

394.36 NONCONFORMITIES.

Subdivision 1. **Continuation of nonconformity; limitations.** Except as provided in subdivision 2, 3, or 4, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, although the use or occupation does not conform to the official control. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

Subd. 1a. **Substandard structures.** Notwithstanding subdivision 1, Minnesota Rules, parts 6105.0351 to 6105.0550, may allow for the continuation and improvement of substandard structures, as defined in Minnesota Rules, part 6105.0354, subpart 30, in the Lower Saint Croix National Scenic Riverway.

Subd. 1b. **Designated floodplains.** Notwithstanding subdivision 1, a county shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the national flood insurance program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

Subd. 2. **Regulations.** The board may by ordinance adopt such regulations not contrary to law as it deems desirable or necessary to classify, regulate and control, reduce the number or extent of and provide for the gradual elimination of nonconformities and occupancies, including requiring nonconformities to conform with the official controls of the county or terminate within a reasonable time as specified in the official controls. The board may by ordinance impose upon nonconformities additional regulations relating to appearance, signs, lighting, hours of operation and other aesthetic performance characteristics including but not limited to noise, heat, glare, vibrations, and smoke.

Subd. 3. **May buy if detrimental.** A nonconformity that is determined by the board to be detrimental to the achievement of the goals and objectives of the comprehensive plan may be acquired by the board by purchase.

Subd. 4. **Nonconformities; certain classes of property.** This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. A nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but

not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, the board may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

History: 1959 c 559 s 16; 1974 c 571 s 41-43; 2002 c 366 s 5; 2006 c 270 art 1 s 3-5