

Section 65-005: Purpose and Intent

The purpose of this division is to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures and uses will be operated and maintained. It is the intent of this Ordinance that nonconforming uses shall be encouraged to eventually be brought into conformity. Legally established nonconformities existing as of the date of this ordinance, or as of the date of an amendment which resulted in the nonconformity, are allowed to be continued, but they will be restricted as to any expansion, additions, or intensification of use.

Section 65-010: Nonconforming Uses and Structures

Any use or structure lawfully existing upon the effective date of this Ordinance that is not located in the Shoreland District may be continued at the size and in the manner of operation existing upon such date, subject to the following conditions:

1. Except as expressly allowed in 65-010 of this Ordinance, a nonconforming use of land or nonconforming structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record if it will increase the area of the nonconformity or create another nonconformity on the parcel.

Prohibited expansion, enlargement or extension shall include anything that increases the intensity of the use, including but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume and/or area dimensions of the nonconforming use.

2. Nonconforming principal and accessory structures may be expanded or enlarged upon if the following apply:
 - a. The use of the property conforms to zoning district regulations;
 - b. That all parts of the new expansion or enlargement meet current zoning district regulations;
 - c. The individual subsurface sewage treatment system, where existing, is in full compliance with this Ordinance and all applicable statutes and rules are complied with;
 - d. No other nonconformities are created.

Such expansion or enlargement of a nonconforming principal or accessory structure may be approved by administrative site plan approval in conjunction with a building or land use permit application provided the area of the new improvements does not add to the existing nonconformity nor does it create nonconformity. All additions or alterations which expand or enlarge the total existing structure area on the parcel which cannot meet all other current zoning district regulations may only authorized by a variance in accordance with this Ordinance.

3. Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this section will prevent the placing of a structure into a safe condition after it has been declared unsafe by a Certified Building Official.
4. Alterations may be made to a building containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the Zoning Administrator.

5. Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of 50 percent or less of its estimated market value as indicated in the records of the county assessor at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of its estimated market value as indicated in the records of the county assessor at the time of damage and no building permit has been applied for within 180 days of when the property was damaged.
6. When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure.
7. If the nonconforming use of land is discontinued for a period of twelve (12) months, the subsequent use of land or the structure shall be in conformity with the provision of this Ordinance.
8. Nonconforming uses or structures which are declared by the City Council to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.
9. No repair, replacement, maintenance, improvement or expansion of a nonconforming use or structure in a flood prone area shall be allowed if such activity would increase flood damage potential, or would increase the degree of obstruction to flood prone areas adjacent to any public waters.