



City of Grand Forks
 Staff Report
 Planning & Zoning Commission – June 4, 2025
 City Council – June 16, 2025

Item 3-6 (Final) – Nonconforming Code Update	
Title: Ordinance to Amend Chapter XVIII Land Development Code, Article 4 Nonconforming Uses of the Grand Forks City Code	
Prepared By: Andrea Edwardson, Planning Manager	Submitted By: Ryan Brooks, Planning & Community Development Director
Purpose: To align this section of code with recent approved state legislation, to address un-enforceable sections of the article, and to utilize language that is easier to understand overall which in-turns allows for easier enforcement.	

Staff Recommendation
Recommend approval of the Ordinance to Amend Chapter XVIII Land Development Code, Article 4 Nonconforming Uses of the Grand Forks City Code, and to request City Council set and hold a public hearing for June 16, 2025.

Application Status
May 7, 2025 – Planning and Zoning Commission Recommended Action: Motion by Holt, second by Budke for preliminary approval of applicant request. Motion carried unanimously.
May 19, 2025 - City Council Action: Motion by Sande, second by Berg to approve. Motion carried unanimously.
June 4, 2025 – (Public Hearing) – Planning & Zoning Commission Recommended Action:
June 16, 2025 – (Public Hearing) – City Council Action:

Consistency with 2050 Land Use Plan
Amendment is in line with <ul style="list-style-type: none"> • Housing Goal 1 Object B – Maintain and strengthen the unique identity of existing neighborhoods • Housing Goal 2 Objective B – The City will not constrain housing supply with unnecessary regulation and will ensure regulations allow housing types that families can buy or rent.

Background and Discussion
Staff have seen an increase in the frequency of existing nonconforming small lots (less than 3500) needing variances in order to qualify for financing. Nonconforming status typically prevents residential properties from having access to financing as the nonconforming nature means that

the property cannot be rebuilt, therefore insured and secured for the financing. The variance process often adds 4-6 weeks minimum timeline to property sales, which have jeopardized the sale for some property owners in the past.

In addition, a non-conforming bill has been proposed through the state legislature for multiple sessions and was adopted and approved this session. HB 1500 was proposed in response to the financing issues non-conforming residential properties have been subject to. The bill aimed to require all ND localities to allow existing residential properties to be allowed to be rebuilt to current footprints if certain requirements were met. Fargo and Bismarck have previously amended their non-conforming sections to address this issue, and staff is proposing Grand Forks update our code to align with state direction as well as alleviate this financial hurdle some of our most affordable housing properties are facing.

The Grand Forks non-conforming section has not been amended since the last Land Development Code overhaul in '87. Staff determined it was best to review the majority of the article rather than a piece-meal approach.

Non-conforming = legally built/met requirements at time of construction, zoning code changed, now it is non-conforming.

- Non-conforming **land use** – activity taking place on the property is not allowed by current zoning. (Property was built when area was zoned commercial, district was changed to residential, commercial no longer allowed making the commercial *use* non-conforming)
- Non-conforming **structure** – structure itself does not meet current zoning setbacks, height limits, etc.
- Non-conforming **lot** – lot size does not meet current zoning minimums.

Current code encouraged properties to become dilapidated and unsafe by prohibiting repairs as well as prohibited expansions or alterations to non-conforming properties. The code update encourages repairs and safe properties while keeping the limitations of expansions, alterations, and improvements a non-conforming property can make.

Major policy changes staff recommend:

- 1) Permit repairs and maintenance of non-conforming properties. Staff have not prevented maintenance requests in the past.
- 2) Remove amortization option of non-conforming uses. Amortization option has not been used to staff's knowledge since the code was implemented in the '80s.
- 3) Include HB1500 language to permit residential properties to be rebuilt if certain requirements are met.
- 4) Allow for all existing structures to be rebuilt to existing footprints, with conditions, *if use is conforming*. HB 1500 specifically targeted residential, but staff is recommending that if a use is conforming to the district but the structure doesn't meet 1) setbacks, height limits, etc, and 2) meets the specific requirements laid out in code, that it be permitted to be rebuilt to current footprint if it were to be damaged. North end properties are mostly affected by this as most were built prior to current zoning standards.

- 5) Including an appeals section to clearly indicate process should staff decision wish to be appealed.

Through this review and update process, Planning & Zoning Commission directed staff to identify any existing non-conforming residential use properties. Staff identified 43 properties that were reviewed by a sub-committee of Planning & Zoning commissioners. A report of that review is provided as a separate item on the May 7th P&Z agenda for further direction and consideration.

Notices

Grand Forks Herald Public Hearing Notice Published: May 21, 2025

Comments Received: None at time of posting.

Findings of Fact

- Current Non-conforming ordinance encouraged dilapidation of properties in order to facilitate properties to conform to newly established zoning requirements.
- Proposed update would encourage properties to be maintained, but not permitted to expand or worsen non-conforming nature. It would rely on market pressures to encourage conformance with new zoning regulations.
- Current minimum lot size non-conforming statute prohibits lots existing today from accessing financing options due to non-conforming status. Update would allow existing lots with existing structures to be rebuilt at current footprint, with conditions, thereby allowing financing options for the property.
- Update is recommending non-conforming structures for all uses, regardless of type (residential, commercial, industrial) be rebuilt in current footprint, provided conditions listed are met.
- Proposed code amendment is intended to be easier to understand and enforce for staff and property owners.
- Ordinances and code amendments require preliminary and final approvals by P&Z and City Council.

Attachments

- Draft Ordinance Changes with Staff Comments addressing recommended removals, re-formatting, and new policy recommendations.
- March 5th P&Z Presentation regarding Non-conformities
- [HB1500](#)
- Draft Ordinance

Chapter XVIII Land Development Code Article 4 of the Grand Forks City Code relating to the Non-conforming Use requirements is hereby by amended to provide as follows:

ARTICLE 4. NONCONFORMING USES

18-0401. Statement of intent.

(1) Within the districts established by this chapter or amendments that may later be adopted there exist:

(A) Lots;

(B) Structures;

(C) Uses of land and structures; and

(D) Characteristics of use;

which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, or for the reasonable useful life of the building, but not to encourage their survival. It is further the intent of this chapter 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.

(2) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

(3) To avoid undue hardship, nothing in this chapter 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 or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the piling of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on efficiently.

18-0402. Effective date of this chapter.

Whenever this article refers to the "effective date" of an ordinance or the "effective date" of adoption of an amendment, the reference shall be deemed to be the effective date of any ordinance whether adopted before or after the original adoption of the Grand Forks City Code of 1987, which renders a lot, use of land, structure, mobile home park, junkyard, sign, or any combination thereof nonconforming with its terms.

18-0403. Nonconforming lots of record.

