

FROM READFIELD LAND USE ORDINANCE 2020

SECTION 4. NON-CONFORMING STRUCTURES

A. Expansions

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, as defined, and is in accordance with subparagraphs (1) and (2) below.

1. Legally existing non-conforming principal and accessory structures that do not meet the water body or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

- a. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
- b. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
- c. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a waterbody, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
- d. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a waterbody, the maximum combined total floor area for all portions of those structures is 1,500 square feet, and the maximum height of any portion of a structure is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the floor area and height limits of paragraph (c).
- e. Expansion of a structure(s) partially located within 100 feet of the normal high-water line of a waterbody is subject to Site Review by the Planning Board under the provisions of this Ordinance if the structure(s) is proposed to exceed 1500 square feet of floor area. In no case shall such a structure or portion of a structure exceed 1500 square feet within the 100-foot setback. Further, if such structure is also partially located within 75 feet of the normal high-water line of a waterbody or upland edge of a wetland, that portion of the structure is also subject to the limitations set forth in paragraph (c) above.

2. Whenever a new, enlarged or replacement foundation is constructed beneath an existing non-conforming structure, the development is subject to Planning Board Site Review and the structure and new foundation shall be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on:

- a) the criteria specified in paragraph B Relocation, below;
- b) that the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansions in conformity with Section 4.A.1 above; and
- c) that the foundation does not cause the height of the structure to be elevated by more than three (3) additional feet or the height of the existing structure if it exceeds the maximum allowable height, whichever is greater.

If the new foundation includes a basement and the structure is relocated to be at least 50 feet from the normal high-water line of a waterbody, then the foundation shall not be considered to be an expansion of the floor area of the structure.

B. Relocation

1. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located, subject to Planning Board review, provided the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided:
 - a) the applicant demonstrates the present subsurface sewage disposal system meets the requirements of the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the Law and said Rules,
 - b) any expansions to the relocated structure do not exceed the expansion limitations set forth in Article 3, Section 4.A.1, or the size of the original structure, whichever is greater, and
 - c) the structure is not relocated in a manner that causes the structure to become more non-conforming.

2. In determining whether the building relocation meets the setback to the "greatest practical extent," the Planning Board shall consider, among other factors, the size of the lot, the slope of the land, the height of the building, the potential for soil erosion, the location of other structures on the property and or adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, the type and condition of the building's foundation, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

C. Reconstruction or Replacement

1. Any non-conforming structure which fails to meet the requirements of this Ordinance, and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement is in compliance with all requirements of this Ordinance to the greatest practical extent as determined by the Planning Board as referenced in paragraph 4.B.2 above. Except that such a structure may be reconstructed or replaced with a permit from the Code Enforcement Officer if it is in conformance with all requirements of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation native to the area must be replanted or the area otherwise stabilized.

2. Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

3. In determining whether the building reconstruction or replacement meets the setback requirements to the greatest practical extent, the Planning Board shall consider in addition to the criteria in paragraph B (Relocation) above, the physical condition and type of foundation present, if any.

D. Change of Use of a Non-Conforming Structure

1. The use of a non-conforming structure shall not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use shall not have a greater adverse impact on the water body, tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use.

2. In determining that no greater adverse impact shall occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on the public safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources and functionally water-dependent uses.

E. Accessory Structures

1. One non-conforming accessory structure not to exceed eighty (80) square feet in floor area, nor eight (8) feet in height, may be placed on a legally-existing non-conforming lot of record for the storage of the personal property of the property owner only, provided all of the following conditions can be met:

a) there is no existing storage building on the lot,

b) there has been no conversion of a previously existing storage building to another use,

c) there is no location on the lot on which to locate a fully conforming building,

d) the building does not cause the lot to exceed any applicable lot coverage or vegetation clearing limitations;

e) no utilities are connected to the structure;

f) the proposed structure is located to conform to all setbacks requirements to the greatest practical extent and located no closer to the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland than is the principal structure, and

g) A permit is obtained from the Code Enforcement Officer prior to placement or construction of the storage building.

SECTION 5. NON-CONFORMING USES

A. Expansions Other Than Commercial and Industrial

Expansions of non-conforming uses are prohibited, except that non-conforming uses other than commercial and industrial uses may, after obtaining approval of the Planning Board and a permit from the Code Enforcement Officer, be expanded within structures existing as of the effective date of this Ordinance, or on the effective date of any subsequent amendment that causes such use to be non-conforming.

B. Expansions of Existing Non-Conforming Commercial and Industrial Uses

Non-conforming commercial and industrial uses, legally in existence as of June 11, 1998, located within the Village, Village Residential, Rural and Rural Residential Districts may be allowed to expand up to 100% of their existing developed area provided such expansion takes place on the existing lot or on land contiguous to the existing lot. The developed area includes structures, parking lots, and outside storage and processing areas. Any proposed expansion of a commercial or industrial use shall be reviewed by the Planning Board under site review.

Any proposed expansion greater than 100% of the existing developed area shall require an amendment to this Ordinance, effect a rezoning, in compliance with Article 1, Section 8.

C. Resumption Prohibited

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or is superseded by a conforming use, may not again be devoted to a non-conforming use, except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. In the case of a non-conforming residential use, such use may be renewed even if it has been discontinued for more than one year, provided that the structure has been used or maintained for residential purposes during the preceding full 5 year period.

D. Change of Use

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archeological and historic resources, any functionally water-dependent uses, changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use.