

Chapter 15
NON-CONFORMING LOTS, STRUCTURES, AND USES

SECTION:

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XX-15-1: PURPOSE: It is the purpose of this chapter to provide for the regulation of nonconforming lots, buildings, and structures, and uses, and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. This ordinance establishes separate districts, each of which is an appropriate area for the location of uses that are allowed in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this chapter that all nonconforming uses shall be eventually brought into conformity. (Ord. 900, 18 Apr 22)

XX-15-2: GENERAL PROVISIONS:

- A. Conditional Uses/Interim Uses/Uses by Administrative Permit: Any legal nonconforming structure or use that is herein classified as a conditional use, interim use, or use by administrative permit may be continued in like fashion and activity and shall automatically be considered as having received the applicable approval. Any change to such a use, including, but not limited to, building and/or site alteration, shall however require a new permit be processed according to this ordinance.
- B. Moving Nonconforming Buildings: No nonconforming building, structure, or use shall be moved to another parcel or lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time it became a legal nonconformity, unless such movement will reduce the nonconformity.
- C. Subdivision: No parcel or lot or portion thereof shall be subdivided if such action results in the parcel, lot, buildings, and/or uses becoming nonconforming.
- D. Continuance Of Legal Nonconformity: Any legal nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this chapter, unless:
 - 1. The nonconformity or occupancy is discontinued for a period of more than one year; or

2. Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the town may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.
 3. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
- E. Definitions: For the purposes of this section, the following terms shall be defined as follows:

EXPANSION, ENLARGEMENT, OR INTENSIFICATION: Any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the town.

IMPROVEMENT: Making the nonconforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what preexisted, but does not include an expansion, enlargement, or intensification.

REPLACEMENT, RECONSTRUCTION OR RESTORATION: Construction that exactly matches preexisting conditions. (Ord. 900, 18 Apr 22)

XX-15-3: NONCONFORMING LOTS:

- A. General Restriction: No building, structure or use shall be erected, constructed or established on a nonconforming lot unless a variance is granted by the town, except as otherwise provided for by this ordinance.
- B. Vacant Or Redeveloped Lots: Except in environmental protection districts established in chapter 45 of this ordinance, legal nonconforming vacant lots of record may be developed for single family detached dwellings while simultaneously resulting in development that complies with the character and general design of the immediate area and the objectives of the comprehensive plan and this ordinance upon approval of a conditional use permit based upon procedures set forth in and regulated by chapter 4, provided that:

1. Legally Established: The lot of record in question was legally established in accordance with requirements of this ordinance.
 2. Allowed Use: Single-family residential dwellings are an allowed use within the zoning district in which the lot is located.
 3. Setbacks: The setback requirements of the zoning district in which the lot of record is located shall be complied with.
 4. Shoreland Overlay District: The lot shall not have more than 25 percent impervious surface if located within the Shoreland Overlay District.
 5. Access: The lot of record has frontage on and will directly access an improved public road.
 6. Septic System: An on-site septic system can be installed upon the lot to provide sewage treatment for the use as required by section XX-16-6 of this ordinance.
- C. Developed Lots: An existing conforming use on a lot of substandard area, width or depth may be expanded or enlarged if such expansion or enlargement meets all other provisions of this ordinance. (Ord. 900, 18 Apr 22)

XX-15-4: NONCONFORMING BUILDINGS AND STRUCTURES:

- A. Proposed Structure: Any proposed structure that will become nonconforming by amendment of this ordinance but for which a building permit has been lawfully granted prior to the effective date of the amendment, may be completed in accordance with the approved plans; provided construction is started within 60 days of the effective date of the amendment, is not abandoned for a period of more than 120 days, and continues to completion within two years. The structure shall thereafter be a legal nonconforming structure.
- B. Alterations: Alteration and normal maintenance to a legal nonconforming building or structure may be made through the building permit process provided:
1. The alterations do not expand the foundation and/or building size (including deck additions), unless specifically allowed by this ordinance.
 2. The alterations do not increase the building occupancy capacity or parking demand.
 3. The alteration does not increase the degree of the nonconforming condition of the building, site, or the use.

C. Expansion of Legal Nonconforming Buildings or Structures:

1. Administrative Approvals: Except in the environmental protection districts, the following expansions of legal nonconforming single family residential dwellings may be approved through the administrative permit process by the zoning administrator subject to the provisions of chapter 8 of this title. The zoning administrator shall make a determination that the building expansion will comply with the intent and purpose of this chapter and this ordinance.
 - a. Expansion of principal buildings found to be nonconforming only by reason of height and yard setback may be allowed provided the expansion complies with the performance standards of this ordinance.
 - b. Expansion of nonconforming detached accessory structures shall not be allowed.
2. Conditional Use Permit: Legal nonconforming commercial, industrial, public, semipublic, principal structures may be expanded on the same lot by conditional use permit based upon procedures set forth in and regulated by chapter 4 of this ordinance, provided that:
 - a. The expansion will not increase the nonconformity of the building or site.
 - b. The new building expansion will conform to all the applicable performance standards of this ordinance; a conditional use permit shall not be issued under this chapter for a deviation from other requirements of this title unless variances are also approved. (Ord. 900, 18 Apr 22)

XX-15-5: NONCONFORMING USES:

A. Changes To Nonconforming Uses:

1. When a legal nonconforming use of any structure or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
2. A legal nonconforming use of a structure or parcel of land may be changed to reduce the nonconformity of use provided that once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

B. Normal Maintenance: Maintenance of a building or other structure containing or used by a nonconforming use will be allowed when it includes necessary nonstructural repair and incidental alterations which do not extend or intensify the nonconforming building or use.

C. On-Site Sewage Treatment Systems:

1. A sewage treatment system not meeting the requirements of this ordinance or Minnesota rules 7080 shall be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property.
2. A sewage treatment system not meeting the requirements of this ordinance must be upgraded prior to property transfer or registration of a contract for deed. (Ord. 900, 18 Apr 22)