CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA

ORDINANCE 620

AMENDING SHOREWOOD CITY CODE CHAPTER 1201 TO IMPLEMENT THE COMPREHENSIVE PLAN DIRECTION FOR NONCONFORMITIES

Section 1. City Code Section 1201.02 DEFINITIONS is hereby amended as follows. Text proposed to be added is underlined; text proposed to be removed is ~~stricken.~~

...

ILLEGAL NONCONFORMITY OR ILLEGAL NONCONFORMING USE. A land use, lot of record, structure, building, or sign that was unlawful when it was initiated, created or constructed and which did not conform to the applicable conditions or provisions of the official controls for the district in which the use, lot, structure, building or sign is located.

...

LOT OF RECORD. Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision or a Registered Land Survey, or a parcel of land not so platted, subdivided or registered but for which a deed, Auditor's Subdivision or Registered Land Survey has been recorded in the office of the Hennepin County Recorder prior to the effective date of this Chapter.

...

~~***NONCONFORMING STRUCTURE.*** Any structure which, on the effective date of this chapter, does not, even though lawfully established, conform to the applicable conditions if the structure were to be erected under the guidance of this chapter. Also any structure located on a nonconforming lot.~~

~~***NONCONFORMING USE.*** Any use which, on the effective date of this chapter, does not, even though lawfully established, conform to the applicable conditions if the use were to be established under the guidance of this chapter.~~

NONCONFORMITY. Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

NONCONFORMING BUILDING, STRUCTURE, OR USE. A building, structure, or use lawfully in existence on the effective date of this chapter or any amendment thereto and not conforming to the regulations for the district in which it is situated.

...

Section 2. City Code Section 1201.03, Subd. 1. *Nonconforming buildings, structures and uses* is hereby repealed and replaced as follows.

Subd. 1. *Nonconforming buildings, structures and uses.*

a. *Purpose and intent.* It is the purpose of this subdivision to provide for the regulation of nonconformities and nonconforming buildings, structures, and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures and uses may be operated and maintained. The zoning ordinance establishes separate districts, each of which is an appropriate area for the location of uses, which are allowed in that district. It is necessary and consistent with the establishment of these districts and the Comprehensive Plan that nonconforming buildings, structures and uses not be allowed to continue without restriction. Furthermore, it is the intent of this subsection that all non-conforming buildings, structures, or uses shall eventually be brought into conformity with the requirements of the Shorewood City Code. For the purposes of this subdivision, enlargement of alteration means:

(1) Any increase in a dimension, size, area, volume, or height.

(2) Any increase in the area of use.

(3) Any placement of a structure or building or part thereof where none existed before.

(4) Any improvement that would allow the land to be more intensely developed.

(5) Any move of operations to a new location on the property.

(6) Any increase in intensity of use based on a review of the original nature, function or the purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odor, area of operation, number of employees, and other factors deemed relevant to the City.

b. *Continued nonconforming use.* A nonconforming use may be used and continued, including through repair, replacement, restoration, maintenance or improvement, but not, including expansion, enlargement or intensification.

c. *Continued nonconforming building or structure.*

(1) A nonconforming structure or building damaged by fire or other peril to an extent of 50% or less of its estimated market value, as indicated in the records of the county assessor at the time of damage, may be restored, reconstructed, or repaired, and can be used as before, provided the work is completed within one year after the damage occurred.

(2) Any nonconforming structure or building damaged by fire or other peril to an extent greater than 50% of its estimated market value, as indicated in the records of the county assessor at the time of damage, shall not be restored or reconstructed and used as before such destruction unless a building permit to restore, reconstruct or repair the structure or building has been applied for within 180 days after the damage occurred. In this case, the City may

impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent properties. A subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(3) The City may permit an expansion, as authorized in this subdivision, and impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health and safety.

d. *Change of use.* When any legal nonconforming use of land or structure has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use or structure.

e. *Reduction of nonconformity.* A legally nonconformity may be changed to lessen the legally nonconforming structure or use. Once a legally nonconforming structure or use has been reduced, it shall not be altered thereafter to increase the nonconformity.

f. *Discontinuance of nonconformity.* If a nonconformity is discontinued or ceases for a period of more than one year, any subsequent use or occupancy of the land or premises shall be a confirming use or occupancy.

g. *Maintenance of nonconforming structures.* Maintenance of a nonconforming structure, building or sign will be permitted when it includes necessary nonstructural repairs and incidental alternations which do not extend or intensify the nonconforming use of a structure, building or sign.

h. *Alterations and expansions.*

(1) Alterations may be made to a continued nonconforming structure when such alterations improve the livability and safety of such structure or building; provided, however, that they do not increase the number of dwelling units in the structure and meet the minimum height and setback requirements of the zoning district in which they are located.

