



*Preserving Yesterday's Heritage for Tomorrow.*

IN THE NAME AND BY THE AUTHORITY OF THE TOWN OF CEDARBURG, WISCONSIN

**ORDINANCE NO. 2017-4**

**An Ordinance to Amend Article VI of Chapter 320 Zoning of the Town of Cedarburg Zoning Code, Ozaukee County, Wisconsin.**

- WHEREAS,** The Town of Cedarburg is a body corporate and politic; and  
**WHEREAS,** the Plan Commission of the Town of Cedarburg, by a majority vote of the entire Commission, has recommended the Town Board adopt the following amendment to Article VI of Chapter 320 Zoning of the Town Code of Ordinances regarding nonconforming uses, structures and land; and  
**WHEREAS,** all notices required by Town Code and State Statutes have been published and a public hearing was held before the Town Board of Supervisors on August 2, 2017;

**NOW, THEREFORE, BE IT ORDAINED** by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, that Article VI of Chapter 320 Zoning, of the Town of Cedarburg Code of Ordinances is hereby amended to read as follows:

**(The text modified with a strikethrough shall be deleted).  
(The text modified with an underline shall be added).**

**Chapter 320. Zoning**

**Article VI. Nonconforming Uses, Structures and Land**

[Amended 9-6-2000 by Ord. No. 2000-18]

§ 320-63. Existing nonconforming uses and structures.

A. Definitions. As used in this section, the following terms shall have the meaning indicated:

DEVELOPMENT REGULATIONS

The part of the zoning ordinance that applies to elements including setback, height, lot coverage, and side yard.

FAIR MARKET VALUE/ASSESSED VALUE

The assessed value as determined by the Town Assessor and listed on the most recent property tax bill.

~~Determined by the average assessment ratio as listed on the most recent property tax bill which shall be used by the Town Assessor to determine the fair market value for the building or buildings in question.~~

NONCONFORMING STRUCTURE

~~Any building or structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this chapter or amendments thereto and which is not now in conformance with this chapter is a nonconforming structure and may be continued although the structure does not conform to the provisions of this chapter or any amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming structure but shall be considered nonconforming with respect to these characteristics.~~

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.

#### NONCONFORMING USE

~~Any use of a building or land which as of the effective date of this chapter or amendments thereto does not, though lawfully established, comply with all the applicable use regulations of the zoning district in which such building or land is located.~~

A use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance.

[Amended 10-4-2006 by Ord. No. 2006-11]

#### STRUCTURAL ALTERATION

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

#### STRUCTURE

Any constructed, erected or placed material or combination of matter in or upon the ground, including buildings (to include decks, porches and three-season rooms), towers, sheds, signs, poles, decorations and carports but not including driveways or at-grade patios.

~~B. Continuation of Nonconforming structure/Uses. The nonconforming use of a nonconforming structure, building, premises, or fixture or land existing at the time of the adoption or any amendment of this chapter may be continued although it does not conform to the provisions of this chapter or any amendments thereto, but the alteration of, or addition to, or repair shall not exceed 50 percent of its assessed value of any non-shoreland existing building, premises, structure, or fixture for the purpose of carrying on a nonconforming use. The continuance of the nonconforming use of a temporary structure is prohibited.~~

~~C. Nonconforming Structures. Repairs and maintenance of certain nonconforming structures, improvements or alterations to nonconforming structures. There is no limit based on cost for the repair, maintenance, renovation, or remodeling of a nonconforming structure. total structural repair, improvements or alterations to a nonconforming structure or building shall not exceed 50% of the current fair market value of the building unless permanently changed to conform to this chapter; provided, however that:~~

~~(1) For the purpose of promoting the health, safety and general welfare of the Town and of the state, the Town Board may waive this provision to regulate any place, structure or object with a special character, historic interest, aesthetic interest or other significant value for the purpose of preserving the place, structure, building or object and its significant characteristics of the Town of Cedarburg (§ 60.64, Wis. Stats.). A fee to cover the cost to the Town of Cedarburg and/or consultants for reviewing the plans and specifications shall be paid as set in the Town Fee Schedule.[1]~~