(1) In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record containing a minimum of three thousand five hundred (3,500) square feet on October 6, 1980, (notwithstanding limitations imposed by other provisions of the various zoning ordinances and regulations of the City of Grand Forks). Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, width, depth or any combination thereof, that are generally applicable in the district, provided that yard dimensions and requirements other than those

Commented [AE1]: Language updated to clearer definitions and distinctions between nonconf types. Found in 18-0401 of proposed code.

Commented [AE2]: Recommending removal as language is redundant. Unless a different date is given, effective dates follow ordinance adoption dates.

Commented [AE3]: Language updated - found in 18-0403 nonconf lots.

Commented [AE4]: POLICY CHANGE - The 3500 minimum lot size requirement is requiring property owners to submit for a variance, a 4-6 week process, to bless their existing lot size and proceed with a sale or refinancing. The process has caused delays and in some cases have put sales in jeopardy.

applying to area, width, depth, or any combination thereof, of the lot shall conform to the regulations for the district in which such lot is located.

- (2) ~~If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on October 6, 1980, and if all or part of the lots do not meet the requirements established for lot width, depth, and area, the lands involved shall be considered to be an undivided parcel for purposes of this chapter. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width, depth, and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width, depth, or area below the requirements stated in this chapter.~~
- (3) ~~Maintenance of a building or other structure situated on any nonconforming lot of record will be permitted when it includes necessary nonstructural repairs and incidental alterations.~~

~~18-0404. Nonconforming uses of land (or land with minor structures only).~~

~~Where at the effective date of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:~~

- (1) ~~No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.~~
- (2) ~~No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such at the effective date of adoption or amendment of this chapter.~~
- (3) ~~If any such nonconforming use of land ceases for any reasons for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.~~
- (4) ~~No additional structure not conforming to the requirement of this chapter shall be erected in connection with such nonconforming use of land.~~

~~The construction and use of structures accessory (accessory structures) to nonconforming residential uses of land shall not be considered an enlargement or extension of the nonconforming residential use.~~

~~18-0405. Nonconforming structures.~~

~~Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, the location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:~~

- (1) ~~No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.~~
- (2) ~~Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than sixty (60) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.~~
- (3) ~~Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.~~
- (4) ~~Except as hereinabove specifically provided, all nonconforming commercial or industrial uses of structures located within any U-D, R-1, R-2, R-3, R-4, and R-M districts shall be discontinued and the building thereafter devoted to a use permitted in the district in which such building is located; provided, however, that any such nonconforming uses in buildings existing at the effective date of this~~

Commented [AE5]: Language updated and included in 18-0403 - 2 Lot Merger section

Commented [AE6]: POLICY CHANGE
The enforcement of the limitation of repairs has not occurred at a staff level. We have not refused anyone to repair a roof, something most would call a 'structural repair' that shouldn't be allowed by this previous code language.

Staff recommends allowing repairs to made and financing to be available.

Commented [AE7]: This section and language seemed to be redundant with the 18-0405 uses and structures section, aside from lower value amounts. The intent of this is referring to vacant land, which is addressed in the update 18-0403 (1) vacant lot

chapter which does not conform to the provisions of this chapter shall be discontinued within a reasonable period of amortization of the building; uses of land which become nonconforming by reason of a change in this chapter shall also be discontinued within a reasonable period of amortization of the building. A reasonable period of amortization shall be construed to be normal life of the building after original construction; sixty (60) percent of normal life after the last major alteration prior to adoption of this chapter; or twenty five (25) percent of normal life after the date of adoption of this chapter, whichever shall be longer. Normal life shall be considered to be forty (40) years for buildings of ordinary wood construction; fifty (50) years for buildings of wood and masonry construction; and sixty (60) years for buildings of fireproof construction.

18-0406. Nonconforming uses of structures or of structures and premises in combination.

If lawful use involving individual structures with a replacement cost of two thousand five hundred dollars (\$2,500.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.
- (2) Any conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption, or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
- (3) Any lawful use of a building existing at the effective date of this chapter may be continued, even though such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of adoption of this chapter.
- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- (5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for eighteen (18) consecutive months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- (6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this subsection, is defined as damage to replacement cost at time of destruction.

(Ord. No. 2849, § 1, 12-7-87)

18-0407. Repairs and maintenance.

- (1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months for ordinary repairs, or for repair or replacement on nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

Commented [AE8]: Language updated - found in 18-0404 structures section.

Commented [AE9]: POLICY CHANGE
To current staff's knowledge, this section has yet to be utilized since its adoption in the 80s. Given the current economic markets, staff feels functioning properties that pose no health and safety risks should be allowed to continue and be sellable. Also, amortization of a property would require city dollars to compensate the property owner for the discontinuation of use and property.

Staff feels such efforts are not worth prioritizing and recommends the removal of this option from code.

Commented [AE10]: This section blurred the line too much between the two different distinctions between use and structure. The update proposes clear separations and expectations.

ARTICLE 20-10 NONCONFORMITIES

~~(2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reasons of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located, provided that the city building inspector shall be authorized to direct temporary repairs to nonconforming uses when the same are required to protect the safety of the persons on or about the premises.~~

18-0401. General

(1) Overview

The regulations of this article establish regulations that govern uses, structures, lots and other current circumstances that came into being lawfully but that do not conform to one or more requirements of this Land Development Code. The regulations address the following types of nonconformities:

(A) Nonconforming Uses

Nonconforming uses are uses that were established in accordance with zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the use regulations of the underlying zoning district. A use that was legally established without a Conditional Use Permit shall be deemed to have a Conditional Use Permit and shall not be deemed nonconforming solely because a Conditional Use Permit is now required for the use.

(B) Nonconforming Structures

Nonconforming structures are buildings or structures that were established in accordance with all zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the dimensional standards of the underlying zoning district.

(C) Nonconforming Lots

Nonconforming lots are lots that were legally created in accordance with zoning district minimum lot size and dimensional standards in effect at the time of their creation, but which, because of amendments to the zoning regulations, no longer comply with the minimum lot size or other dimensional standards of the zoning district.

(2) Policy

It is the general policy of the City to allow uses, structures or lots that came into existence legally and in conformance with then-applicable requirements but that do not conform to all of the applicable requirements of this Land Development Code to continue to exist and be put to productive use, but to bring as many aspects of such use into conformance with current Land Development Code as is reasonably practicable, all subject to the limitations of this Article. The limitations of this Article are intended to recognize the interests of the property owner in continuing to use the property but to control the expansion of the nonconformity, to control re-establishment of abandoned uses, and to limit re-establishment of buildings and structures that have been substantially destroyed.

(3) Authority to Continue

Nonconformities shall be allowed to continue in accordance with the regulations of this Article.

(4) Determination of Nonconformity Status

The burden of establishing that a nonconformity lawfully exists is the owner's burden, not the City's.

(5) Repairs and Maintenance

Repairs and normal maintenance required to keep nonconforming uses, structures and lots in a safe condition are permitted, provided that no alterations may be made except those allowed by this Article or required by law or ordinance.

