

**TOWN OF UTICA
ZONING ORDINANCE REVISIONS
ORDINANCE NO. 10-_____**

The Town of Utica, Winnebago County, Wisconsin, does hereby ordain as follows:

**SECTION I
AUTHORITY**

These amendments to the Town of Utica Ordinance are adopted by authority granted under the Wisconsin Statutes.

**SECTION II
PURPOSE AND FINDING**

- A. Purpose.** The purpose of this Ordinance is to amend several sections of the Town of Utica Zoning Ordinance pursuant to the recommendations made during the regular session of the Town of Utica Plan Commission meeting on March 4, 2010.
- B. Findings.** The Town Board of the Town of Utica, on the recommendation of the Plan Commission for the Town of Utica, finds that it is in the best interest of the Town of Utica to make appropriate changes to the Zoning Ordinance as noted in Section III of this Ordinance.

**SECTION III
AMENDMENT**

- A. Article I, Section 3, Definitions, Number 76, Setback, and Number 86, Street (Public), shall be amended to read as follows:**

Setback. The required distance between the existing property boundary line and the location of any structure existing or to be constructed on a parcel. As regards front yard setback, the property boundary line shall be as established by certified survey map or a point which is a minimum of thirty-three (33) feet from the center of the existing road. The center of the road shall be used regardless of whether or not the actual roadway is centered on the Town's right-of-way. The front yard boundary line may be more than fifty-three (53) feet depending upon the legal description of the property, but shall never be less than thirty-three (33) feet from the center of the existing road.

Street/Road/Roadway (Public). The term includes the right-of-way of any street, road, highway, lane, etc., dedicated to the public, which generally provides access to abutting properties. It includes the paved, graveled, or otherwise surfaced area as well as shoulders and legally dedicated right of ways that are a minimum of thirty-three (33) feet from the center of the road.

- B. Article II shall be amended to read as follows:**

1. All front yard setbacks listed in Article II shall be reduced from one hundred (100) feet to seventy-five (75) feet and shall read as follows:

Front Yard - Minimum - 75 feet

2. The following sections of Article II are affected by this amendment in front yard setbacks:

Section 3(C)(2)(a)	Section 3(E)(2)(b)(1)
Section 4(E)(2)(b)(1)	Section 5(C)(2)(a)
Section 6(C)(2)(a)	Section 10(D)(2)(a)
Section 11(C)(2)(a)	Section 12(C)(2)(a)

- C. Article II, Section 1(E), Site Restrictions, and all subsections of Article II, Section 1 thereafter shall be renumbered as follows:**

<u>Old Section Number</u>	<u>New Section Number</u>
(E) Site Restrictions	(F) Site Restrictions
(F) Surface Water Drainage	(G) Surface Water Drainage
(G) Use Restrictions	(H) Use Restrictions
(H) Sanitary Regulations	(I) Sanitary Regulations
(I) Violations	(J) Violations
(J) Penalties	(K) Penalties
(K) Fees	(L) Fees

- D. Article II, Section 1(E), shall read as follows:**

E. LANDSCAPING.

No landscaping, plantings or other cultivation shall be allowed within any road right of way or within any building setback area so as to obstruct the view of any driveway, path, sidewalk, or any portion of a front yard area or right of way area that is used by individuals or animals to access a public roadway. Obstruction shall include any artificial or organic materials that exceed four (4) feet in height. Under certain circumstances, naturally organic and/or artificial materials may need to be removed from a right of way or building setback area even if those items are less than four (4) feet in height if it is determined by the Town Zoning Officer that said landscaping materials pose an unreasonable risk to individuals or animals using the property or the adjacent roadways. Additionally, no planting shall be allowed in any road right of way that would in any way impede the flow of storm water to an extent that the storm water would back up on an individual's yard or agricultural field during a typical spring thaw or a normal summer rain. It is understood that there may be situations where, because of extraordinary rains, snow melt or other conditions, that flooding may naturally occur.

- E. Due to the renumbering and inclusion of a new Article II, Section 1(E), all citation references to conditional uses and accessory uses within the Zoning Ordinance shall be amended as follows:**

Accessory uses: Art. II, S. 1(G)(2) shall now be referenced as Art. II, S. 1(H)(2).

Conditional uses: Art. II, S. 1(G)(4) shall now be referenced as Art. II, S. 1(H)(4).

- F. **Article II, Section 21, Existing Non-Conforming Uses and Structures, shall be amended to read as follows:**

Sec. 21 - Nonconforming Uses, Structures & Lots

A. **EXISTING NONCONFORMING USES & STRUCTURES.**

A lawful nonconforming structure or use shall begin as of the time it was made nonconforming by the terms of a preceding Ordinance, this Ordinance, or an amendment to this Ordinance. The lawful nonconforming use of a structure, land, or water, or a lawful nonconforming structure existing at the time of adoption or amendment of this Ordinance may be continued even though the structure or use does not conform with the provisions of this Ordinance.

