i) Any structure or building for which a building permit has been lawfully granted prior to the effective date of this Chapter, which will become nonconforming under the provisions of this Chapter or amendments thereto, may be completed in accordance with the approved plans, provided construction is started within 730 calendar days of the effective date of this Chapter, and provided that construction is completed within 730 calendar days of the effective date of this Chapter or amendments thereto. Said structure or building shall thereafter be a legal nonconforming structure or building.
- (j) **Shoreland-Wetland Nonconforming Structures.** The repair, reconstruction, renovation, remodeling, restoration, or expansion of a legal nonconforming structure, or any environmental control facility related to such structure located in shoreland-wetlands of five acres or more in size and in existence at the time of adoption or subsequent amendment of this Chapter may be permitted in accordance with the provisions of Section 62.231(5) and (5m) of the Wisconsin Statutes.
- (k) **Floodplain Nonconforming Uses and Structures:** Modifications or additions to nonconforming uses and structures in floodplains shall comply with the nonconforming regulations in Chapter 24 of the City of Edgerton Code of Ordinances.

(3) Vacant Nonconforming Lot Regulations.

- (a) Upon and after the effective date of this Chapter, no lot shall be created which does not meet the Minimum Lot Area (MLA) requirements or which does not meet the lot dimension requirements of Section 22.700.
- (b) A lot of record existing upon the effective date of this Ordinance which does not meet the Minimum Lot Area (MLA) requirements or which does not meet the lot dimension requirements of Section 22.700 may be developed with a use that is allowed in the zoning district in which it is located, provided the measurements of such area and dimensions are equal to or greater than 70% of the requirements of this Chapter. Lots with smaller dimensions than mentioned above shall not be developed unless a variance is granted by the Board of Zoning Appeals. Development of vacant nonconforming lots granted permits under this Section shall be required to meet the yard/setback, height, parking, loading, access provisions, and other Development Regulations, except lot size requirements unless otherwise specified, of this Chapter.

- (c) In accordance with Section 66.10015(2)(e) of the Wisconsin Statutes, a property owner of a legal nonconforming (substandard) lot may:
 - 1. Convey an ownership interest in a substandard lot.
 - 2. Use the substandard lot as a building site if all of the following apply:
 - a. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - b. The substandard lot or parcel is developed to comply with all other requirements of this Ordinance, except the minimum lot dimensional requirement unless otherwise specified.
- (d) In accordance with Section 66.10015(4) of the Statutes, the City may not require one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

(4) Conforming Structures on Nonconforming Lots:

- (a) The conforming use of a conforming structure existing at the time of the adoption or amendment of this Chapter may be continued although the lot area and/or width do not conform to the requirements of this Chapter.
- (b) Additions and Enlargements to such structures are permitted provided they conform to the established yard/setback, height, parking, loading, access provisions, and other Development Regulations of this Chapter, other than minimum lot dimensional requirements.
- (c) Existing Structures on Nonconforming Lots that are damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity may be reconstructed provided they conform to the established yard/setback, height, parking, loading, access provisions, and other Development Regulations of this Chapter, other than minimum lot dimensional requirements.

Figure No. 1

IS IT 50 PERCENT YET?

Sample Problem: Let's assume that the owner of a house with a nonconforming use (i.e., nonconforming institutional use in a residential zoned home) wishes to add a room to the house. If the house had an equalized assessed value of \$100,000 in 1997, the property owner would be able to make improvements valued at up to 50 percent of the present (1997) equalized assessed value of the house, or \$50,000 at that time. The improvement would have to be built to zoning standards. Any further additions or structural alterations could not be allowed unless the use of the structure is permanently changed to a conforming use. Additions and modifications are based upon a given time over the life of a structure. If, in the example above, the property owner constructed a \$50,000 addition in 1997, no further additions could be allowed because the 50 percent improvement limit had been reached. However, let's assume that the addition was valued at \$20,000 or 20 percent of the 1997 equalized assessed value of the structure (\$100,000). Ten years later, the property owner requests to add a room. In the meantime, the equalized assessed value of the house has increased from \$100,000 in 1997 to \$150,000 in 2007. The value of the storage room is \$15,000 in 2007. The property owner has now accumulated modifications totaling 30 percent of the equalized assessed values from 1997 and 2007.

Finally, ten years later, when the equalized assessed value of the house is \$200,000, the property owner requests to make a modification to the house having a value of \$40,000. The cumulative percentage of the modifications totals 50 percent, based on the cumulative percentage of each modification in relation to the equalized assessed value of the house in the year the modification was made.

This example is further clarified in the following table:

(NOTE - the base for calculation is **not** the **original** value of the house at the time the Zoning Ordinance was enacted, but is the equalized assessed value of the house at each time the house is modified.)

Year	Equalized Assessed Value of Home	Value of Modification	Modification as a Percentage of	Cumulative Percentage
1997	\$ 100,000	\$20,000	20	20
2007	\$ 150,000	\$ 15,000	10	30
2017	\$200,000	\$40,000	20	50

Definition: Equalized Assessed Value is the value of a structure and/or lot of property as determined by the local assessor with any adjustments made to account for an assessment that does not reflect "full" (100%) value. Full assessed value of the structure and/or lot is usually equivalent to "full" (100%) fair market value at the time assessment is made.

This Ordinance shall be in full force and effect after its passage and publication.

Seconded by Alderperson: Anne Radtke

Roll Call: Ayes 6 Noes -0-



Christopher Lund, Mayor