~~[Amended 3-5-2014 by Ord. No. 2014-1]~~

~~[1] Editor's Note: The Fee Schedule is on file in the Town offices.~~

~~(2) The nonconforming building is not within any existing or proposed state or county highway right-of-way or existing Town highway right-of-way.[2]~~

~~[2] Editor's Note: Original § 10-1-80(c)(3), which immediately followed this subsection, was deleted 10-4-2006 by Ord. No. 2006-11.~~

#### D. Restoration of certain nonconforming structures.

Nonconforming structures that are damaged or destroyed may be restored if the structure will be restored to the size, location, and use that it had immediately before the damage or destruction occurred, with no limit on the costs of the repair, reconstruction, or improvement if all of the following apply:

(1) The use of the building or structure which is nonconforming was not discontinued for a period of twelve (12) months or more; and .

(4)(2) The damage or destruction was caused by a natural event, including but not limited to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(3) Where a legal nonconforming building or structure has been destroyed by fire or other natural disaster to the extent that the cost of repair or restoring the structure to its before damaged condition is not more than 50% of its current fair market value, the same may be rebuilt if a permit is obtained from the Building Inspector within six months after the date of the fire or other disaster and if the building is reconstructed within 18 months from the date of such fire or other calamity and an occupancy permit is issued.

§ 320-64. Nonconforming as to land or use by government action.

A. Action of a governmental body. Except for zoning or rezoning, when the action of a governmental body or agency renders a parcel of land or lot nonconforming, the use and structures shall, for all purposes, be considered conforming.

B. Zoning district changed. When a zoning district is changed, any existing conforming use in such changed district may be continued or changed to a use permitted in the same zoning district.

§ 320-65. Additions and enlargements.

A. Additions and enlargements to existing nonconforming structures in the residential zoning districts are permitted when it is determined that the enlargement or addition does not increase the nonconformity of the structure, that is, it does not decrease existing setbacks of the established structure. Additions to existing nonconforming structures must comply with the required setbacks of the zoning district, with the following exceptions:

(1) An addition to the side of a structure does not come any closer to the right-of-way than the closest part of the current nonconforming structure already does.

(2) An addition to the nonconforming side of a structure does not come any closer to the property line than the closest part of the current nonconforming structure.

(3) Any additional stories to a structure are located over existing indoor living space and do not exceed the maximum height requirement for the zoning district in which the structure is located.

(4) The addition and/or enlargement is required to address any federal, state or local codes.

B. Town Board approval is required for all additions and/or enlargements to nonconforming structures. Documentation shall be provided to the Town Board by the property owner substantiating the cost of the building addition and/or enlargement. A fee to cover the cost to the Town of Cedarburg and/or consultants for reviewing the plans and specifications shall be paid as set in the Town Fee Schedule.[1] All appropriate building permits shall be obtained from the Building Inspector prior to commencement of the addition and/or enlargement. [Amended 3-5-2014 by Ord. No. 2014-1]

[1] Editor's Note: The Fee Schedule is on file in the Town offices.

§ 320-66. Discontinued use.

If a nonconforming use is discontinued or terminated for a period of 12 months, any further use of the structure, land or water shall conform to the provisions of this chapter.

§ 320-67. Floodland nonconforming uses.

Floodland nonconforming uses, repaired or altered under the nonconforming use provisions of this chapter, shall provide for floodproofing to those portions of the structure involved in such repair or alteration. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, or other factors associated with the one-hundred-year recurrence interval flood.

§ 320-68. Wetland nonconforming uses.

[Amended 10-4-2006 by Ord. No. 2006-11]

The repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure in the C-1 Conservancy District shall be subject to the obtaining of a permit issued by the Town Board and all other regulatory agencies.

§ 320-69. Substandard lots.

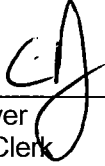
In any residential district, a single-family dwelling and its accessory structures may be erected on any existing legal lot recorded as such in the Register of Deeds of Ozaukee County before the effective date of the Zoning Code of the Town.

**(The above text modified with a strikethrough shall be deleted).**  
**(The above text modified with an underline shall be added).**

This ordinance shall be in full force and effect upon its passage and posting as provided by law.

**PASSED AND ADOPTED** by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, this 2nd day of August, 2017.

Eric Ryer  
Town Clerk



David M. Salvaggio  
Town Chairman

