

**ORDINANCE # 02-26**

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**AN AMENDMENT TO ORDINANCE REVISING SETBACKS IN B-1 BUSINESS DISTRICT**

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**WHEREAS**, upon commencing the amendment procedure as described in Section 82-65 of the City of Berlin Municipal Code, and having complied with all notice requirements described in Section 82-66 of the Municipal Code, the City of Berlin Plan Commission held a public hearing on January 27th 2026; and

**WHEREAS**, the City of Berlin Plan Commission has recommended to the Common Council to approve the ordinance as set forth herein, to allow for greater development potential within the B-1 zoning district within the City of Berlin; and

**WHEREAS**, the Common Council finds that this change to the City of Berlin Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

**WHEREAS**, the Common Council of the City of Berlin having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others, hereby determine that the rezoning will not violate the spirit or intent of the Zoning Code for the City of Berlin will not be contrary to the public health, safety or general welfare of the City of Berlin, will not be hazardous, harmful, noxious, offensive and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood, and the rezoning is consistent with the City of Berlin Comprehensive Plan.

NOW THEREFORE, the Common Council of the City of Berlin do ordain as follows:

**SECTION 1:** Chapter 82 of the City of Berlin Municipal Code entitled "Zoning," Article III entitled "Districts," Division 9 entitled "B-1 Business District," Section 82-363 entitled "Area Regulations," is hereby repealed and re- as follows:

- (1) Front yard. When 50 percent or more of the lineal frontage in any city block in the B-1 district is in residential occupancy, the front yard regulations of the R-2 district shall apply to this district, otherwise, no front yard setback shall be required.
  - (2) Side yard. When 50 percent or more of the lineal frontage in any city block in the B-1 district is in residential occupancy, the side yard regulations of the R-2 district shall apply to this district, otherwise, no side yard setback shall be required. ~~Each building erected or structurally altered shall have a side yard of at least six feet, except that existing structures with less than a six-foot setback may be structurally altered or reconstructed, within one year after destruction, provided there is no further encroachment into the side yard.~~ Where a lot abuts upon the side lot in a residential district, it shall provide a side yard required for public buildings in that district.
  - (3) Rear yard. When 50 percent or more of the lineal frontage in any city block in the B-1 district is in residential occupancy, the rear yard setback of 20 feet shall apply to this district, otherwise, no rear yard setback shall be required. ~~Each building erected or structurally altered shall have a rear yard of not less than 20 feet, except that existing buildings with less than a 20-foot rear yard may be structurally altered, or reconstructed, within one year after destruction, provided there is no encroachment into the rear yard.~~
  - (4) Minimum lot width. Each lot shall have a minimum width of 66 feet.
- (Code 1989, § 13-1-30(c))
- ...

**SECTION 2: Severability.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**SECTION 3: Continuation of Existing Provisions.**

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

**SECTION 4: Effective Date.** This ordinance shall be effective immediately upon passage, following publication or posting as provided by law.

PASSED, APPROVED, AND ADOPTED THIS 10<sup>th</sup> DAY OF FEBRUARY 2026.

6 AYES  
0 NAYS  
0 ABSENT

CITY OF BERLIN  
  
CATRINA BURGESS, MAYOR

ATTEST:

  
JESS BALCOM, CITY ADMINISTRATOR/CLERK

APPROVED AS TO FORM:

  
ERIC LARSON, CITY ATTORNEY