Commented [AE11]: POLICY CHANGE

Repairs and maintenance expectations are simplified under the updated 18-0401 General Section, item 5. The updated language encourages repairs to keep properties in safe conditions, the old encouraged properties to become dilapidated and non-functional.

The previous language was not being enforced due to staff capacity limitations as well as general property owner pushback.

Staff recommends removing it to allow properties to be maintained in safe manner.

Commented [AE12]: Language updated and intent of this language carried through in proposed update Section 18-0402 Uses.

Separately for awareness, If any property, non-conforming or not, is unsafe, there is a city process for condemning it, [Chapter 19, Article 7, Dangerous Buildings](#).

(6) **Change of Tenancy or Ownership**

Changes of tenancy, ownership or management of an existing nonconformity are permitted, provided that no changes in the nature or character, extent or intensity of such nonconformity may occur except those allowed by this Article.

(7) **Floodplain compliance**

The City shall regulate the repair, replacement, improvement, maintenance, restoration, rebuilding, or expansion of nonconformities in floodplain areas to the extent necessary to maintain eligibility in the national flood insurance program and adhere fully to all applicable floodplain management ordinances without increasing flood damage potential or increasing the degree of obstruction to floodflows in the floodway.

Commented [AE13]: This is new language for CGF, language taken from HB1500.

18-0402. Nonconforming Uses

Nonconforming uses shall be subject to the following standards.

(1) **Enlargement**

No nonconforming use may be enlarged, expanded or extended to occupy a greater area of land or floor area than was occupied after adoption of this ordinance, and no additional accessory use, building or structure may be established on the site of a nonconforming use. This provision notwithstanding, uses may be extended throughout any part of a building or other structure that was lawfully and manifestly designed or arranged for such use.

(2) **Relocation**

No nonconforming use may be moved in whole or in part to any other portion of such parcel nor to another lot unless the use will be in conformance with the use regulations of the district into which it is moved.

(3) **Discontinuance and Abandonment**

If a nonconforming use ceases for any reason for a period of more than eighteen (18) consecutive months (except where Government action causes such cessation), the subsequent use of such parcel or lot must conform to the regulations and provisions set by this Land Development Code for the district in which such parcel or lot is located.

(4) **Damage or Destruction**

If a structure devoted in whole or in part to a nonconforming use is damaged or destroyed by any means, to the extent of more than fifty percent (50%) of its structural value prior to the damage, that structure may not be restored unless the structure and the use thereafter complies with all regulations of the zoning district in which it is located. The determination of reduced structural valuation shall be made by the City. If the damage or destruction represents fifty percent (50%) or less of the structure's value prior to the damage, repair and restoration is allowed, provided that a building permit must be obtained within twelve (12) months of the damage and restoration must begin within eighteen (18) months of the date of damage.

(A) Notwithstanding the foregoing provisions of this section, if a structure devoted in whole or in part to a nonconforming use that is residential in nature is damaged or destroyed by any means, to the extent of more than fifty percent (50%) of its structural value prior to the damage, that structure may be restored, repaired or rebuilt in its entirety if all of the following conditions are met:

1. The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure
2. The building or structure will not have a greater floor area than the destroyed structure,

3. The building or structure will not exceed the height or number of stories contained in the destroyed structure
4. The number of off-street parking spaces located on the property will not be reduced from the number available before the damage
5. Violate existing building and fire codes
6. Violate existing sanitary or health standards imposed by the local health district
7. Pose a risk to public health or safety
8. Encroach upon a public right of way
9. Encroach upon any neighboring property
10. The building permit for the repair or restoration must be obtained within twelve (12) months of the damage and restoration must begin within eighteen (18) months) of the date of the damage.

(5) Change in Use

A nonconforming use may be changed to a new use, provided that the new use must be of the same general character or of a less intensive character (and thus more closely conforming) than the existing, nonconforming use. The determination of whether a proposed use is a conforming use or is less intensive shall be made by the Planning Director. A nonconforming use, if changed to a conforming use or less intensive nonconforming use, may not thereafter be changed back to a less conforming use.

(6) Accessory Uses

No use that is accessory to a principal nonconforming use may continue after the principal use ceases or terminates.

Commented [AE14]: These additional qualifications were included to align with HB 1500 bill

Commented [AE15]: HB 1500 stated 6 month permit, 12 month work to begin timeframe.

Staff is recommending 12 month permit/18 month work begin timeframe. The additional time would allow insurance processes that often take longer than 6 months to figure out.

18-0403. Nonconforming Lots

A lot shown on an approved and recorded subdivision plat on October 6, 1980, or a parcel shown on the assessor's records as a separate parcel on October 6, 1980, may be occupied and used although it may not conform in every respect with the lot size and width standards of this Land Development Code, subject to the provisions of this section.

Commented [AE16]: Oct date is used in current non-conforming lots section, so carrying it through into update.

(1) Lot with Building or Structure

If the lot or parcel contains a building or structure on October 6, 1980 then the owner may continue the use of that building or structure and may expand the structure provided that the expansion is in compliance with all applicable Land Development Code standards. The determination of whether a proposed expansion is in compliance with all applicable Land Development Code standards shall be made by the Planning Director, or their designee. If the structure is removed or destroyed, any structure that is reconstructed must comply with all applicable land use and dimensional requirements.

Commented [AE17]: Requested advice from city attorney as to if this code can stop a legal lot from selling once we consider it merger for tax or zoning purposes?

(2) Lot Merger

If the lot or parcel is smaller than would otherwise be required by this Land Development Code and such lot or parcel is at any time on or after October 6, 1980, under common control with an adjacent lot or parcel, then the two lots shall be considered merged for purposes of this Land Development Code and shall in the future be considered together for purposes of determining compliance with the Land Development Code. If the merged lots or parcels contain sufficient area for the actual or proposed use, then they shall be deemed fully conforming. If the merged lots or parcels together do not contain sufficient area for the actual or proposed use, they shall nonetheless be considered together for purposes of reducing the degree of nonconformity.

Commented [AE18R17]: Response from Joseph Quinn, City Attorney's office: The answer to this question is unclear as to the sale of the property. The City could attempt to prevent the sale. However, if there is nothing recorded against the property, it might not be successful. I understand why the City would consider multiple nonconforming lots owned by the same individual as one lot for tax and zoning purposes, but if they were not considered one property, wouldn't that encourage property owners to take the steps to merge the properties into one lot?

This provision should be included until it is determined with certainty, by a Court, that the City does not have authority to stop the sale. I don't imagine that it would come up often, but the City will want to reserve the option to try and stop the sale.

18-0404. Nonconforming Structures

Nonconforming structures shall be subject to the following standards.

