

Section 6 Non-Conforming Uses

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. It is necessary and consistent with the establishment of zoning districts that non-conforming buildings, structures and uses not be permitted to continue without restriction.

601. Land

The non-conforming use of land shall not in any way be expanded or extended either on the same or adjoining property.

602. Lot of Record

A non-conforming lot of record that has been recorded prior to the effective date of the 1971 ordinance may be used for any principal use permitted in the zoning district in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the non-conforming lot shall be of a size and design to meet the minimum requirements referenced in Sections 1616 and 1410 for such wells and septic systems.

603. Structures

1. Enlargement or Alterations

No non-conforming structure may be enlarged or altered in any way which increases its non-conformity. No addition or modification to a non-conforming structure with a conforming use shall exceed fifty percent (50%) of its current market value as determined by the Dodge County Assessor's records, unless the entire structure is made conforming.

2. Damage or Destruction

If a non-conforming structure is destroyed by any means to an extent of more than fifty percent (50%) of its current market value, as determined by the Dodge County Assessor's records at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the zoning code. If destroyed to less than fifty percent (50%) of its market value, said restoration shall begin within twelve (12) months or the structure shall be made conforming.

3. Relocation

If a non-conforming structure is moved any distance, for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

604. Use

1. Use Change

Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed back to a non-conforming use.

2. Use, Discontinuance

In the event that a non-conforming use of any structure or structure and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

3. Use, Zone Change

The foregoing provisions relative to non-conforming uses shall apply to buildings, land and uses which hereafter become non-conforming due to classification or reclassification of districts under this Ordinance.

605. Change in Use ***Amended 4/22/97*

Any non-conforming use of land or structure may be changed to another non-conforming use of the same nature or less intensive nature if no structural alterations are involved and if it is found that the relation of the structure and proposed use to surrounding property is such that adverse effects on the occupants and neighboring property will not be greater than if the original non-conforming use continued. Approval for such a change shall be through the approval of a Conditional Use Permit that has considered the following factors:

- 1.) The character and history of the use and of development in the surrounding area.
- 2.) The comparable degree of noise, vibration, dust, odor, fumes, glare, or emissions detectable at the property line.
- 3.) The comparative numbers and kinds of vehicular trips to the site.
- 4.) The comparative amount and nature of outside storage, loading, and parking.
- 5.) The comparative visual appearance.
- 6.) The comparative hours of operation.
- 7.) The comparative effect on existing vegetation.

- 8.) The comparative effect on water drainage.
- 9.) The comparative effect on the environment.
- 10.) Other factors which tend to reduce conflicts of incompatibility with the character or need of the area.

606. Expansion of Non-conforming Use ***Amended 4/22/97*

Non conforming commercial or industrial uses in the ag district may be modified or expanded in certain situations subject to approval as a Conditional Use. In acting on an application for modifying or expanding a non-conforming use, the Commission shall use the Section 6 criteria to determine the impact of modifying or expanding the non-conforming use. A proposal where the Commission finds significant injurious impact should be denied or approved with conditions which will mitigate the impact of the modification or expansion.

Potential modifications or expansions which the Commission may consider shall include:

- 1.) Rebuilding of a structure devoted to a non-conforming use if destroyed to an extent greater than 50% of the replacement value of the structure.
- 2.) Expanding a non-conforming use of structure to a portion of the structure not manifestly arranged or designed for such use at the time the use became non-conforming. Such expansion shall not increase the intensity of the use.
- 3.) The addition of new principal buildings or accessory structures on the same parcel of land occupied or under the same ownership on the effective date that the use became non-conforming. The new structures added must be for such purpose that if not associated with the non-conforming use they would be permitted by the zoning district on the property. The applicant must show that the intensity of use will not substantially increase over the current level of activity with the addition of new structures.

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