

## SECTION 51.03. GENERAL PROVISIONS

### Subd. A Non-Conforming Building, Structures, and Uses.

1. **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 non-conforming 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.
2. **Grandfather Clause.** Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or, subsequently amended.
3. **Repair Work.** Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Official providing the necessary repairs do not result in the expansion of the structure.
4. **Moving of Non-Conforming Structures.** 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.
5. **Reversal of Non-Conformity.** When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
6. **Reduction of Non-Conformity.** 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 thereafter be so altered as to increase the non-conformity.
7. **Destroyed Non-Conforming Use.** If at any time, a non-conforming building, structure or use shall be destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the City, then without further action by the City Council, the building and the land on which such building was located or maintained shall, from and after the said of said destruction, be subject to reasonable conditions imposed on a building permit in order to mitigate any

newly created impact on adjoining properties. Any building which is damaged to an extent of less than fifty (50) percent of its value may be restored to its former extent provided reconstruction is completed within twelve (12) months of said damage. Estimate of the extent of damage or destruction shall be made by the Building Official.

8. **Discontinuance.** Whenever a lawful non-conforming use of a structure or land is discontinued for a period of one (1) year, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.
9. **Alterations.** Alteration and normal maintenance to a lawful non-conforming building or structure may be made provided:
  - a. The alterations do not expand the building size.
  - b. The alterations do not change the building occupancy capacity or parking demand.
  - c. The alteration does not increase the non-conformity of the building or the use.
10. **Expansion of Non-Conforming Buildings or Structures.**
  - a. Administrative Approvals. The expansions of lawful non-conforming single family or two family residential buildings and related accessory structures may be approved through the administrative permit process by the Zoning Administrator subject to provisions of Section 51.02, Subd. E of this Ordinance. The Zoning Administrator shall make a determination that the building expansion will have no external negative impacts upon adjacent properties or public rights-of-way.
    - 1) Expansion of buildings found to be non-conforming only by reason of height, yard setback, lot area or off-street parking may be permitted provided the structural non-conformity is not increased and the expansion complies with the performance standards of this Ordinance.
    - 2) Lawful non-conforming single family and two family units may be expanded to improve the livability provided the non-conformity of the structure is not increased.
  - b. Conditional Use Permit. Lawful non-conforming commercial, industrial, public, semi-public, and multiple family structures may be expanded on the same lot by conditional use permit in accordance with Section 51.02, Subd. B of this Ordinance.

- 1) Expansion of buildings found to be non-conforming only be reason of height and setback.
- 2) Except for the above, the expansion will not increase the non-conformity of the building or site.
- 3) The new building expansion will conform with all applicable performance standards of this Ordinance. A conditional use permit shall not be issued under this section for a deviation from other requirements of this Ordinance unless variances are also approved.
- 4) The request for conditional use permit shall be evaluated based on standards and criteria set forth in Section 51.02, Subd. B.4.a of this Ordinance.

11. **Non-Conforming Lots.** A lot of record, existing upon the effective date of this Ordinance in a residential district, which does not meet the requirements of this Ordinance as to area or width may be utilized for single family detached dwelling purposes provided:

- a. The lot measurements for lot area and width are within seventy (70) percent of the applicable zoning district standards.
- b. The building setbacks of the applicable zoning district of this Ordinance are met.
- c. Single family home is a permitted use within the zoning district.