

Chapter 5.2 - Non-Conforming Uses and Developments

Sections:

5.2.100 - Non-conforming Uses

5.2.200 - Non-conforming Developments

5.2.100 -- Nonconforming Uses

Where at the time of adoption of this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. **Creation of nonconforming situations.** Within the districts established by this title or amendments that may later be adopted, there may exist lots, structure, uses of land, and structures which were lawful before the effective date of the ordinance codified in this title, but which would be prohibited regulated or restricted under the terms of the ordinance codified in this title or future amendment;
- B. **Expansion Prohibited.** No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;
- C. **EXCEPTIONS.** Within the Residential District and Sub-Districts the Non-conforming Use designation shall be applied consistent with the criteria within this section of Chapter 5.2:
 - 1. Prior to any additions to a lot a plot plan shall be submitted to the City of Boardman to allow for identification of "non-conforming" uses or structures on the property.
 - 2. The non-conforming use shall apply only to the primary structure or other structures which are identified as non-conforming, to allow for typical residential uses such as accessory structures to be added to the property.
 - 3. Addition(s) shall comply with all current provisions of applicable Development Code language other than the exceptions identified in this section of Chapter 5.2.
- D. **Location.** No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code;
- E. **Discontinuation or Abandonment.** The nonconforming use of land shall not be discontinued for any reason for a period of more than 12 months. For purposes of calculating the 12 month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
 - 1. On the date when the use of land is physically vacated;
 - 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;

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3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

F. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

5.2.200 Non-conforming Development

Where a development exists at the effective date of adoption or amendment of this title that could not be built under the terms of this Ordinance by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure; and the structure was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming development may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be enlarged or altered in a way that satisfies the current requirements of the Development Code or will decrease its nonconformity;
- B. Should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than 50 percent of its current value as assessed by the Morrow County assessor, it shall be reconstructed only in conformity with the Development Code; and
- C. Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of the Development Code.
- D. Non-conforming street access connections that exist prior to July 1, 2003, which do not conform with the standards in Chapter 3.1 shall be brought into compliance when the following conditions exist:
 1. When a new access connection permit is requested for the subject property; or
 2. When a building permit or land use application is submitted that results in an increase of trip generation by 20% and 100 average daily trips (ADT)