

**Door County Resource Planning Committee
Proposed Door County Comprehensive Zoning Ordinance text amendments**

Note: All proposed changes are in red font. The “overstrike” function indicates text to be deleted.

Amendments to Chapter 9, Nonconforming Uses, Structures, Lots

Most of the amendments proposed below are to ensure consistency with state statutes; the remainder would establish a limit to the potential expansion of nonconforming uses. Many residents and local officials have questioned the fact that the DCCZO does not set an absolute limit on the expansion allowed for nonconforming uses; most counties allow no or very limited expansion. Given those concerns, and given the new 2017 state law regarding conditional use permit issuance, these amendments propose the establishment of a lifetime expansion cap on nonconforming uses.

CHAPTER 9

NONCONFORMING USES, STRUCTURES, LOTS

- 9.01 Previously lawful condition.
- 9.02 Nonconforming uses.
- 9.03 Nonconforming structures.
- 9.04 Nonconforming lots.

9.01 Previously lawful condition. Within the districts established and mapped by this Ordinance, or amendments thereto, there may exist uses of lands or buildings, structures, or lots, which were lawful before this Ordinance, or amendments thereto, became effective, but which do not conform to the regulations herein. As set forth in s. 59.69(10), **(10e), and (10m)**, Wis. Stats., such nonconforming conditions may be continued, subject to the requirements of this chapter.

9.02 Nonconforming uses.

(1) Nonconforming use of land.

(a) For all nonstructural uses of land, except nonmetallic mining operations, **permissible expansions or intensifications** shall be authorized only by a conditional use permit. **Permissible expansion or intensification means a total increase, during the life of the use, of up to ten percent (10%), based on the level of activity (e.g., frequency, duration, volume) and/or the area encompassed by the nonconforming use, as applicable, at the time the use became nonconforming.**

(b) Expansion of a nonconforming, nonmetallic mining operation shall be governed by applicable Wisconsin law. (Amended: 26 June 2001, Ord. 04-01)

(2) Nonconforming use of buildings or other structures. The following shall apply to all buildings or structures which house a nonconforming use:

(a) Structural alterations or structural repairs of an existing building or structure which houses a nonconforming use shall be authorized by a regular zoning permit.

(b) ~~Permissible e~~Expansion or intensification of a nonconforming use via new buildings or structures, or via additions to an existing building or structure which houses a nonconforming use, or via structural alterations or structural repairs to an existing building which houses a nonconforming use for the purpose of expansion or intensification of the use may be authorized only by a conditional use permit. Such new structures or additions shall only be placed within the boundaries of the lot as it existed at the time the use became nonconforming and shall comply with all applicable setbacks and other dimensional requirements of this Ordinance, unless variances are granted as provided in s. 11.06, variance from the requirements of this Ordinance. ~~Permissible expansion or intensification means a total increase, during the life of the use, of up to ten percent (10%), based on the level of activity (e.g., frequency, duration, volume) and/or the square footage of the structure(s) housing the nonconforming use, as applicable, at the time the use became nonconforming.~~ (Amended: 25 June 1996, Ord. 16-96)

(c) If a structure which houses a nonconforming use is destroyed by ~~vandalism or by~~ fire, explosion, flooding, ~~ice, snow,~~ storm damage, ~~violent wind, mold, infestation, or similar calamity other disaster,~~ such structure may be restored and the nonconforming use may be restored therein upon issuance of a regular zoning permit. Such restoration shall not exceed the original building floor area and volume, unless a conditional use permit is authorized, as provided in par. (b). If the original structure which housed the nonconforming use is also a nonconforming structure, the provisions of 9.03(1) and (2) shall also apply. (Amended: 20 Sept. 2016; Ord. 2016-14)

(3) Change of use.

- (a) A nonconforming use may continue in strict accord with the historical use; i.e., the precise active and actual use that predated the ordinance which rendered the use nonconforming.
- (b) Any identifiable unauthorized change (e.g., alteration, expansion, or intensification) in the nonconforming use may be illegal and may result in loss of legal nonconforming use status.
- (c) A nonconforming use shall not be changed to any use other than a use permitted in the zoning district in which it is located.

(4) Discontinuance. Where any such nonconforming use is discontinued for a period of 12 consecutive months, any future use of the building, structure, or land shall conform to the regulations of the district in which it is located.

9.03 Nonconforming structures.

(1) Additions. (Amended: 20 Sept. 2016; Ord. 2016-14)

(a) (Deleted: 20 Sept. 2016; Ord. 2016-14)

(b) Additions to or extensions of nonconforming structures beyond the existing building envelope are permitted provided that such additions or extensions comply with all the provisions of this Ordinance. (Amended: 20 Sept. 2016; Ord. 2016-14)

(2) Repairs and restoration.

(a) A nonconforming structure that is damaged or destroyed by vandalism or by fire, explosion, flooding, ice, snow, storm damage, violent wind, mold, infestation, or similar calamity may be repaired or restored provided the repair or restoration of the nonconforming portion of the structure occurs fully within the building envelope of the structure before damage, except that structures may be larger than the size immediately before the damage or destruction if necessary for compliance with state or federal requirements located in the floodplain may be elevated as necessary to comply with floodplain zoning requirements. Said repair or restoration shall only be authorized when the relevant zoning permit for the repair or restoration is issued within twelve months from the date of the damage to the nonconforming structure. (Amended: 25 June 1996, Ord. 16-96) (Amended: 18 December 1997, Ord. 39-97) (Amended: 20 Sept. 2016; Ord. 2016-14)

(b) Except for historic buildings, no repairs or restoration of nonconforming structures shall be located within any public right-of-way.

(3) Reconstruction of any nonconforming structure in functional order shall be permitted with the issuance of a regular zoning permit within 12 months of the date of removal of the original structure. Said reconstruction need not comply with the setback or yard provisions of this Ordinance provided the reconstruction occurs fully within the building envelope of the structure before removal, except that structures located in the floodplain may be elevated as necessary to comply with floodplain zoning requirements, and a patio may be replaced with a deck serving the same floor level of the structure. (Added: 7 February 2001, Ord. 33-00) (Amended: 20 Sept. 2016; Ord. 2016-14)

(4) Nonconforming signs. All nonconforming signs shall be subject to the provisions contained in s. 8.06, nonconforming signs. (Amended: 7 February 2001, Ord. 33-00)

9.04 Nonconforming lots.

(1) (Deleted: 20 Sept. 2016; Ord. 2016-14)

(2) A nonconforming lot may be used for any use permitted within the zoning district in which the lot is located. (Amended: 23 June 1998, Ord. 14-98) (Amended: 20 Sept. 2016; Ord. 2016-14)