(2) Where a single-family dwelling is a continued nonconforming structure, the addition of a bedroom that otherwise meets the zoning ordinance regulations shall not be considered an expansion of the use and is permitted. Such addition shall be limited to an increase in the living area of no more than 20% of the existing main floor square footage. The addition of a deck, garage, patio, fence, driveway, swimming pool or other development that improves the liability or safety of the dwelling and otherwise meets the zoning ordinance regulations standards for height and setbacks shall be permitted.

(3) A parallel extension/expansion of a pre-existing continued nonconforming structure, or construction of an accessory structure, is permitted without a variance if all the following criteria are met.

a. The nonconforming structure is a conforming use in the zoning district in which it is located.

b. The extension/expansion does not encroach further into the already established nonconforming setback.

c. The extension/expansion meets all other applicable standards of the Shorewood City Code.

(4) Any modification to an existing nonconforming residential building or structure to provide an accessibility improvement shall be permitted upon the approval of the Zoning Administrator.

(5) Expansion of a continued nonconforming nonresidential use, structure, or building may be permitted if it can be demonstrated that the proposed expansion prevents or abates a public nuisance or protects the public health, safety, and welfare.

(6) In cases where a structure is too close to a lot line, the city may require that the discrepancy be made up by enlarging the opposite required yard space. (Example: where a building is eight feet from a side lot line in a district in which a ten-foot setback is required, the city may require a 12-foot setback on the other side.)

i. *Change in tenancy.* A change in tenancy, ownership, or management will not affect the status of the nonconformity if the nonconformity continues in the same manner and of no greater intensity as that occurring prior to the change.

j. *Buildings under construction and building permits granted prior to adoption or subsequent amendment of zoning regulations.* Any proposed structure or building which will, under the zoning regulations, become nonconforming, but which for a building permit has been lawfully granted prior to the effective date of the ordinance, may be completed in accordance with the approved plans provided:

(1) Construction must commence within 180 days of issuance of the building permit.

(2) Construction continues to completion within one year of the issuance of the building permit.

(3) Such structure or building and use shall thereafter be a legal nonconforming structure, building or use.

k. *Nonconforming lots of record.* Except for land in a floodplain management district, or shoreland management district, the following shall apply to nonconforming lots of record:

(1) Any existing lot of record that is nonconforming and that is not improved with a principal use is entitled to be developed with a principal use provided all requirements of the Shorewood City Code can be met. This provision shall apply even though the lot of record does not meet the current applicable zoning requirements for lot area, lot depth, or lot width.

(2) A nonconforming lot of record is not entitled to be developed with a principal use if the nonconforming lot of record has been in common ownership with an abutting parcel of land or if it has been part of a larger parcel that became nonconforming after adoption of the ordinance from which this chapter is derived.

(3) If two or more contiguous lots in any district are under the same ownership and any individual lot does not meet the lot area and lot width requirements of this chapter, the lot is

not considered a separate parcel or lot for the purpose of sale or development and the lot must be combined with one or more contiguous lots so they equal one or more lots, each meeting the lot area and lot width requirements of this chapter to the extent possible. This requirement shall not apply to the construction of a single-family dwelling on a nonconforming single lot of record.

(4) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings or structures, may be erected on any single lot of record. This provision shall apply even though the lot fails to meet the lot area, lot width, or lot depth that are generally applicable in the zoning district, provided that other requirements not involving lot dimensions or lot area (such as setbacks) conform to the regulations for the zoning district in which the lot is located.

l. *Burden of proof.* A person who wishes to take advantage of the rights granted to a continued nonconformity has the burden or proving the status as a legal nonconformity by clear and convincing evidence.

m. *Nonconformities in shoreland areas.* Nonconformities in shoreland areas shall be regulated by M.S.A. § 462.357, subd. 1e(d) to (j), as amended.

n. *Creation of nonconformities by public action.* When lot area, width or setbacks are reduced as a result of conveyance to a federal, state, or local government for a public purpose and the remaining area is at least 50% of the otherwise applicable standards, then that lot and any structures existing at the time of public action shall be deemed to be in compliance with the minimum lot area, lot width, and setbacks of this chapter.

o. *Appeal of estimated value of damage.*

(1) If the City determines that more than 50% of the building or structure has been destroyed, the property owner may, at their sole expense, hire an independent certified appraiser with no interest in the property to determine the market value and present the appraisal to the Zoning Administrator to be considered by the City Council.

(2) If the City Council maintains, after receiving the appraisal, that more than 50% of the building or structure has been destroyed, the property owner shall have the right to appeal the City's market value determination to district court. Such appeal must be brought within 30 days of the City Council's determination.

Section 3: References. The City Clerk is authorized to correct any number references to the requirements of this ordinance located elsewhere in the City Code that may have been altered as a result of the amendments.

Section 4: Effective Date. This Ordinance 620 shall take effect upon publication in the City's official newspaper.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA this 27th day of May, 2025.

JENNIFER LABADIE, MAYOR

ATTEST:

SANDIE THONE, CITY CLERK