

SECTION 25 NON-CONFORMITIES

Within the districts established by this Ordinance or amendments that may later be adopted, situations may occur where as a result of the regulations contained in this Ordinance an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations contained in this Ordinance. It is the intent of this Ordinance to regulate such nonconforming situations in such a way that they can continue but will ultimately be phased out by limiting their enlargement, expansion, intensification, re-establishment after discontinuance or abandonment, or restoration after damage or destruction in order to bring uses and structures into conformity with goals, objectives, and policies of the Murray County Comprehensive Land Use Plan. A non-conformity may be continued subject to additional regulations specified in the following chapters of the Land Use Ordinance: Section 15 Floodplain Management and Section 16 Shoreland.

SUBDIVISION 1. NON-CONFORMING USE

1. Any use legally established as of the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance shall be considered a nonconforming use. A nonconforming use may be allowed to continue subject to the following conditions:
 - A. No nonconforming use shall be expanded, enlarged, or intensified except to make it a permitted use.
 - B. A change from one nonconforming use to another nonconforming use is prohibited.
 - C. A nonconforming use of a parcel of open land may not be extended to cover more land than was occupied by that use when it became nonconforming except uses involving the removal of natural materials such as granite, sand, or gravel. Legal nonconforming mining operations operating without a valid Conditional Use Permit may be expanded within the boundaries of the parcel in which the mining use was approved and established prior to the time it became nonconforming subject to the standards contained in Chapter 20 (Exploration and Excavation of Mineral Material) of this Ordinance.
 - D. If a nonconforming use is replaced by a permitted use, the nonconforming status and any rights that arise under the provisions of this section of the Ordinance are terminated.
 - E. A nonconforming use or use of a structure that has been discontinued for a period of 12 consecutive months shall not be re-established, and any further use or occupancy of the structure shall be in conformity with the regulations of this Ordinance. Time will be calculated as beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.
 - F. If a structure used for a nonconforming use is damaged to the extent that the cost of replacement, reconstruction, or restoration would exceed 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, then the damaged structure shall not be replaced, reconstructed, or restored except in conformity with this Ordinance.

SUBDIVISION 2. NON-CONFORMING STRUCTURE

1. Any structure legally established as of the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance is a nonconforming structure and may be allowed to continue including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except in conformity with the following conditions:
 - A. No nonconforming structure shall be expanded, enlarged, or intensified without first obtaining a Variance unless each of the following conditions can be met for the district in which the structure is located:
 - 1.) The expansion, enlargement, or intensification does not violate any other standards of this Ordinance other than regulation(s) that made the structure nonconforming in the first place.
 - 2.) An on-site sewage treatment system can be installed in accordance with Section 12 (Subsurface Sewage Treatment Systems) of this Ordinance or it is connected to a public sewer.
 - 3.) The expansion, enlargement, or intensification does not occur within a bluff or shore impact zone or floodway area.
 - B. The replacement, reconstruction, restoration, expansion, enlargement, or intensification of an existing residential dwelling, which does not meet the residential dwelling setback from an existing livestock feedlot or manure storage structure, may be allowed provided that any construction does not further encroach into the nonconforming setback.
 - C. A nonconforming structure that has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, shall not be replaced, reconstructed, restored, expanded, enlarged, or intensified except in conformity with this Ordinance with the exception that homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, if a Zoning Certificate has been applied for within 180 days of when the property is damaged. The Board may impose reasonable conditions upon the Zoning Certificate in order to mitigate any newly created impact on adjacent property or water body.
 - D. If a nonconforming structure in the Shoreland District, which is located less than 50 percent of the required setback from the ordinary high water level, has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the Department may require an increased setback from the ordinary high water level, if practicable and reasonable conditions are placed upon the Zoning Certificate, to mitigate created impacts on the adjacent property or water body.
 - E. Normal maintenance of a nonconforming structure including nonstructural maintenance and repair is permitted.
 - F. All construction project for which a valid Zoning Certificate was granted before the effective date of this Ordinance may be completed although the structure would not meet newly established standards of this Ordinance.

SUBDIVISION 3. NON-CONFORMING LOTS

1. Any separate lot or parcel created in accordance with the Murray County Subdivision Ordinance and of record in the Murray County Recorder's Office on or before the effective date of this Ordinance may be used for the legal use for which it is zoned subject to the following conditions:
 - A. It can be assessed by a public or a private road.
 - B. There is a "buildable area" on the site.
 - C. An on-site sewage treatment system can be installed in accordance with Section 12 (Subsurface Sewage Treatment Systems) of this Ordinance or it is connected to a public sewer.
 - D. All other requirements of this Ordinance can be met.
2. A nonconforming single lot of record located within a shoreland area may be allowed as a building site without Variances from lot size requirements provided that:
 - A. All structure and septic system setback distance requirements can be met.
 - B. A Type I sewage treatment system can be installed in accordance with Section 12 (Subsurface Sewage Treatment Systems) of this Ordinance or it is connected to a public sewer.
 - C. The impervious surface coverage does not exceed 25 percent of the lot.
3. 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:
 - A. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120.
 - B. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type I sewage treatment system in accordance with Section 12 (Subsurface Sewage Treatment Systems) of this Ordinance.
 - C. Impervious surface coverage must not exceed 25 percent of each lot.
 - D. Development of the lot must be consistent with the Murray County Comprehensive Land Use Plan.
4. A lot not meeting these requirements must be combined with one or more contiguous lots so they equal one or more conforming lots as much as possible.
5. Contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements in Section 12 (Subsurface Sewage Treatment Systems) of this Ordinance, or connected to a public sewer.