(1) **Enlargement and Expansion**

Any expansion of a nonconforming structure shall be prohibited unless such expansion is in compliance with all applicable Land Development Code standards. The determination of whether a proposed expansion is in compliance with all applicable Land Development Code standards shall be made by the Planning Director, or their designee.

(2) **Damage or Destruction**

In the event that any conforming use but nonconforming structure is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value prior to such destruction, such structure may be restored, repaired, or rebuilt in its entirety if in conformance with all of the conditions stated below or of the zoning district in which it is located. When a structure is damaged to the extent of fifty percent (50%) or less of its pre-destruction value, repairs or restoration may be made, provided that a building permit is obtained within twelve (12) months and restoration begins within eighteen (18) months after the date of destruction. The determination of reduced structural valuation shall be made by the City.

- (A) The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure
- (B) The building or structure will not have a greater floor area than the destroyed structure,
- (C) The building or structure will not exceed the height or number of stories contained in the destroyed structure
- (D) The number of off-street parking spaces located on the property will not be reduced from the number available before the damage
- (E) Violate existing building and fire codes
- (F) Violate existing sanitary or health standards imposed by the local health district
- (G) Pose a risk to public health or safety
- (H) Encroach upon a public right of way
- (I) Encroach upon any neighboring property
- (J) The building permit for the repair or restoration must be obtained within twelve (12) months of the damage and restoration must begin within eighteen (18) months of the date of the damage.

(3) **Relocation**

Nonconforming structures may not be moved unless the movement or relocation will bring the structure into compliance with all applicable zoning district regulations.

18-0405~~8~~. Nonconforming mobile home parks.

Mobile home parks existing on September 15, 1986 may continue in operation provided all the provisions regulating mobile home parks of the Grand Forks City Code are met, except the following modifications, which may be permitted:

- (1) Minimum distance between the mobile homes shall be not less than ten (10) feet, the point of measuring being a straight line between the closest points of the units being measured.

Commented [AE19]: POLICY CHANGE

All non-conf structures (use has to be allowed in its zoning district) to be rebuilt (also to be financed, insured) if damaged over 50% if they meet the parameters listed.

Non-conf structure = use is allowed but structure does not meet current zoning setbacks, impervious, bufferyards, etc.

Staffs thoughts are that the small commercial/industrial north end properties are who iss effected by this section. Assumption is that non-conf comm/indus structures cannot be financed same as non-conf res currently.

So policy question for Commission and Council -if they exist today, can they continue?

Commented [AE20]: These additional qualifications were included to align with HB 1500 bill

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- (2) There shall be no minimum front yard setback between the mobile home units or hitch and any internal street.
 - (3) There shall be two (2) parking spaces for each mobile home stand. These spaces may be located on the mobile home stand lot or no further than three hundred (300) feet from the unit or units for which they are designated or on the street if the street is of sufficient width to accommodate the minimum width of moving lanes, as well as the necessary parking.
 - (4) Owners of nonconforming mobile home parks must submit a general development plan of the park to the building inspection department, which shall conform to all of the provisions set forth herein.
 - (5) Any mobile home stand which shall become vacant shall not be reoccupied unless and until the provisions of all city ordinances are met.

18-04069. Nonconforming junkyards.

No junkyard may continue as a nonconforming use for more than one (1) year after the effective date of this chapter except that a junkyard may continue as a nonconforming use in an industrial district if within that period it is completely enclosed with a building, fence, screen planting or other device of height so as to screen completely the operations of the junkyard. Plans of such a building or device shall be approved by the city planning and zoning commission and the city council before it is erected or put into place.

18-040719. Nonconforming signs.

- (1) Signs which become nonconforming by reason of a future change of this chapter shall be discontinued within a reasonable period of amortization of the sign which shall be a period of not more than:
 - (A) Off-premises advertising signs—Ten (10) years from the effective date of any change making the sign nonconforming.
 - (B) Business signs—Ten (10) years from the effective date of this chapter.
- (2) Business signs on the premises of a nonconforming building or use may be continued but such signs shall not expand the number, area, height, or illumination. New signs not to exceed thirty-five (35) square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of this chapter.
- (3) Those off-premises advertising sign structures existing as of December 15, 2005, and as depicted in that map entitled "nonconforming off-premises advertising sign location map, December 19, 2005" shall be exempt from the provisions of subsection (1). A copy of the map shall be maintained on file in the city auditor's office and in the planning and zoning office. Said map is hereby incorporated herein by reference.
- (4) The sign structures identified in subsection (3) may, upon approval by the zoning administrator, be reconstructed at the existing location on a single pedestal pole to a maximum height as provided in this article. No off-premises advertising sign structure shall be allowed to become more nonconforming under this provision. Any owner of an off-premises advertising sign structure to be reconstructed under this provision shall submit an application to the city identifying the location of the advertising sign structure proposed to be reconstructed, the size of the off-premises advertising sign structure presently existing, the size of the off-premises advertising sign structure proposed, the height of the existing off-premises advertising sign structure, the height of the proposed off-premises advertising sign structure, and such drawings or diagrams showing the placement and design of the off-premises advertising sign structure, including the location with respect to other signs, structures, or buildings, as may reasonably be required by the zoning administrator. All such applications shall be subject to review and approval by the zoning administrator to determine that there will be no adverse impact on overhead utility lines, utility poles, traffic lights, pedestrian and vehicular sight lines, or other public service or public safety considerations.

(Ord. No. 4105, § II, 12-19-05)

18-040811. Nonconformities created by public action.

When lot area, lot width, lot depth or yards are reduced or the percentage of impervious surface area increased as a result of conveyance to a federal, state or local government for a public purpose and the remaining area, length or percentage is at least seventy-five (75) percent of the required minimum standard for the district in which it is located, then such lot shall be deemed to be in compliance with the affected minimum lot area, lot width, lot depth, yards and/or impervious surface area standards of this chapter.

(Ord. No. 3931, § I, 7-15-02)

18-0409. Appeals

Any applicant may appeal a decision of the Planning Director on the interpretation of the requirements herein to the Planning & Zoning Commission.

1. The appeal shall be filed in writing with the Planning Director within ten (10) days following the director's decision.
2. The Planning Director will notify all property owners within four hundred (400) feet of the subject property prior to the Planning and Zoning Commission taking action on the appeal.
3. The Planning and Zoning commission shall consider, at a minimum, Subsection (2) Policy, prior to approving, approving with conditions, or denying the appeal.
4. The applicant of the subject property shall have the right to appeal the decision of the Planning and Zoning Commission to the City Council within 10 days of the Commission's decision.

Commented [AE21]: Including a new appeals section to provide clear option should someone disagree with staff's decision on non-conformities

Nonconformities

Planning & Zoning Commission - Info / Discussion

March 5th, 2025





Planning Philosophy

- 1) Set by community Land Use Plan
- 2) Zoning Districts are the execution of LUP objectives and goals
- 3) Allowable uses within districts determine what goes where.

