

PROPOSED AMENDMENTS TO THE ISANTI COUNTY ZONING ORDINANCE AS THEY RELATE TO NON – CONFORMING USES

SECTION 3. Jurisdiction, Scope and Interpretation

Subdivision 2. Scope

From and after the effective date of this Ordinance, the use of all land and every building, or portion of a building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in Isanti County shall be in conformity with the provisions of this Ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, or changed, subject to the special regulations herein provided with respect to non-conforming properties or uses.

SECTION 4. Rules and Definitions

Subdivision 2. Definitions

Non-Conforming Use. Means any legal use, structure or parcel of land already in existence, ***recorded, or authorized*** before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, ***recorded or authorized***.

SECTION 22. Non-Conforming Uses

Subdivision 1. General Rule

Except as otherwise provided below, any nonconformity, including the lawful use or occupation of land or premises at the time of the adoption of an official control, may be continued, despite the use or occupation not conforming to the official control. Those nonconformities, however, shall be subject to any applicable state statutes, local ordinances, and other regulations, including statutes, ordinances and regulations that address alterations or additions, repair after damage, discontinuance of use, and intensification or expansion of use.

Subdivision 2. Non-Conforming Buildings and Uses

1. This paragraph applies to homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a non-conformity, 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 greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, 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 greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated

market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

2. No dwelling existing on the effective date of this ordinance shall be deemed a non-conforming use by reason of its location on a lot which does not meet the requirements of this Ordinance with respect to lot size, dimensions, or setbacks.
4. Buildings found to be non-conforming only by reason of height, yard or area requirements shall be exempt from the provisions of Paragraph 1 of this Subdivision.
5. Any parcel that is rendered non-conforming as a result of a taking for a public purpose shall be treated as a conforming parcel under this ordinance provided that it continues to contain at least sixty (60) percent of the required land area, width and buildable area.

Subdivision 5. Non-Conforming Sewage Treatment Systems

1. A “non-conforming sewage treatment system” means those septic systems or privies that do not provide for adequate treatment of sewage or meet specific requirements. They include:
 - a. Cesspools.
 - b. Leaching pits.
 - c. drywells.
 - d. Seepage pits.
 - e. Systems with less than three feet of unsaturated soil or sand between the bottom of the drainfield or mound rock bed and the limiting soil characteristic, which includes a seasonal high water table as evidenced by the presence of ground water, mottled soil, or bedrock.
 - f. Systems discharging sewage to:
 - i. the surface (including tile lines),
 - ii. active or unused wells,
 - iii. bodies of surface waters, or
 - iv. any rock or soil formations that are not conducive to purification of water by filtration;
 - g. Systems that do not meet well setback requirements.
 - h. Systems where any part of the system is under a building.
 - i. Privies with less than three feet of separation from the bottom of an open pit to the limiting soil characteristics described in “e” above.
 - j. Privies with sealed containers that do not meet the capacity and construction requirements of Minnesota Chapter 7080.2280, or as amended.
 - k. Septic systems where the septic tank does not meet the minimum setback of 10' from an occupied dwelling with a basement.
 - l. Lack of a septic system if running water is available to the property.
2. A sewage treatment system not meeting the requirements of the Minnesota Regulations, Chapter 7080, 7081 and 7082, or as amended, or the requirements of this Ordinance, whichever is most restrictive, must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment systems improper setback from the ordinary high water level.
3. The governing body of Isanti County has by formal resolution notified the Commissioner of its program to identify non-conforming sewage treatment systems. On all lakes and streams, a licensed MPCA Designer/*Inspector* will inspect all septic systems at the point of sale and when a property owner applies for a building permit in accordance with Section 14, Subdivision 3. Isanti County will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of

time which will not exceed 10 months. Isanti County will target shoreland areas when and if additional funds are made available for such a program.

Subdivision 6. Discontinuance, *Expansion and Intensification*

1. ***If a nonconformity or occupancy is discontinued for a period of more than one year, or if any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its estimated market value, any subsequent use or occupancy of the land or premises shall conform to all current statutes, ordinances, or regulations.***

Non – conforming buildings or uses shall not be expanded or intensified except where such changes are required for health or safety purposes by state or federal law.

Subdivision 7. Alterations

The lawful use of a building existing at the time of the adoption of this Ordinance may be continued although such use does not conform with the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restrictive classification. The foregoing provisions shall also apply to non-conforming use of a building that has been changed to a more restricted use or to a conforming use; such use shall not thereafter be changed into a less restricted use.

Subdivision 8. Residential Alterations

Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building.

Subdivision 9. Restoration

1. No building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than fifty (50) percent of its value shall be restored except in conformity with the regulations of this Ordinance. Single family dwellings which are non-conforming by reason of height, yard, or area requirements shall be exempt from the provisions of this Subdivision and may be restored to their original condition; except that any building located in the Flood Plain (FP) District which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than fifty (50) percent of its value shall be restored in conformity with the regulations of this Ordinance.
2. Any building that has been damaged to the extent of more than fifty (50) percent of its value or has been deemed to be unsafe, based upon the adopted Minnesota State Building Code, must be removed within six (6) months of sustaining the damage or from the date of official notification.

Subdivision 10. Normal Maintenance

Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary, non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the County Zoning Administrator.

Subdivision 11. Exceptions

1. Construction on Non-conforming Lots of Record in the (RS) Rural Service Center District, B – Business District, (I) Industry District, (S) Shoreland District and (SR) Rum River Scenic District.
 - a. Lots of record in the County Recorder’s Office which are substandard in size or dimension requirements may be allowed as building sites, provided: such use is permitted in the zoning district; the lot (if created before February 10, 1982) has been in separate ownership from

abutting lands at all times since it became substandard; sewage treatment, flood plain management regulations, and setback requirements of this ordinance are met; except in the shoreland district lots may be allowed if they conform to subdivision 10 (b).

2. Construction on Non-Conforming Lots of Record in the (A/R) Agriculture/Residential District.

- a. Lots of record in the County Recorder's Office which are substandard in size or dimension requirements may be allowed as building sites, provided: such use is permitted in the zoning district; the lot was created before February 10, 1982; the building lot area is greater than seventy-five percent (75%) of the minimum lot area required and sewage treatment, flood plain management regulations, and setback requirements of this Ordinance are met.