

TITLE 2: NATURAL RESOURCES
DIVISION 7: BUILDING AND ZONING CODES

§ 7241. Nonconforming Uses or Structures.

(a) *Continuance of Nonconforming Uses and Structures.* Within the districts designated by the Zoning Board in its proposed zoning plan and which become law by enactment of the legislature or by popular initiative, as provided in 2 CMC § 7221, or within the boundaries of such districts later established, there may be lots, structures, or uses of land and structures that were lawful prior to the enactment of the zoning plan but which would be prohibited or restricted under the zoning plan, as enacted, or under future amendments. The provisions of this section are intended to reasonably expedite the eventual elimination of existing uses or structures that are not in conformity with the enacted zoning plan. However, in applying these provisions, no elimination of nonconforming uses or structures shall be effected so as to cause unreasonable interference with established property rights or unreasonable hardship upon the property owner or user.

(b) *Nonconforming Uses or Structures.* Any lawful structures or use of land or structures existing at the effective date of the statutory enactment of the zoning plan by the legislature, including structures under construction and 25 percent complete, may be continued for the length of time permitted by the Zoning Board which is consistent with the amortized schedules of elimination of nonconforming uses established by the regulations of the Zoning Board even though such uses or structures do not conform to the provisions of said zoning plan. The provisions shall apply to every nonconforming use or structure with any district.

(c) *Nonconforming Areas and Parcels.* A lot of record may be occupied by any use permitted by this chapter within the district in which the lot is situated.

(d) *Casual or Illegal Use of Land.* A casual, intermittent, temporary, or illegal use of lands or structures shall not be sufficient to establish the existence of a nonconforming use.

(e) *Existence of Nonconforming Use is a Question of Fact.* Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Board. The burden of proof lies with the applicant.

(f) *Illegal Nonconforming Uses.* An illegal, nonconforming structure or use of land or structure shall not be validated by the adoption of regulations.

(g) *Annual Reports.* The Zoning Board shall annually report to the legislature on the number and type of nonconforming structures and uses and make recommendations for acquisition of such sites by purchase or land exchange.

Source: PL 6-32, § 1 (§ 7241); amended by PL 8-10, § 9.

Commission Comment: With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.