Zoning Districts change over time as comp plans change and evolve. Some uses may no longer be allowed due to re-zoning, making them **non-conforming**.

18-0209. - R-2 one- and two-family residence district.

(1) *Statement of intent.* This district is intended to preserve, create, and enhance areas for one- and two-family dwelling development with provision for other limited nonintrusive residential uses.

(2) *Uses permitted:*

- (A) Any use permitted in paragraph (2) of the R-1 single-family residence district.
- (B) Dwellings, two-family.
- (C) Dwelling, semi-detached, subject to special conditions as set forth in subsection (11).
- (D) Two-family condominium.
- (E) Group homes serving up to sixteen (16) developmentally disabled people.
- (F) Off-street parking and loading, as regulated by section [18-0302](#).
- (G) Signs as regulated by section [18-0301](#).

(3) *Conditional uses.*

Example of Allowable Uses in R-2 Districts. If its not listed, Its not allowed. No Commercial/industrial or higher intense residential.

What It Is and What It Isn't

- Non-conforming – legally built but code/zoning changed, now its non-conforming.
- Illegally built/operations: uses or structures that started operating or construction without permits or city review – those are illegal builds/operations.

Just because you built it or started operating, doesn't mean City has to recognize it and let it continue.



Why Have a Non-Conforming Status?

The Jurisdiction

- Minimize the “life span” of the non-conformity.
- Guard against expansion of the non-conformity.

The Property Owner

- recognize the right of the property owner to continue using the property in some way.



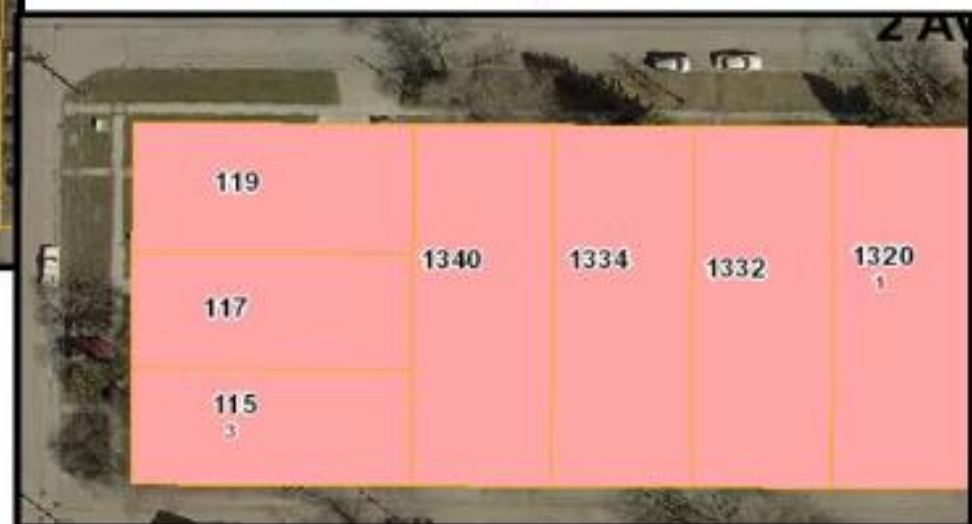
Non-Conforming Land Use

The activity taking place on the site is not allowed by the current zoning of that site.

Residences in the 1300 block of 2nd Avenue North
All built between 1901 and 1926



Those residences are currently zone "Limited Industrial".



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Non-Conforming Structure

The structure on the site does not meet development standards, such as setbacks and height limits, for the current zoning of that site.

402 25th Street North
Buildings were built before current zoning ordinance; do not meet current setbacks



"Limited Industrial" zone requires 20 foot front and rear setbacks

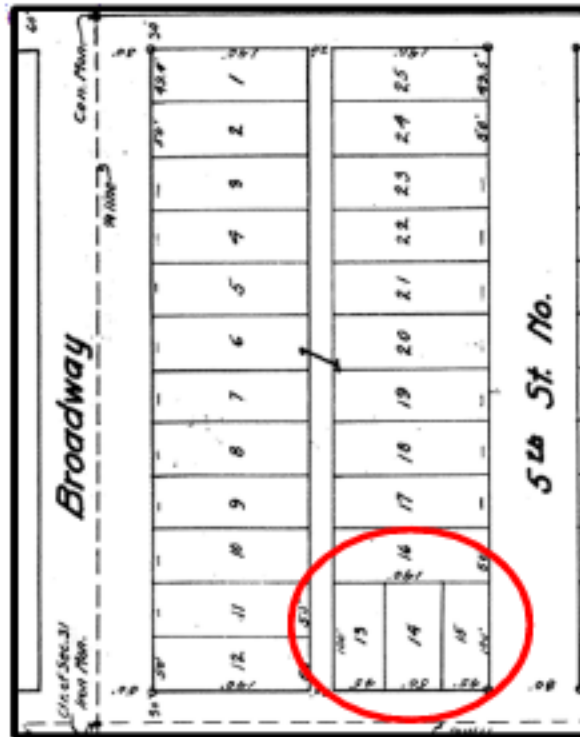


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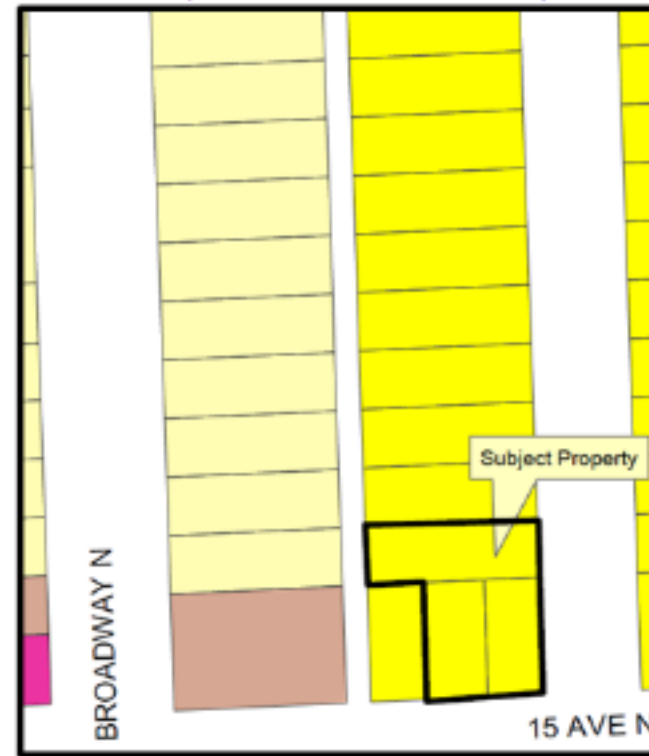
Non-Conforming Lot

The area or dimensions on the lot does not meet the requirements of the current zoning or subdivision regulations of that site.

