



**PLANNING & ZONING**  
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DEPARTMENT

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**ZONING CODE**  
**SECTION 509.25**

2/2008

# NONCONFORMITIES

**Nonconformities** are uses, structures, lots or site improvements which lawfully existed prior to the effective date of the current zoning ordinance or subsequent amendments, and fail to comply with one or more current regulations.

## CONTINUANCE

*Any nonconformity, including the use or occupation of land existing at the time of the adoption of additional control, may be continued through repair, replacement, restoration, maintenance, or improvement, but not including expansion unless:*

- The nonconformity is discontinued for a period of more than one (1) year.
- A nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, and no building permit has been applied for within 180 days of the property is damaged.

\*Subsequent use or occupancy of the land or premises shall be conforming and any nonconforming status shall be terminated.

## ENLARGEMENT OF NONCONFORMING STRUCTURES

A nonconforming building or structure occupied by conforming use may not be expanded or altered to increase nonconformity.

Legal nonconforming single- or two-family dwelling or garage which existed on or before June 1, 1995, which is occupied by a conforming use and does not meet current setback requirements can be expanded up to 100% of the floor area of the existing structure as long as the following are met:

- Expansion does not extend farther into required setback of existing structure;
- Existing structure does not infringe on the setback more than 50% of required setback distance, and
- Expansion meets all other applicable city code requirements.

## NONCONFORMING SITE IMPROVEMENTS

### Parking

Alteration, addition or expansion which results in an increased need for parking shall follow these guidelines:

- Modifications that result in an increase in the applicable unit of measurement (dwelling units, floor area, capacity, etc.) by 50% or less of the original total, will be required to provide additional parking only for this new or modified part of the development.
- Modifications that result in an increase in the applicable unit of measurement by more than 50% of the original total, sufficient parking shall be provided to bring the entire development into conformance.

## Landscaping and Screening

Alternative landscaping or screening may be approved by the Director where due to existing structure placement, lot dimensions, parking requirements, or other improvements it is not possible to provide landscaping or screening required by the ordinance. Alternative landscaping or screening must be in accordance with the following:

- The alternative landscaping or screening will not be detrimental to adjacent properties.
- The alternative landscaping or screening complies with the purpose and intent of current ordinance.

## Additional Site Improvements

The following must be made conforming if a structure or use associate with the nonconforming site improvement is enlarged or expanded.

- Impervious surface coverage as required by applicable zoning district.
- Irrigation system, per subsection 542.03 Subd. 4(h)
- Screening of refuse collection and utilitarian items in accordance with Subsection 542.05.
- Pedestrian circulation as required by Subsection 542.15.
- Bicycle parking in accordance with Subsection 542.17.
- Underground utilities when renovation costs exceed 50% of the value of the structure in accordance with Subsection 542.19.

The Director may modify or waive any of the provisions above based on a written finding that the proposal:

- Would not detrimental to the adjacent properties, and
- Complies with the purpose and intent of the standards of the zoning ordinance.

## Fee

There is no fee or permit for nonconformities.

**This is a guide to the most common questions and problems. It is not intended nor shall it be considered a complete set of requirements.**