

HOUSE RESEARCH

Bill Summary

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Allows nonconforming uses governed by county zoning regulation to be continued, but not expanded, by repair, replacement, restoration, maintenance, or improvement. In addition, allows continuance of a nonconforming use that has been destroyed by more than 50 percent (measured by market value) if a building permit is applied for within 180 days of the damage. A county could still impose reasonable conditions on the building permit to mitigate newly created impacts on adjacent property. Permits counties to continue to regulate nonconforming uses and buy-out detrimental nonconforming uses under the other subdivisions of this section of statute. ¹ Effective retroactively to August 1, 2004.

Similar changes were made to the municipal planning law for cities and towns in 2004. *See* Minn. Stat. § 462.357, subd. 1e, which currently reads:

(a) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

¹ Minn. Stat. § 394.36, subs. 2 and 3, provide:

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

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

Section

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults only bookstores, adults only theaters, or similar adults only businesses, as defined by ordinance.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.