

CHAPTER 2 – VESTED RIGHTS - NONCONFORMING LOTS, USES, AND STRUCTURES

11-2-1: PURPOSE:

This chapter governs the transition from the previous regulations and future transitions, when these regulations are revised, by providing for vested rights and nonconforming uses. In doing so, it strives to prevent community blight by permitting continuing investment in nonconforming uses and structures.

11-2-2: PREVIOUS REGULATIONS REPEALED:

All zoning and subdivision regulations previously adopted by the City of Three Forks are hereby repealed and replaced. The previous regulations may, however, continue to apply in the specific circumstances explained in Section 11-2-3.

11-2-3: VESTED RIGHTS:

- A. You have a vested right to complete your development in compliance with the regulations that were in effect on the date your application for a permit was approved if that permit was subsequently issued and the permit has not expired.
- B. Vested rights cannot be established by filing a request for pre-application review, filing an incomplete application, or filing an application that was not approved.
- C. Lots in subdivisions that are completed in reliance on a vested right may be conveyed even if they have become nonconforming. The development of such lots must, however, comply with these regulations or obtain a variance using their nonconforming status as a basis for the findings required by Section 11-7-5.C.
- D. Uses and structures that are completed in reliance on a vested right may be occupied even if they have become nonconforming, but are subject to the limitations on nonconforming uses and structures established in this chapter.
- E. Any SUBSTANTIAL CHANGE in the approved plans for a development void its vested rights. Staff may approve minor changes, as provided by Section 11-5-8.

11-2-4: NONCONFORMING LOT DEFINED:

A nonconforming lot is an existing lot that could not be created in compliance with these regulations because it is too small to accommodate any of the uses permitted in its zoning district or because it has no legal access to a street or utilities.

11-2-5: USE OF NONCONFORMING LOTS:

Vacant nonconforming lots or parcels that are in separate ownership may be developed for any of the uses permitted in its zoning district, provided that the development complies with all other requirements of these regulations. If compliance is not possible, they can apply for a permit for a variance using the nonconformity as a basis for the findings required by Section 11-7-5.C. For occupied nonconforming lots or parcels, please see Sections 11-2-6 and 7.

11-2-6: NONCONFORMING USE, BUILDING, OR STRUCTURE DEFINED:

A nonconforming use, building, or structure is one that complied with the previous regulations, but that does not comply (a permit could not be approved for it) with these regulations.

11-2-7: USE OF NONCONFORMING USES, BUILDINGS, OR STRUCTURES:

- A. Nonconforming uses, buildings, and structures must be maintained as provided by this code.
- B. Nonconforming uses, buildings, and structures may be expanded, replaced, or changed where the PLANNING BOARD/ZONING COMMISSION (PBZC) approves a CONDITIONAL USE PERMIT (CUP) based on its finding that the proposed expansion, replacement, or change will be consistent with the safety and character of the neighborhood, and that any potentially adverse impacts of the proposed expansion, replacement, or change can be mitigated by reasonable conditions.
- C. If a nonconforming use, building, or structure is essentially ABANDONED for more than one year it may be replaced only with a conforming use or structure. Applicant may apply for an extension for extenuating circumstances. The adverb “essentially” is used here so that the period of abandonment is not interrupted by the occasional use of a lot or parcel for parking, storage, staging, or other temporary activities.

11-2-8: IN THE FLOODPLAIN:

There are additional regulations for nonconforming lots, uses, buildings, and structures in the flood hazard areas established by Title 12 (Flood Control) of this code.