6. A conforming lot or parcel shall not be reduced in size so that it would become nonconforming in any aspect of this Ordinance. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot area and width standards and the sewage system requirements of the zoning district in which it is located and the newly created parcel is legally combined with an adjacent parcel.
7. A nonconforming lot or parcel shall not be reduced in size.
8. Where a nonconforming lot or parcel of record contains a conforming principal structure, the principal structure may be expanded, enlarged, or intensified without a Variance provided:
 - A. The expansion, enlargement, or intensification meets all other standards of this Ordinance.
 - B. An on-site sewage treatment system can be installed in accordance with Chapter 12 (Subsurface Sewage Treatment Systems) of this Ordinance or it is connected to a public sewer.
 - C. The expansion, enlargement, or intensification does not occur within a bluff or shore impact zone or floodway area.

SUBDIVISION 4. NON-CONFORMING SIGNS

1. Signs existing on the effective date of this Ordinance which do not conform to the regulations set forth in this Ordinance shall become a nonconforming use.
2. Business signs on the premises of a nonconforming building or use may be maintained and continued, but such signs shall not be increased in number, area, height or illumination.
3. No signs erected before the passage of this Ordinance shall be rebuilt, altered, expanded, or moved to a new location without being brought into compliance with the requirements of this Ordinance.
4. Repainting, cleaning, and other normal maintenance or repair of the sign or sign structure is permitted.
5. In the event that the use of a nonconforming advertising sign structure is discontinued or its normal operation stopped for a period of 12 month, the structure shall be removed by the owner or lessor at the request of the Zoning Administrator.

SUBDIVISION 5. ALTERATIONS

The lawful use of a building existing at the time of the adoption of this Ordinance may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

1. Limited structural alterations or structural repairs to a legal nonconforming structure are allowed without a variance provided that the alterations or repairs:
 - A. Are for maintenance purposes rather than significant alterations, repairs or replacement of destroyed or decayed structural elements. For the purposes of this subdivision, “significant” means an alteration, repair or replacement that requires work on more than twenty-five (25) percent of the surface area of the structural element that is being altered, repaired or replaced. Structural elements include exterior walls and their supporting members and the foundation of the structure. Alterations or repairs conducted within 24 months of each other shall be considered one alteration or repair for the purposes of this subdivision, unless the repaired area is damaged by a natural disaster event. Surface area shall be calculated as follows:
 - 1.) For outside walls: The total outside surface area of all exterior walls combined. Width shall be measured from the outside edge of each exterior wall (not including minimal extensions, such as bay windows). Height shall be measured from the top of the foundation to the ceiling of the uppermost living space.
 - 2.) For foundations. 25% of the total outside surface area of all foundation walls combined, or if posts, 25% of the total number of posts.
 - B. Are for roof repair or replacement purposes provided that:
 - 1.) No additional living space is created in the replacement of the roof;
 - 2.) The replacement roof does not extend the area covered within the drip line of the roof beyond what already existed or create more than a two (2) foot overhang where one did not previously exist, whichever is greater.
 - 3.) The peak of the finished roof may not exceed the height of the existing roof, except that existing flat or minimally-sloped roofs may increase the highest height of the peak no more than 16.67 percent of the width of the house (e.g. a 4-in-12 pitch gable roof), to allow for shedding of snow and water.
 - C. Do not increase the outside dimensions of the structure (including its height, except as provided in B 3) above.
2. Structures which are nonconforming solely because of a change in the regulatory floodplain elevation adopted as amendments to the zoning ordinance on December 28, 2004, may maintain, repair and rebuild structure as though it were a conforming use, unless the building is substantially destroyed. Any additions or expansions of any structure must be placed at an elevation to satisfy the regulatory floodplain elevation adopted on December 28, 2004.

SUBDIVISION 6. RESIDENTIAL ALTERATIONS

Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building.

SUBDIVISION 7. RESTORATION

Buildings which have been damaged by fire, explosion, act of God, or the public enemy to the extent of more than fifty percent (50%) of its market value at the time of destruction, shall be restored, except in conformity with the regulations of this Ordinance.

SUBDIVISION 8. NORMAL MAINTENANCE

Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary, non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.