

8.0 NONCONFORMING STRUCTURES AND USES

8.1 NONCONFORMING STRUCTURES AND USES

- A. Purpose. It is the purpose of this Section to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses, which are permitted 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 section that all non-conforming uses shall be eventually brought into conformity.
- B. Any structure or use lawfully existing upon the effective date of this ordinance shall not be enlarged, expanded or intensified, except in conformity with the provisions of this zoning ordinance. Legal nonconforming uses and structures shall be allowed to continue at the size and in the manner of operation existing upon such date except as hereinafter specified.
- C. Expansion or Alteration of Nonconforming Uses or Structures. The City Council may permit by variance request the expansion of a legal nonconforming structure or use if in no case would a structure or use prohibited in the zoning district be extended beyond the present lot and upon making the following findings:
1. The expansion will be compatible with the adjacent property and the other properties in the vicinity.
 2. The expansion will not result in significant increases in adverse off site impacts such as noise, dust, odors and parking congestion.
 3. The expansion, because of improvements to the property, will improve the appearance or stability of the vicinity.
- D. Nothing in this ordinance shall prevent the repair of a structure to a safe condition when said structure is declared unsafe by the building official providing the necessary repairs shall not constitute more than fifty percent (50%) of replacement value of such structure.
- E. No non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this ordinance adoption unless such movement shall bring the non-conformance into compliance with the requirements of this Ordinance.
- F. When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use it shall not there-after be changed to any non-conforming use.
- G. A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of

land has been changed, it shall not there-after be so altered to increase the non-conformity.

- H. Any building which is damaged to an extent of less than fifty percent (50%) of its value may be restored to its former extent within twelve (12) months. Estimate of the extent of damage or destruction shall be made by the Zoning Administrator, Building Official and County Assessor.
- I. If at any time a non-conforming building, structure or use is destroyed by fire or other peril to the extent of more than fifty percent (50%) of its estimated fair market value, as indicated in the records of the County assessor at the time of the damage, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located, unless a building permit is applied for within 180 days of when the damage occurred. The City may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent properties or water body.
- J. When a nonconforming structure in the shoreland district, with less than 50 percent of the required setback from the water, is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.
- K. Whenever a lawful non-conforming use of a structure or land is discontinued for a period of twelve (12) months, following written notice from the Zoning Administrator of the City, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.
- L. Normal maintenance of a building or other lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations, which do not physically extend or intensify the nonconforming use.
- M. Alterations may be made to a building or other lawful non-conforming residential units without a variance when they will improve the livability thereof, provided any addition or alteration made meets the current setback requirements. The building must be completely on subject property and may not extend over a property line.
- N. Any proposed structure which will, under this Title, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Title may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of this Title. Such structure and use shall thereafter be a legally nonconforming structure and use.
- O. All non-conforming water supply, sewage disposal, and waste treatment facilities and systems located within the City shall be brought into conformance with the provisions of this Title, or as otherwise provided by State Law, within one year

after the adoption of this Title.

- P. Any lot that was recorded as a buildable lot as of January 1, 2000, is at least 50 feet in width, and 100 feet in length, may improve or otherwise modify the structure/s without a variance on that lot provided the following conditions are met:
1. All setbacks for new construction or modifications must meet side, front, rear, lake, wetland, septic system and other setbacks from adjacent properties and/or right of ways are met.
 2. All other conditions of the zoning district are met.
 3. Owner does not own adjacent property with which they could meet current lot size standards.
 4. Owner complies with any grading and/or drainage requirements set forth by staff as necessary due to the close proximity of adjacent lots.
 5. Impervious surface requirements are met based on the zoning district or 25% in the Shoreland district.
 6. All lake property's building structures, additions, decks, etc. must not impair the adjacent property's line of sight as determined at the time of application.
- Q. A non-conforming single lot of record may be allowed as a building site without a variance from lot size requirements provided:
1. All structure and septic system setback distance requirements can be met.
 2. A sewage treatment system consistent with the Minnesota Rules, chapter 7080 can be installed or the lot is connected to a public sewer.
 3. Impervious surface requirements are met based on zoning district or 25% in the Shoreland district.
- R. Any lot that was recorded as a buildable lot and in a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
1. The lot must be at least 66 percent of the dimensional standard for lot width and lot size.
 2. The lot must be connected to city sewer, if available, or must be suitable for the installation of a sewage treatment system consistent with Minnesota Rules, chapter 7080, and local controls.
 3. Impervious surface must be met within the requirements of the zoning district.
 4. Development of the lot must be consistent with an adopted comprehensive plan.
- S. A lot subject to letter Q not meeting the requirements must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

- T. In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(Adopted: January 2000. Amended: October 2004, September 2009, August 2010, June 2013)