Block 1, Hogan's Addition (1920)
Lots 13-15 are 4,500 to 5,000 SF and 45 to 50 feet wide



1998 Zoning Ordinance zoned these lots to SR-2—
8,000 SF required area and 60 foot required width.



Current Code

Written in '80s when new zoning ordinance and districts established.

- Did not allow for repairs, encouraged properties to become dilapidated, unsafe, and eventually unusable.
- Strict with minimum lot sizes, does not permit small lots to continue to exist.
- Assumed adjoining neighbors would purchase the land once structure on non-conf lot became unusable and was demolished.
- Included an amortization schedule for how to discontinue uses, something to current staff's knowledge was never pursued as property owners would need to be monetarily compensated for such City actions.



Proposed Code Changes

Non-conforming Uses:

- Allow repairs and safe buildings to exist, but properties not allowed to expand or rebuild. Encourages discontinuation by market factors and owner's desires, not by encouraging dilapidated properties.

Non-conforming Lots:

- Allow existing smaller lots to exist and be sold as they exist today.
- Small lots with existing residential structures can be rebuilt (opens up financing opportunities for these properties). Vacant lots that do not meet minimum lot size would still require variance process to permit a build, if it at all.
- **Currently small lots must go through a 4-6 week variance process to document City's acceptance of the non-conforming lot size. This has caused residential sales to be in jeopardy for properties at our most affordable price points.**

Non-conforming Structures: Policy Question for P&Z – If a property is an allowable use but the structure is nonconforming, doesn't meet current districts setbacks, impervious, building site limitations, should it be allowed to be rebuilt as is?

- State legislation in process to require cities to allow residential properties to be rebuilt at current state as long as it meets certain parameters (meets life safety codes, is fully within property boundaries, has access, etc.)
- Staff feels commercial and Industrial should also be included, thinking of North End commercial and Light Industrial properties that were built prior to zoning codes. Use might fit, but structures might not meet setbacks.

HB1500 is meant to ensure residential properties are eligible for all financing types.

FHA and other home loans require that a property be able to be rebuilt should it be damaged more than 50% in its current state. If zoning prohibits it to be rebuilt, financing is unavailable.

Language in bill sets reasonable parameters in which to allow residential to be rebuildable:

1. The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure
2. The building or structure will not have a greater floor area than the destroyed structure,
3. The building or structure will not exceed the height or number of stories contained in the destroyed structure
4. The number of off-street parking spaces located on the property will not be reduced from the number available before the damage
5. Violate existing building and fire codes
6. Violate existing sanitary or health standards imposed by the local health district
7. Pose a risk to public health or safety
8. Encroach upon a public right of way
9. Encroach upon any neighboring property
10. The building permit for the repair or restoration must be obtained within twelve (12) months of the damage and restoration must begin within eighteen (18) months) of the date of the damage.

Review Draft Code Document



ORDINANCE No. _____

An ordinance to amend Chapter XVIII Land Development Code Article 4 of the Grand Forks City Code relating to Non-conforming Uses.

Be it hereby ordained by the City Council of the City of Grand Forks, North Dakota, pursuant to the Home Rule Charter of the City of Grand Forks, North Dakota, that:

SECTION I. AMENDING CLAUSE

Chapter XVIII Land Development Code Article 4 of the Grand Forks City Code relating to the Non-conforming Use requirements is hereby by amended to provide as follows:

ARTICLE 4. NONCONFORMITIESING USES

~~18-0401. Statement of intent.~~

~~(1) Within the districts established by this chapter or amendments that may later be adopted there exist:~~

- ~~(A) Lots;~~
- ~~(B) Structures;~~
- ~~(C) Uses of land and structures; and~~
- ~~(D) Characteristics of use;~~

~~which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, or for the reasonable useful life of the building, but not to encourage their survival. It is further the intent of this chapter 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.~~

~~(2) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.~~

~~(3) To avoid undue hardship, nothing in this chapter 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 or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the piling of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on effdiligently.~~

~~18-0402. Effective date of this chapter.~~

~~Whenever this article refers to the "effective date" of an ordinance or the "effective date" of adoption of an amendment, the reference shall be deemed to be the effective date of any ordinance whether adopted before or~~

after the original adoption of the Grand Forks City Code of 1987, which renders a lot, use of land, structure, mobile home park, junkyard, sign, or any combination thereof nonconforming with its terms.

18-0403. Nonconforming lots of record.

- (1) In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record containing a minimum of three thousand five hundred (3,500) square feet on October 6, 1980, (notwithstanding limitations imposed by other provisions of the various zoning ordinances and regulations of the City of Grand Forks). Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, width, depth or any combination thereof, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area, width, depth, or any combination thereof, of the lot shall conform to the regulations for the district in which such lot is located.
- (2) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on October 6, 1980, and if all or part of the lots do not meet the requirements established for lot width, depth, and area, the lands involved shall be considered to be an undivided parcel for purposes of this chapter. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width, depth, and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width, depth, or area below the requirements stated in this chapter.
- (3) Maintenance of a building or other structure situated on any nonconforming lot of record will be permitted when it includes necessary nonstructural repairs and incidental alterations.

18-0404. Nonconforming uses of land (or land with minor structures only).

Where at the effective date of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such at the effective date of adoption or amendment of this chapter.
- (3) If any such nonconforming use of land ceases for any reasons for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- (4) No additional structure not conforming to the requirement of this chapter shall be erected in connection with such nonconforming use of land.

The construction and use of structures accessory (accessory structures) to nonconforming residential uses of land shall not be considered an enlargement or extension of the nonconforming residential use.

18-0405. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, the location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

-
- ~~(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.~~
 - ~~(2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than sixty (60) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.~~
 - ~~(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.~~
 - ~~(4) Except as hereinabove specifically provided, all nonconforming commercial or industrial uses of structures located within any U-D, R-1, R-2, R-3, R-4, and R-M districts shall be discontinued and the building thereafter devoted to a use permitted in the district in which such building is located; provided, however, that any such nonconforming uses in buildings existing at the effective date of this chapter which does not conform to the provisions of this chapter shall be discontinued within a reasonable period of amortization of the building; uses of land which become nonconforming by reason of a change in this chapter shall also be discontinued within a reasonable period of amortization of the building. A reasonable period of amortization shall be construed to be normal life of the building after original construction; sixty (60) percent of normal life after the last major alteration prior to adoption of this chapter; or twenty-five (25) percent of normal life after the date of adoption of this chapter, whichever shall be longer. Normal life shall be considered to be forty (40) years for buildings of ordinary wood construction; fifty (50) years for buildings of wood and masonry construction; and sixty (60) years for buildings of fireproof construction.~~

~~18-0406. Nonconforming uses of structures or of structures and premises in combination.~~

~~If lawful use involving individual structures with a replacement cost of two thousand five hundred dollars (\$2,500.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:~~

