

SECTION 17.07

NONCONFORMING USES, STRUCTURES, AND LOTS

1. CONTINUANCE OF USE.

- A. Any lawfully established use of a building, structure or land at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the use regulations for the District in which it is located shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- B. Any lawfully established construction of a building or structure at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the dimensional regulations for the District in which it is located shall be deemed a legal nonconforming structure and may be continued, except as otherwise provided herein.
- C. Any lawfully established lot or parcel of land at the time of enactment of this chapter or any amendment thereto which does not meet the requirements for the District in which it is located shall be deemed to be a legal nonconforming lot and may be used in accordance with this chapter and as provided herein.

2. CLASSIFICATION AND REGULATIONS.

A. Existing Nonconforming Uses.

The lawful nonconforming use of land without buildings or structures, or

The lawful nonconforming use of water, or

The lawful nonconforming use in a conforming building or structure, or

The lawful nonconforming use in a nonconforming building or structure, or

The lawful nonconforming use on a conforming lot, or

The lawful nonconforming use on a nonconforming lot, or

The lawful nonconforming use of land with conforming buildings or structures, or

The lawful nonconforming use of land with nonconforming buildings or structures which existed at the time of the enactment of this chapter or any amendment applicable thereto may be continued although the use does not conform with the provisions of this chapter; however:

- 1. Only that use in actual existence at the time of the enactment of this chapter or any amendment applicable thereto may be so continued as a legal nonconforming use and said use may not in any way be extended, enlarged, substituted, intensified, moved, added to or changed.
- 2. No structure containing a legal nonconforming use or, on lands containing a legal nonconforming use, may be extended, enlarged, rebuilt, substituted, intensified, moved, remodeled, modified, or added to except when required to do so by law or until the legal nonconforming use has been made to conform with this chapter.

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3. No lot on lands containing a legal nonconforming use, may be reduced in size, modified, increased in size or changed in any manner except when required to do so by law or until the legal nonconforming use has been made to conform to this chapter.
4. If a legal nonconforming use is discontinued or terminated for a period of twelve months, any future use of the structure, land or water shall conform to the provisions of this chapter.

B. Existing Conforming Uses on Nonconforming Lots Containing Conforming Structures.

1. A conforming building or structure existing at the time of enactment of this chapter or any amendment applicable thereto may be continued, although the lot does not conform to the requirements of this chapter, as long as all uses on the lands containing the building or structure and all uses of the buildings or structures on the lands are legal conforming uses.
2. The aforementioned building or structure may be extended, enlarged, substituted, moved, remodeled, modified, or added to as long as any such change conforms with the established setback, offset, height, parking, loading, and access provisions of this chapter or may be totally rebuilt if such reconstruction is identical in size, style, shape and use to the original building or structure.

C. Legal Conforming Uses on a Conforming Lot or Nonconforming Lot Containing Legal Nonconforming Structures.

1. The legal conforming use of a nonconforming building or structure existing at the time of the adoption or amendment of this chapter whether on a conforming lot or nonconforming lot may be continued, although the building's or structure's size or location does not conform with the established setback, offset, height, parking, loading or access provisions do not conform with this chapter.
2. The aforementioned building or structure may be extended, enlarged, substituted, moved, remodeled, modified or added to as long as any such change conforms with the established setback, offset, height, open space, parking, loading, and access provisions of this chapter. (Amd. 00-507a)
3. Legal nonconforming buildings or structures existing at the time of the adoption or amendment of this chapter with a legal conforming use whether on a conforming or nonconforming lot may be moved and if moved must conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter.
4. (Created 2013-01) Notwithstanding subsections 1, 2, and 3, above, repair, maintenance, renovation, remodeling and restoration of such legal nonconforming building or structure can be conducted under circumstances allowed by Wisconsin Statutes Section 62.23(7)(hb) or (hc), in full compliance with statutes. This subsection (4) is intended to comply with Wisconsin Statutes Section 62.23(7)(hb) and (hc).

D. Current File.

A current file of all legal nonconforming uses, legal nonconforming structures, and legal nonconforming lots, shall be maintained by the Code Enforcement Officer listing the following: owner's name and address, description of all uses of the structure, land or water, a site plan of the property showing the location and size of all structures on the same, a plat map showing the dimensions of the lot, and equalized value of the land and improvements at the time the legal non-conformity was created.

E. Burden of Proof.

The property owner has the burden of showing that a use, structure or lot is legal nonconforming. The determination shall be made by the Plan Commission after a majority of the members of the Plan Commission have been satisfied by proof presented by the property owner or agent that the use, structure and/or lot is in fact legal nonconforming. Appeals from the decision of the Plan Commission concerning the determination of legal non-conformity may be made by any person aggrieved to the Town Board. Such appeal shall be filed with the Clerk within thirty (30) days after the determination by the Plan Commission.

F. Reversion.

Once a legal nonconforming use, legal nonconforming structure or legal nonconforming lot has been changed to conform, it shall not revert back to legal nonconforming status.

G. Substandard Lots.

In any District, substandard lots are regulated by section 17.03 5.B.

H. Conditional Use Status.

Subject to the provisions of section 17.05 of this code, conditional use status may be granted to existing legal nonconforming uses upon petition of the owner where such use is determined to not be any of the following:

1. adverse to any of the following:
 - a. public health,
 - b. safety, or
 - c. welfare;
2. in conflict with the spirit or intent of the chapter; or
3. otherwise detrimental to the community and particularly the surrounding neighborhood.

Section 17.07 2. I.

I. **Limited Shoreland Exception.** (created 2013-01)

Notwithstanding limitations that may apply to structures and lots by this Section 17.07, in locations that are subject to the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance, and State DNR Shoreland Zoning Standards, legal nonconforming structures may be located, maintained, expanded, replaced, repaired or relocated as allowed by the State DNR Shoreland Zoning Standards; and construction of buildings or structures may be allowed on legal nonconforming lots as allowed by the State DNR Shoreland Zoning Standards; provided that this exception applies only to the extent as is required by Wisconsin Statutes Section 59.692(2m).