

SECTION 24. NONCONFORMITIES

SUBDIVISION 1. INTENT

- A. It is the intent of this section to provide for the regulation of lawful nonconforming structures and uses and to specify the requirements and circumstances under which such structures and uses will be operated and maintained. Uses or structures that, when established, did not meet the requirements of the then-existing ordinance, are not lawful nonconformities.
- B. All legally established nonconformities may continue, but they will be managed according to applicable state statutes and other regulations of this County for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use. Nonconforming structures and uses shall not be enlarged.
- C. See Section 13 of this Ordinance for further nonconformity requirements in Shoreland districts.

SUBDIVISION 2. SIGNIFICANT DATES

| Ordinance or Amendment | Effective Date | Summary |
|--|-----------------------|---|
| Primary and Alternative SSTS Sites | January 23, 1996 | Lots created after date must have sufficient area for a minimum of two (2) Type 1 subsurface sewage treatment systems |
| Nonconforming Structures and Land Uses in Floodway and Flood Fringe District | July 6, 1999 | Lawful nonconforming structures and uses may continue with conditions set forth in Section 24 of this Ordinance |
| Lot of Record | July 9, 2009 | See Definition |
| New or Expansion of Feedlots | June 10, 2010 | New or expansion of feedlots shall conform to current Section 16 standards and Minnesota Administrative Rules |
| Existing Building Sites | June 18, 1996 | See Definition |

SUBDIVISION 3. NONCONFORMITIES IN THE FW AND FF DISTRICTS

- A. Any nonconformity which were lawful before July 6, 1999 but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
 - 1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
 - 2. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure is prohibited.

SUBDIVISION 4. DISCONTINUANCE

If any nonconforming use of any structure or premises is discontinued or its normal operation is stopped for a period of more than one (1) year, the use of same shall thereafter conform to the regulations of the district in which it is located.

SUBDIVISION 5. ALTERATIONS

- A. The lawful use of a nonconforming structure or use may be continued, although such use does not conform with the provisions thereof.
- B. Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with the following, including but not limited to: lot area, setbacks height, access and any other applicable provisions of this Ordinance, it shall not revert back to nonconforming use.

SUBDIVISION 6. RESIDENTIAL ALTERATIONS

- A. Alterations may be made to a residential structure containing nonconforming residential units when they will improve the livability of such units, provided however, they do not increase the number of dwelling units in the structure or the physical dimensions of the structure.
- B. Homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes.
 - 1. A residential nonconformity, as listed above, including the lawful use or occupation of land or premises existing prior to June 18, 1996, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.
 - 2. A residential nonconformity, as listed above, or occupancy that is discontinued for a period of more than one (1) year, or any nonconforming structure is destroyed by fire or other peril to the extent of fifty (50) percent of its estimated market value, and no zoning permit has been applied for within 180 days of when the property is damaged any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. This standard shall not apply to the Flood Plain Overlay District.
 - 3. A residential nonconformity, as listed above, that is destroyed by fire or other peril to the extent of fifty (50) percent of its market value, the Board of County Commissioners may impose reasonable conditions upon a permit in order to mitigate any newly created impact on adjacent property.

SUBDIVISION 7. RESTORATION

Any nonconforming use or structure, except residential and seasonal real estate listed below, that has been damaged by fire, explosion, or natural disaster, as designated by the Board of County Commissioners, to the extent of more than fifty (50) percent of its value, as determined by the County Assessor, shall be restored in conformity with the regulations of this Ordinance.

SUBDIVISION 8. NORMAL MAINTENANCE

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

SUBDIVISION 9. LOTS OF RECORD

- A. All lots which are a part of a subdivision legally recorded with the County Recorder, and all lots, parcels, tracts and other legally described land to which the deed has been recorded prior to July 09, 2009, which met the requirements of the then existing ordinance at the time of conveyance, shall be considered to be Lots of Record.
- B. Lots of Record which do not meet the requirements of this Ordinance such as, but not limited to, lot area, width and depth, may be allowed as building sites without variances from lot size requirements provided the following:
 - 1. The use is permitted in the zoning district.
 - 2. The lot has been in separate ownership from abutting lands at all times since it became substandard.
 - 3. Was created compliant with official controls in effect at the time.
 - 4. Sewage treatment requirements of this Ordinance are met.
 - 5. Setback requirements of this Ordinance are met.
 - 6. The Applicant and/or Landowner shall submit evidence of the recorded deed.
 - 7. All other applicable standards and official controls can be met at the time of development.
- C. In a group of two (2) or more contiguous lots or parcels of land under the same ownership, any individual lot or parcel of land does not meet the requirements of this Ordinance, the lot or parcel of land must not be considered as a separate lot or parcel of land for the purposes of sale or development. The lot shall be considered combined with the one or more contiguous lots or parcels of land so they equal one or more lots or parcels of land, each meeting the requirements of this Ordinance as much as possible.

1. In accordance with Minnesota State Statute 394.36 as amended from time to time the following shall apply to existing nonconforming lots in Shoreland Areas.
 - a. This subdivision applies to shoreland lots of record in the office of the County Recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. The County shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas with the following regulations:
 - b. 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:
 1. All structure and septic system setback distance requirements can be met.
 2. A Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer.
 3. The impervious surface coverage does not exceed twenty five (25) percent of the lot.
 - c. In a group of two (2) 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 sixty six (66) percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120.
 2. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls.
 3. Impervious surface coverage must not exceed twenty five (25) percent of each lot.
 4. Development of the lot must be consistent with an adopted comprehensive plan.
 - d. A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

- e. Notwithstanding paragraph (c), 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 of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
 - f. In evaluating all variances, zoning permit applications, or conditional use requests, the Department 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.
 - g. 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 size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.
2. Substandard Lots of Record in all districts except Shoreland districts shall be considered buildable only as permitted provided all other applicable standards and official controls can be met at the time of development.
 3. A new dwelling constructed in a shoreland district on a nonconforming Lot of Record may have a reduced OHWL setback with the following restrictions:
 - a. There shall be an existing dwelling located on each side of the lot.
 - b. The new dwelling shall not be located closer to the OHWL than the existing building line of the adjacent dwellings.
 - c. The dwelling is not located within a shore or bluff impact zone.
 4. A new dwelling constructed in a shoreland district on a nonconforming Lot of Record may have a reduced OHWL setback if the adjacent lot is vacant with the following restrictions:
 - a. There shall be an existing dwelling located on one (1) side of the lot.
 - b. The setback for the Lot of Record shall be the setback of the dwelling on the adjoining lot plus one half the difference between the setback of the nonconforming dwelling and the setback required by the Ordinance.

5. A new dwelling constructed on a nonconforming Lot of Record may have a reduced front yard setback with the following restrictions:
 - a. There shall be an existing dwelling located on each side on the adjacent lots.
 - b. The new dwelling shall not be located closer to the road Right-Of-Way than the existing dwellings located on the adjacent lots, or at least one-half of the required setback, whichever is greater.