- ~~(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.~~
- ~~(2) Any conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption, or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.~~
- ~~(3) Any lawful use of a building existing at the effective date of this chapter may be continued, even though such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of adoption of this chapter.~~
- ~~(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.~~
- ~~(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for eighteen (18) consecutive months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.~~

~~(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this subsection, is defined as damage to replacement cost at time of destruction.~~

~~(Ord. No. 2849, § 1, 12-7-87)~~

~~18-0407. Repairs and maintenance.~~

~~(1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months for ordinary repairs, or for repair or replacement on nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.~~

~~(2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reasons of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located, provided that the city building inspector shall be authorized to direct temporary repairs to nonconforming uses when the same are required to protect the safety of the persons on or about the premises.~~

18-0401. General

(1) Overview

The regulations of this article establish regulations that govern uses, structures, lots and other current circumstances that came into being lawfully but that do not conform to one or more requirements of this Land Development Code. The regulations address the following types of nonconformities:

(A) Nonconforming Uses

Nonconforming uses are uses that were established in accordance with zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the use regulations of the underlying zoning district. A use that was legally established without a Conditional Use Permit shall be deemed to have a Conditional Use Permit and shall not be deemed nonconforming solely because a Conditional Use Permit is now required for the use.

(B) Nonconforming Structures

Nonconforming structures are buildings or structures that were established in accordance with all zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the dimensional standards of the underlying zoning district.

(C) Nonconforming Lots

Nonconforming lots are lots that were legally created in accordance with zoning district minimum lot size and dimensional standards in effect at the time of their creation, but which, because of amendments to the zoning regulations, no longer comply with the minimum lot size or other dimensional standards of the zoning district.

(2) Policy

It is the general policy of the City to allow uses, structures or lots that came into existence legally and in conformance with then-applicable requirements but that do not conform to all of the applicable requirements of this Land Development Code to continue to exist and be put to productive use, but to bring as many aspects of such use into conformance with current Land Development Code as is reasonably practicable, all subject to the limitations of this Article. The limitations of this Article are intended to recognize the interests of the property owner in continuing to use the property but to control

the expansion of the nonconformity, to control re-establishment of abandoned uses, and to limit re-establishment of buildings and structures that have been substantially destroyed.

(3) **Authority to Continue**

Nonconformities shall be allowed to continue in accordance with the regulations of this Article.

(4) **Determination of Nonconformity Status**

The burden of establishing that a nonconformity lawfully exists is the owner's burden, not the City's.

(5) **Repairs and Maintenance**

Repairs and normal maintenance required to keep nonconforming uses, structures and lots in a safe condition are permitted, provided that no alterations may be made except those allowed by this Article or required by law or ordinance.

(6) **Change of Tenancy or Ownership**

Changes of tenancy, ownership or management of an existing nonconformity are permitted, provided that no changes in the nature or character, extent or intensity of such nonconformity may occur except those allowed by this Article.

(7) **Floodplain compliance**

The City shall regulate the repair, replacement, improvement, maintenance, restoration, rebuilding, or expansion of nonconformities in floodplain areas to the extent necessary to maintain eligibility in the national flood insurance program and adhere fully to all applicable floodplain management ordinances without increasing flood damage potential or increasing the degree of obstruction to floodflows in the floodway.

18-0402. Nonconforming Uses

Nonconforming uses shall be subject to the following standards.

(1) **Enlargement**

No nonconforming use may be enlarged, expanded or extended to occupy a greater area of land or floor area than was occupied after adoption of this ordinance, and no additional accessory use, building or structure may be established on the site of a nonconforming use. This provision notwithstanding, uses may be extended throughout any part of a building or other structure that was lawfully and manifestly designed or arranged for such use.

(2) **Relocation**

No nonconforming use may be moved in whole or in part to any other portion of such parcel nor to another lot unless the use will be in conformance with the use regulations of the district into which it is moved.

(3) **Discontinuance and Abandonment**

If a nonconforming use ceases for any reason for a period of more than eighteen (18) consecutive months (except where Government action causes such cessation), the subsequent use of such parcel or lot must conform to the regulations and provisions set by this Land Development Code for the district in which such parcel or lot is located.

(4) **Damage or Destruction**

If a structure devoted in whole or in part to a nonconforming use is damaged or destroyed by any means, to the extent of more than fifty percent (50%) of its structural value prior to the damage, that structure may not be restored unless the structure and the use thereafter complies with all regulations of the zoning district in which it is located. The determination of reduced structural valuation shall be made by the City. If the damage or destruction represents fifty percent (50%) or less of the structure's value prior to the damage, repair and restoration is allowed, provided that a building permit must be obtained within twelve (12) months of the damage and restoration must begin within eighteen (18) months of the date of damage.

(A) Notwithstanding the foregoing provisions of this section, if a structure devoted in whole or in part to a nonconforming use that is residential in nature is damaged or destroyed by any means, to the extent of more than fifty percent (50%) of its structural value prior to the damage, that structure may be restored, repaired or rebuilt in its entirety if all of the following conditions are met:

1. The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure
2. The building or structure will not have a greater floor area than the destroyed structure,
3. The building or structure will not exceed the height or number of stories contained in the destroyed structure
4. The number of off-street parking spaces located on the property will not be reduced from the number available before the damage
5. Violate existing building and fire codes
6. Violate existing sanitary or health standards imposed by the local health district
7. Pose a risk to public health or safety
8. Encroach upon a public right of way
9. Encroach upon any neighboring property
10. The building permit for the repair or restoration must be obtained within twelve (12) months of the damage and restoration must begin within eighteen (18) months) of the date of the damage.

(5) **Change in Use**

A nonconforming use may be changed to a new use, provided that the new use must be of the same general character or of a less intensive character (and thus more closely conforming) than the existing, nonconforming use. The determination of whether a proposed use is a conforming use or is less intensive shall be made by the Planning Director. A nonconforming use, if changed to a conforming use or less intensive nonconforming use, may not thereafter be changed back to a less conforming use.

(6) **Accessory Uses**

No use that is accessory to a principal nonconforming use may continue after the principal use ceases or terminates.

18-0403. Nonconforming Lots

A lot shown on an approved and recorded subdivision plat on October 6, 1980, or a parcel shown on the assessor's records as a separate parcel on October 6, 1980, may be occupied and used although it may not conform in every respect with the lot size and width standards of this Land Development Code, subject to the provisions of this section.

(1) **Lot with Building or Structure**

If the lot or parcel contains a building or structure on October 6, 1980 then the owner may continue the use of that building or structure and may expand the structure provided that the expansion is in compliance with all applicable Land Development Code standards. The determination of whether a proposed expansion is in compliance with all applicable Land Development Code standards shall be made by the Planning Director, or their designee. If the structure is removed or destroyed, any structure that is reconstructed must comply with all applicable land use and dimensional requirements.

