

Article IV: Nonconformities

Section 1 General

Where the districts established by this Ordinance, and amendments thereto, contain structures, uses or lots of record that were legally established or created prior to the enactment of this Ordinance, and amendments thereto, and which structures, uses or lots of record would be prohibited under the provisions of this Ordinance, said structures, uses or lots of record may be continued subject to the provisions herein described.

Section 2 Nonconforming Uses – All Zone Districts

- A. No Increase Allowed.** Nonconforming uses shall not be enlarged, increased, moved or extended to occupy a greater area of land than was occupied at the effective date of this Ordinance and amendments thereto, except to bring the use into conformity with the provisions of this Ordinance.
- B. No Change to Other Nonconforming Uses.** Nonconforming uses shall not be changed to another nonconforming use.
- C. Effect of Discontinuance.** Nonconforming uses shall not be re-established if voluntarily discontinued for a continuous twelve (12) month period.
- D. Accessory Structure Allowed.** Nonconforming uses may add an accessory structure, provided the structure does not increase the nonconformity or create a new non-conformity.

Section 3 Nonconforming Structures - All Zone Districts

- A. Conditions for Enlargement.** A nonconforming structure may be enlarged or altered in a way that does not increase the non-conformity provided that:
 - 1. The proposed addition meeting the required setbacks for the zone district shall not exceed seventy-five percent (75%) of the original ground floor area of the structure; and
 - 2. The height of the completed structure will not exceed that of the original structure.
 - 3. The ground floor area is not enlarged by more than twenty-five percent (25%) of the original structure.
- B. Effect of Destruction.** Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, but for improvement that does not include expansion, unless:
 - 1. the nonconformity or occupancy is discontinued for a period of more than one year, or
 - 2. any nonconforming use is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value, and no land use permit has been applied for within one-hundred-eighty (180) days of when the property is damaged. In this case, Duluth Township Planning Commission may impose reasonable conditions upon a land use permit in order to mitigate any newly created impact on adjacent property. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. Duluth Township may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit Duluth Township from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

- C. Moving of Structure.** Should a non-conforming structure be moved for any horizontal distance, it shall be done in such a manner as to conform to the regulations for that district in which it is located after it is moved.
- D. Repair and Maintenance Allowed.** Normal repairs and maintenance necessary to keep nonconforming structures in sound condition, not including exterior structural alterations, shall be permitted.

Section 4 Construction on Nonconforming Lots of Record

- A. Lots of Record.** Lots of record may be permitted as a buildable lot if all of the following criteria can be met:
 1. The lot is a lot of record that meets the following definition:
 - a. A lot that is part of a subdivision recorded in the office of the County Recorder or Registrar of Titles of St. Louis County, Minnesota, or
 - b. A lot or parcel described by metes-and-bounds, the description of which has been lawfully created and recorded prior to the date of enactment of this Ordinance, or amendments thereto, provided that a lot on federal, state, tax forfeited or Minnesota Power lands that have been leased out prior to the date of enactment of this Ordinance shall be considered a lot of record even though that lot has not been individually recorded in the office of the County Recorder or Registrar of Titles.
 2. The lot is in separate ownership from abutting lands at the time of the adoption of this Ordinance.
 3. The lot meets fifty percent (50%) of the lot width and lot area requirements for lots in **FAM-1, FAM-2, FAM-3, MUNS-4** districts.
 4. All other applicable zoning requirements are met.
 5. Exception for Zone Districts **SMU-6, SMU-6A, SMU-8, SCO-8A, and SCO-8B.** Lots of record in the Office of the County Recorder on the date of enactment of the Lake Superior Management Area controls as of August, 1991, which do not meet the requirements of **Article VII, Section 2, page 63**, may be allowed as building sites without variances from the lot size requirements provided all of the following conditions are met:
 - a. The use is permitted in the zoning district.
 - b. The lot has been in separate ownership from abutting lands at all times since it became substandard.
 - c. Was created compliant with official controls in effect at the time
 - d. Sewage treatment and setback requirements of this ordinance are met.
- B. Adding Accessory Structure.** Nonconforming lots containing a principal structure may add a permitted accessory structure, provided the accessory structure will meet all minimum setback requirements of this Ordinance and will not cause the maximum percentage of lot coverage to be exceeded.
- C. Additions.** Additions to principal or accessory structures located on nonconforming lots may be permitted, if any such addition will meet all minimum setback requirements of this Ordinance, and will not cause the maximum percentage of lot coverage to be exceeded.
- D. Requirement for Combining of Individual Nonconforming Lots.** If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of **Article V, Section 3, page 51** of this Ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of **Article V, Section 3, page 51** of this ordinance.

Section 5 Amortization of Certain Nonconformities in All Zone Districts

- A. Existing Uses that Must Conform to Screening.** All presently existing open-land uses of the type listed in **Article III, Section 5, page 42** (junk yards, auto wrecking yards, solid waste disposal facilities, building material storage yards, maintenance equipment or contractor yards, bulk oil and gas plants, borrow pits, and other similar uses) that do not conform to the screening requirements in **Article III Section 5, page 42** shall be required to conform and comply to this Ordinance upon written notice from the Planning Director, or to cease and remove the nonconforming use. The notice shall establish a reasonable time limit within which the owner shall provide screening.
- B. Signs in the Public Right-of-way.** All signs located within the right-of-way of any public road shall be removed. The Planning Director may enter upon the right-of-way of any public road and remove any advertising sign after receipt of permission from the appropriate road authority.