

18.05 NONCONFORMING STRUCTURES AND USES. (1) GENERAL PROVISIONS. The lawful use of a building, structure or property which existed at the time this chapter, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

(a) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this chapter.

(b) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this chapter adopted under §61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this chapter. However, such nonconforming use may not be extended or increased.

(c) No modification or addition to any nonconforming structure or any structure with a nonconforming use which, over the life of the structure, would exceed 50% of its present assessed value shall be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter and contiguous dry land access is provided in compliance with sec. 18.04(3)(c)1. of this chapter.

(d) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of §30.121, Wis. Stats.

(e) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

(f) As requests are received by the municipality for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value and the cost of those additions or modifications which have been permitted, and the percentage of the structure's total current value those modifications represent.

(2) SHORELAND-WETLANDS. Notwithstanding §62.23(7)(h), Wis. Stats., the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this chapter adopted under §61.351, Wis. Stats., or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under §61.351(5), Wis. Stats. Section 62.23(7)(h), Wis. Stats., applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this chapter or amendment.

(3) FLOODPLAINS, GENERAL PROVISIONS. (a) No modifications or additions to a nonconforming use or a nonconforming structure shall be permitted unless they are made in conformity with the provisions of this chapter for the area of the floodplain it occupies. For the purpose of this subsection, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other non structural components; and the maintenance, repair or replacement of existing private sewage or water supply systems, or connections to public utilities.

(b) As requests are received for modifications or additions to nonconforming uses or nonconforming structures in the floodplain, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present assessed value, and the cost of those additions or modifications which have been permitted.

(c) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the provisions of sec. 18.04(2) are met. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed 50% of the present assessed value of the structure.

(4) FLOODWAY AREAS. (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area unless such modification or addition:

1. Has been granted a permit or variance.
2. Meets criteria of sub. (3) above.
3. Will not increase the amount of obstruction to flood flows as provided in sec. 18.04(1)(e) of this chapter.
4. Any addition to an existing structure shall be floodproofed, pursuant to sec. 18.04(1)(i) of this chapter, by means other than the use of fill, to the flood protection elevation.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all local ordinances and wis. Adm. Code COMM 83.

(c) No new well or modification to an existing well, used to obtain water for ultimate human consumption, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of this chapter and Wis. Adm. Code NR III and 112.

(5) FLOOD FRINGE AREAS. (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood fringe area unless such modification or addition has been granted a permit or variance and, except where par. (b) below is applicable, the modification or addition is placed on fill or is floodproofed to the flood protection elevation in compliance with the applicable regulations for that particular use in a flood fringe area in sec. 18.04(3) of this chapter.

(b) Where compliance with the provisions of par. (a) above would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Zoning Appeals, using the procedures established in secs. 18.06(5) and (6) of this chapter may grant a variance from those provisions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted provided:

1. No floor is below regional flood elevation.
2. Human lives are not endangered.
3. Public facilities such as water or sewer are not to be installed.
4. Flood depths will not exceed 2 feet.
5. Flood velocities will not exceed 2 feet per second.

6. The structure will not be used for storage of materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life.

(c) An addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in a flood fringe area on a one-time basis only if the addition:

1. Has been granted by permit or variance.

2. Does not exceed 60 square feet in area.

3. In combination with other modifications or additions to the building, does not exceed 50% of the present assessed value of the building.

(d) All new on-site sewage disposal systems, or addition to, replacement, repair or maintenance of an on-site sewage disposal system in a flood fringe area shall meet all the applicable provisions of all local ordinances and Wis. Adm. Code COMM 83.

(e) All new wells, or addition to, replacement, repair or maintenance of a well in a flood fringe area shall meet the applicable provisions of this chapter and Wis. Adm. Code NR III and 112.