(2) **Lot Merger**

If the lot or parcel is smaller than would otherwise be required by this Land Development Code and such

lot or parcel is at any time on or after October 6, 1980, under common control with an adjacent lot or parcel, then the two lots shall be considered merged for purposes of this Land Development Code and shall in the future be considered together for purposes of determining compliance with the Land Development Code. If the merged lots or parcels contain sufficient area for the actual or proposed use, then they shall be deemed fully conforming. If the merged lots or parcels together do not contain sufficient area for the actual or proposed use, they shall nonetheless be considered together for purposes of reducing the degree of nonconformity.

18-0404. Nonconforming Structures

Nonconforming structures shall be subject to the following standards.

(1) **Enlargement and Expansion**

Any expansion of a nonconforming structure shall be prohibited unless such expansion is in compliance with all applicable Land Development Code standards. The determination of whether a proposed expansion is in compliance with all applicable Land Development Code standards shall be made by the Planning Director, or their designee.

(2) **Damage or Destruction**

In the event that any conforming use but nonconforming structure is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value prior to such destruction, such structure may be restored, repaired, or rebuilt in its entirety if in conformance with all of the conditions stated below or of the zoning district in which it is located. When a structure is damaged to the extent of fifty percent (50%) or less of its pre-destruction value, repairs or restoration may be made, provided that a building permit is obtained within twelve (12) months and restoration begins within eighteen (18) months after the date of destruction. The determination of reduced structural valuation shall be made by the City.

- (A) The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure
- (B) The building or structure will not have a greater floor area than the destroyed structure,
- (C) The building or structure will not exceed the height or number of stories contained in the destroyed structure
- (D) The number of off-street parking spaces located on the property will not be reduced from the number available before the damage
- (E) Violate existing building and fire codes
- (F) Violate existing sanitary or health standards imposed by the local health district
- (G) Pose a risk to public health or safety
- (H) Encroach upon a public right of way
- (I) Encroach upon any neighboring property
- (J) The building permit for the repair or restoration must be obtained within twelve (12) months of the damage and restoration must begin within eighteen (18) months of the date of the damage.

(3) **Relocation**

Nonconforming structures may not be moved unless the movement or relocation will bring the structure into compliance with all applicable zoning district regulations.

18-04058. Nonconforming mobile home parks.

Mobile home parks existing on September 15, 1986 may continue in operation provided all the provisions regulating mobile home parks of the Grand Forks City Code are met, except the following modifications, which may be permitted:

- (1) Minimum distance between the mobile homes shall be not less than ten (10) feet, the point of measuring being a straight line between the closest points of the units being measured.
- (2) There shall be no minimum front yard setback between the mobile home units or hitch and any internal street.
- (3) There shall be two (2) parking spaces for each mobile home stand. These spaces may be located on the mobile home stand lot or no further than three hundred (300) feet from the unit or units for which they are designated or on the street if the street is of sufficient width to accommodate the minimum width of moving lanes, as well as the necessary parking.
- (4) Owners of nonconforming mobile home parks must submit a general development plan of the park to the building inspection department, which shall conform to all of the provisions set forth herein.
- (5) Any mobile home stand which shall become vacant shall not be reoccupied unless and until the provisions of all city ordinances are met.

18-04069. Nonconforming junkyards.

No junkyard may continue as a nonconforming use for more than one (1) year after the effective date of this chapter except that a junkyard may continue as a nonconforming use in an industrial district if within that period it is completely enclosed with a building, fence, screen planting or other device of height so as to screen completely the operations of the junkyard. Plans of such a building or device shall be approved by the city planning and zoning commission and the city council before it is erected or put into place.

18-040710. Nonconforming signs.

- (1) Signs which become nonconforming by reason of a future change of this chapter shall be discontinued within a reasonable period of amortization of the sign which shall be a period of not more than:
 - (A) Off-premises advertising signs—Ten (10) years from the effective date of any change making the sign nonconforming.
 - (B) Business signs—Ten (10) years from the effective date of this chapter.
 - (2) Business signs on the premises of a nonconforming building or use may be continued but such signs shall not expand the number, area, height, or illumination. New signs not to exceed thirty-five (35) square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of this chapter.
 - (3) Those off-premises advertising sign structures existing as of December 15, 2005, and as depicted in that map entitled "nonconforming off-premises advertising sign location map, December 19, 2005" shall be exempt from the provisions of subsection (1). A copy of the map shall be maintained on file in the city auditor's office and in the planning and zoning office. Said map is hereby incorporated herein by reference.
 - (4) The sign structures identified in subsection (3) may, upon approval by the zoning administrator, be reconstructed at the existing location on a single pedestal pole to a maximum height as provided in this article. No off-premises advertising sign structure shall be allowed to become more nonconforming under this provision. Any owner of an off-premises advertising sign structure to be reconstructed under this provision shall submit an application to the city identifying the location of the advertising sign structure proposed to be reconstructed, the size of the off-premises advertising sign structure presently existing, the size of the off-premises advertising sign structure proposed, the height of the existing off-premises
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advertising sign structure, the height of the proposed off-premises advertising sign structure, and such drawings or diagrams showing the placement and design of the off-premises advertising sign structure, including the location with respect to other signs, structures, or buildings, as may reasonably be required by the zoning administrator. All such applications shall be subject to review and approval by the zoning administrator to determine that there will be no adverse impact on overhead utility lines, utility poles, traffic lights, pedestrian and vehicular sight lines, or other public service or public safety considerations.

(Ord. No. 4105, § II, 12-19-05)

18-040811. Nonconformities created by public action.

When lot area, lot width, lot depth or yards are reduced or the percentage of impervious surface area increased as a result of conveyance to a federal, state or local government for a public purpose and the remaining area, length or percentage is at least seventy-five (75) percent of the required minimum standard for the district in which it is located, then such lot shall be deemed to be in compliance with the affected minimum lot area, lot width, lot depth, yards and/or impervious surface area standards of this chapter.

(Ord. No. 3931, § I, 7-15-02)

18-0409. Appeals

Any applicant may appeal a decision of the Planning Director on the interpretation of the requirements herein to the Planning & Zoning Commission.

1. The appeal shall be filed in writing with the Planning Director within ten (10) days following the director's decision.
2. The Planning Director will notify all property owners within four hundred (400) feet of the subject property prior to the Planning and Zoning Commission taking action on the appeal.
3. The Planning and Zoning commission shall consider, at a minimum, Subsection (2) Policy, prior to approving, approving with conditions, or denying the appeal.
4. The applicant of the subject property shall have the right to appeal the decision of the Planning and Zoning Commission to the City Council within 10 days of the Commission's decision.

SECTION VI. EFFECTIVITY

This ordinance shall be in full force and effective after its passage and approval as provided by law.

Brandon Bochenski, Mayor

ATTEST:

Maureen Storstad, City Auditor

Introduction and first reading:

Public Hearing:

Second Reading and final passage:

Approved:

Published: Not required by law.