

SECTION 400 - NONCONFORMING BUILDINGS, STRUCTURES AND USES OF LAND

A nonconforming building or structure existing at the time of the adoption of these Zoning Ordinances may be continued, maintained, and repaired except as otherwise provided in this article.

SECTION 401 – INTENT (Revised 10/10/12)

To permit nonconformities to continue until they are removed, it is further the intent of these Zoning Ordinances that nonconformities shall not be enlarged upon, expanded, or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, unless it is an agricultural use on forty (40) or more acres.

- A. Nothing in these Zoning Ordinances shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of amendments to these Zoning Ordinances and upon which actual building construction has been carried on diligently.
- B. The use of a nonconforming building or structure may be changed to a use of the same or more restricted district classification.
- C. If a nonconforming building, structure, or portion thereof becomes vacant and remains unoccupied for a continuous period of one (1) year, any subsequent use or occupancy of the land and premises shall be in conformance with the official controls pursuant to the provisions of SDCL 11-2-26 and 11-2-27.
- D. Any nonconforming use of land shall not be expanded in such a manner so as to increase its nonconformity.
- E. Alterations may be made to a nonconforming structure for health and safety purposes provided that such alterations do not expand the use beyond that which existed at the time of Zoning Ordinance adoption.
- F. No building which has been damaged by fire, explosion, or an Act of God to the extent of more than fifty (50) percent of its value, shall be restored, except in conformity with these Zoning Ordinances unless special circumstances warrant a variance by the Board of Adjustment.

- G. Where an individual lot was held in separate ownership from adjoining properties or was platted prior to February 1, 1994, in a recorded subdivision, approved by the County Board of Commissioners, and has less area or less width than required in other sections of these Zoning Ordinances, such lot may be occupied according to the permitted uses and conditional uses as provided for in the district in which the lot is located.
- H. If two or more lots or portion of lots with continuous frontage in single ownership were of record prior to February 1, 1994, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be a developmental lot for the purposes of this title. Where developmental lots are larger than required by these Zoning Ordinances, said lots may be subdivided into smaller lots except no parcel may be divided so as to create a lot smaller in lot width or lot area than required by these Zoning Ordinances.
- I. Alterations may be made to a nonconforming structure, if the building or structure is legally conforming as to use, but legally nonconforming as to setbacks or height. The building or structure may be enlarged or added to, provided that the enlargement or addition complies with the requirements of the district in which the building or structure is located.

SECTION 402 - USES UNDER CONDITIONAL USE PERMITS NOT CONFORMING USES

Any use, which is permitted as a Conditional Use in a district under the terms of these Zoning Ordinances (other than a change through Board action for a nonconforming use to another use not generally permitted in the district), shall not be deemed a nonconforming use in such district.