

23-2G-1070 Alteration of Nonconforming Structures

(A) Purpose and Applicability

(1) Recognizing the costs associated with bringing existing structures into compliance with current regulations, this section allows limited alterations of nonconforming structures to occur without triggering full compliance with this Title.

(2) In order for a nonconforming structure to retain its legal nonconforming status an alteration, repair, or replacement must comply with the applicable requirements of this section and Section 23-2G-1050 (Continuation of Nonconformity).

(B) Residential Structures. Except for repair or replacement allowed under Subsection (D), a nonconforming residential structure loses its legal nonconforming status and must comply with all applicable regulations of the Title if it is altered in a manner that exceeds the limitations established in this subsection.

(1) Wall Demolition or Removal

(a) No more than 50 percent of exterior walls and supporting structural elements of an existing nonconforming structure may be demolished or removed, including load bearing masonry walls, and in wood construction, studs, sole plate, and top plate. For purposes of this requirement, exterior walls and supporting structural elements are measured in linear feet and do not include the roof of the structure or interior or exterior finishes.

(b) Replacement or repair of structural elements, including framing, is allowed if required by the building official to meet minimum health and safety standards.

(2) Foundation Replacement or Alteration. Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.

(3) Adding Habitable Space. For any residential use other than a single-family residential use in Residential House-Scale Zones established in Subsection 23-4D-3030(A) (Allowed Land Uses), the following standards must be met to add square footage or convert accessory space into conditioned or habitable space:

(a) If the lot is nonconforming with current lot size or lot width standards, the cost of improvements may not exceed 20 percent of the value of the structure before the improvements; and

(b) Compliance with current parking, sidewalk, and occupancy standards is required.

(4) Partial Demolition. If a nonconforming portion of a residential structure is demolished, it loses its nonconforming status and may only be rebuilt in compliance with the applicable requirements of this Title.

(C) Non-Residential Structures. Except for repair or replacement allowed under Subsection (D), a nonresidential structure loses its legal noncomplying status and must comply with all applicable regulations of this Title if it is altered in a manner that exceeds the limitations established in this subsection.

(1) Wall Demolition or Removal

(a) If no more than 50 percent of the exterior walls and supporting structural elements are proposed to be demolished or removed, the applicant must remove any head-in

parking spaces off of major roadways and correct any other parking conditions the director determines to be unsafe.

(b) The following requirements apply if more than 50 percent of the exterior walls and supporting structural elements are proposed to be demolished or removed, but at least one exterior wall that constitutes 25 percent or more of the perimeter is retained:

(i) The requirements in Subsection (C)(1)(a);

(ii) Unsafe driveway conditions must be corrected, including the elimination non-compliant driveway approaches; and

(iii) Compliance with applicable sidewalk standards is required.

(2) General Provisions

(a) For purposes of applying the requirements in Subsection (C)(1):

(i) If the director requires removal of off-street parking due to safety conditions, the parking spaces need not be replaced;

(ii) In wood construction, exterior walls include the studs, sole plate, and top plate;

(iii) Limits of construction for driveway closings or sidewalk modifications are excluded from square footage for purposes of Section 23-6A-2010 (Site Plan Exemptions); and

(iv) Replacement or repair of load bearing walls or structural elements, including framing, is allowed to the extent required by the building official to meet minimum health and safety requirements.

(b) The director shall deny an application to alter or repair a noncomplying structure under this subsection if the building official determines, based on the structure's condition, that it is infeasible to retain the portion of existing walls required under the applicable provisions of Subsection (C)(1).

(D) Involuntary Damage or Destruction. A nonconforming structure that is damaged or destroyed involuntarily by acts such as fire, explosion, flood, tornado, riot, act of the public enemy, or accident may be rebuilt or replaced with a new structure if:

(1) An application to replace or rebuilt the structure is submitted no later than 18 months from the date the original structure was damaged or destroyed;

(2) The new structure is located in the same footprint and does not exceed the height or number of stories as the original nonconforming structure;

(3) For property within a flood hazard area, the alteration or replacement complies with all applicable technical codes in Chapter 23-11 (Technical Codes); and

(4) It does not exceed the degree of nonconformity with the requirements of this Title as the original structure.