

4.0 GENERAL PROVISIONS**4.1 Application**

4.1.1 In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

4.1.2 Where the conditions imposed by any provision of the Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

4.1.3 The provisions of this Ordinance shall apply to all land within the County which is not within the boundaries of an incorporated city or a part of an annexation or joint powers agreement.

4.2 Nonconforming Uses and Structures

4.2.1 Any use or structure existing on March 28, 1979, or legally permitted thereafter that because of a change in the ordinance became nonconforming, other than a use specified in subsection 4.2.3, may continue until its normal expiration.

(Ord. #440, adopted 10/20/09)

(A) A nonconformity may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.

(1) If the nonconformity or occupancy is discontinued for a period of more than 1 year; or any nonconforming use is destroyed by fire 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 the damage, and no land use permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(2) If a nonconforming building or structure is destroyed by fire 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 the damage, the County may impose reasonable conditions upon a building land use permit in order to mitigate any newly created impact on adjacent property or water body.

- (3) 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 the damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a land use permit to mitigate created impacts on the adjacent property or water body.
- (B) The County shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in the floodplain areas in accordance with the Floodplain Management Ordinance #196. Notwithstanding Item (A), the minimal improvement necessary to meet the floodproofing requirements of Ordinance #196 shall not be considered an expansion.
 - (C) Existing nonconforming lots in shoreland areas. See subsection 6.1.2 for existing nonconforming lots in areas outside of the shoreland.
 - (1) Item (C) applies only to shoreland lots created prior to June 14, 1972, that do not meet the requirements for lot size or lot width.
 - (2) In a group of 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:
 - (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 Minn. R. Ch. 6120, as may be amended;
 - (b) 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 Minn. R. Ch. 7080, as may be amended and Section 9.22 of the this Ordinance;

- (c) impervious surface coverage shall not exceed 25 percent of each lot;
 - (d) development of the lot must be consistent with the comprehensive plan; and
 - (e) The division of the lots will not create a noncompliant setback from the existing structures to the lot lines.
- (D) Any existing nonconforming shoreland lot created prior to June 14, 1972, not meeting the requirements of subpart a-e must be combined with the 1 or more contiguous lots so they equal 1 or more conforming lots as much as possible. Abutting nonconforming lots that come under common ownership shall not be developed or sold separately. No permits shall be issued for any use or structure on any nonconforming parcel of land that was sold separately after coming under common ownership.
- (E) Contiguous nonconforming lots in shoreland areas under a common ownership that were created on or after June 14, 1972, or not meeting the above standards shall be deemed to be a part of the abutting tract or parcel of land to the extent necessary to reduce or eliminate the substandard features of the lot for the zoning district in which it is situated.
- (F) Notwithstanding item (C) of this subsection, contiguous nonconforming lots 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 Minn. Stat. § 115.55 and Minn. R. Ch. 7080, as may be amended, or connected to a public sewer.
- (G) For lots subject to subpart a-e when evaluating all variances, zoning and building permit applications, interim 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.
- (H) Notwithstanding item (A) of this subsection, any otherwise lawful structure which is rendered nonconforming solely by reason a change in the

setback requirements from roads/road right-of-ways or the expansion of a public road right of way through eminent domain, purchase or other permanent governmental action may be extended, expanded, enlarged, or structurally altered; provided, that any extension, expansion or alteration shall not encroach upon the public road right of way to any greater extent than the existing structure and must comply with all other applicable setback restrictions and requirements of this Ordinance.

- (I) A nonconforming lot, unless combined item (C) of this subsection, may be allowed as a building site without variances from lot size requirements, provided that all structure and septic system setback distance requirements and impervious requirements can be met.
- (J) Notwithstanding item (A) of this subsection, an expansion of a nonconforming structure shall not require a variance if it complies with the following:
 - (1) The area of the expansion is on an existing permitted nonconforming structure and the expansion does not further encroach into the nonconforming setback as the existing structure;
 - (2) The expansion does not cause the lot to exceed the permitted impervious area;
 - (3) The expansion does not increase the size of the structure by more than 20 percent;
 - (4) The lot is not within shoreland or floodplain; and
 - (5) The site is served by a compliant septic system as evidenced by a valid certificate of compliance.

4.2.2 Any structure which will, under this Ordinance, become nonconforming, but for which a land use permit has been lawfully granted or existed on March 28, 1979, shall be considered a nonconforming structure.

4.2.3 No junkyard or auto reduction yard shall continue as a nonconforming use after October 12, 1984, but it may continue as a conditional use in a business, industrial, or agricultural district if, prior to October 13, 1984, the land owner applied for and obtained a conditional use permit to continue said operation.

4.3 Suitability as a Dwelling

4.3.1 No garage, tent, trailer, motor home, accessory buildings storage structure, nor any vehicle or building not specifically approved by the Building Official shall at any time be used as a dwelling.

(Ord. #445, adopted 04/12/11)

4.3.2 1 travel trailer or motor home (not to include mobile homes nor park trailers) is permitted for seasonal use on any lot provided that the following are met:

- (A) Only 1 such unit is allowed per lot.
- (B) Sewage must be properly treated or hauled away.
- (C) The travel trailer is for guests or recreational use only. It may not be occupied on any lot for more than 90 days in any calendar year.
- (D) The unit must have a current license attached in accord with state law.
- (E) Placement of the unit shall comply with all setback requirements for a principal structure.

(Ord. #445, adopted 04/12/11)

4.3.3 A recreational vehicle, camper or travel trailer of the type described in subsection 4.3.1, above, and owned by a non-resident, guest, or visitor, may be parked or occupied by said guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed 30 days in the same calendar year while visiting the resident of said property.

4.3.4 The Department of Development Director may, upon application, grant a temporary permit for the use of a temporary residential structure or permit an existing dwelling unit to remain in conjunction with a home construction project that a duly authorized and valid land use permit has been issued prior to the application for said temporary permit.

- (A) The applicant for said temporary permit shall file an application with the Department of Development Director setting forth the area in which said trailer or dwelling is to be located, together with a copy of the land use permit for the home to be constructed on said property.

- (B) The term of said temporary permit shall not exceed 6 months or upon completion of construction of the residential home in question, whichever comes first. An agreement shall be signed by the land owner prior to issuance of the land use permit acknowledging the requirement for removal of the structure, dwelling or trailer.