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 if such extension, enlargement, reconstruction or structural alteration would increase the nonconforming nature of the structures, except when required by law or order or so as to comply with the provisions of this Ordinance.
2. It is the intent of this section to allow an existing nonconforming structure subject to the provisions of this section. All nonconforming structures shall be allowed ordinary maintenance and repair, including but not limited to, the following:
 - a. Shingle or similar roof replacement.
 - b. Window and door replacement.
 - c. Cosmetic treatments for exterior walls.
 - d. Installation of insulation, not involving structure demolition.
 - e. Crack patching and waterproofing of foundation walls.
 - f. Cosmetic treatments to interior walls, ceilings and floors.
 - g. Replacement or maintenance of mechanical or utility systems.
 - h. Temporary alterations done under emergency conditions to protect life or property.
3. Substitution of new equipment is permitted if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses. Approval for such substitution must be obtained from the Zoning Administrator or the Board of Appeals.

4. Alterations or additions which change the exterior dimensions of the structure, and which do not conform to this Ordinance but which do not increase dimensional nonconformity beyond that which existed before the work commenced, are allowed.

B. ABOLISHMENT OR REPLACEMENT

1. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty (50%) percent of its then current assessed value, it shall not be restored except so as to comply with the use provisions of this Ordinance.
2. A current file of all nonconforming uses shall be maintained by the Town Clerk with the assistance of the Zoning Administrator listing the following:
 - a. Owner's name and address;
 - b. Use of the structure, land or water and dimensional drawings of all structures; and
 - c. Assessed value at the time of its becoming a non-conforming use

C. 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 Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Appeals.

- G. Article II, Section 17, Sign Regulations, subsection C(4)(h), shall be amended to read as follows:**

Farm names and identification signs in all agricultural districts must be at least ten (10) feet outside of the right-of-way and must be no larger than thirty-two (32) square feet per side unless a permit is obtained hereunder.

- H. Article II, Section 17, Sign Regulations, subsection D(2) through (7) shall be renumbered as Article II, Section 17, Sign Regulations, subsections D(3) through (8).**

- I. Article II, Section 17, Sign Regulations, subsection D(2), shall read as follows:**

Agricultural identification signs are permitted in agricultural districts without a permit if at least ten (10) feet outside of the right-of-way and must be no larger than thirty-two (32) square feet per side otherwise a permit must be obtained under this section.

J. Article VI, Section 3, Driveways and Culverts, subsection (B)(2) shall be amended as follows:

Special Requirements for Agricultural, Commercial and Industrial Driveways. The following regulations are applicable to driveways:

- a. Width of Drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. Thereafter, the driveway may narrow to a minimum of ten (10) feet.

In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board, in its discretion, may permit a driveway of additional width.

- b. Angular Placement of Driveway. The angle between the center line of the driveway and the road edge shall not be less than seventy (70) degrees.
- c. Driveway Height Clearance. The driveway shall have a minimum height clearance of fourteen (14) feet.

K. Article VI, Section 3, Driveways and Culverts, subsection (B)(6)(d) shall be amended as follows:

Endwalls. Culverts shall be provided with a concrete or metal apron endwall as directed by the Town Zoning Administrator. All endwalls shall have at least a 2 to 1 slope from the top of the driveway to the end of the apron.

L. Miscellaneous Amendments

1. Article V, Section 1(C)(3) shall be amended to read as follows:

Duration of Board Order; Establishment of Use; Exception. No order of the Board of Appeals permitting the use of a building or premises shall be valid for a period longer than twelve (12) months, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

2. Article VI, Section 3(A)(3)(c) shall be amended to read as follows:

Review. The Town Engineer or his representative shall review all applications using this Section and the data and findings from a Driveway Inspection report in issuing driveway and culvert permits.

3. **The asterisked paragraph at the end of Article II, Section 16(E), currently on page 68, shall be amended to read as follows:**

Where uses are classified as conditional use, and where uses are also classified as requiring approval of building, site and operational plans, and where said uses under the approval of building, site and operational plans provisions require plan and/or permit submittal in conjunction with an agency such as the Department of Natural Resources, or SWCD; the procedures of Art. II, S. 16E, shall control.

4. **Article IV, Section 1, Plan Commission, subsection C, Quorum, shall be amended so that the subsection letter assigned shall be D. The subsection title shall appear as follows:**

D. QUORUM

5. **Article II, section 14, C-1 Commercial District, subsection B, Principle Uses, shall be amended so that the subsection title shall read as follows:**

B. PRINCIPAL USES

This Ordinance was approved by a unanimous vote of the Town of Utica Town Board.

_____Ayes

_____Nayes

Brenda Morrell, Clerk

Attested to by:

Nelson Hinz, Chairman