# Non-Conforming Use / Establishment of a Non-Conforming Use

## General Information

A nonconforming use is a use of property not currently permitted in the zoning district in which it is located. The Planning Commission has the authority to grant legal nonconforming status to a use that does not meet the requirements for administrative determination but has been in existence for at least 10 years. The Planning Commission is a 21-member citizen board appointed by the Mayor with the consent of the City Council. Their eight-member Zoning Committee holds a public hearing and makes a recommendation to the full Planning Commission. All property owners within 350 feet of the subject property and the Citizen Participation District Council for the area are notified by mail at least 10 days prior to the public hearing.

The Zoning Committee holds public hearings every other Thursday. The hearings start at 3:30 pm in City Council Chambers on the third floor of the City Hall/ Courthouse. **It is essential that the applicant or their representative attend the hearing.** At the public hearing, the Zoning Committee hears a staff report and recommendation based on the review of the conditions required by the zoning code, hears public testimony and makes a recommendation on the request. The Planning Commission receives the recommendation of their Zoning Committee at its next meeting, 8:30 am on the Friday of the following week, when they approve or deny the application. This is a public meeting, but no public testimony can be heard.

## Code Requirements

Before the Planning Commission can grant an Establishment of Nonconforming Use, they must make the following findings:

(1) The use or a nonconforming use of similar or greater intensity first permitted in the same zoning district or in a less restrictive zoning district has been in existence continuously for a period of at least ten (10) years prior to the date of the application.

(2) The off-street parking is adequate to serve the use;

(3) Hardship would result if the use were discontinued;

(4) Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses;

(5) The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare;

(6) The use is consistent with the comprehensive plan; and

(7) A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the use.

The application for the permit shall include the petition, evidence of a ten-year period of existence, evidence that conversion of the use and structure would result in hardship, a site plan meeting the requirements of section 61.401, floor plans, and other information as required to substantiate the permit.

The Planning Commission may impose such reasonable conditions and limitations in granting an approval as are determined to be necessary to fulfill the spirit and purpose of the zoning code and to protect adjacent properties.

The Planning Commission may act as the Board of Zoning Appeals and grant Zoning Variances in accordance with the variance provisions in the zoning code for proposals that also require a Nonconforming Use Permit.

## Application Requirements

You must submit an application that includes the following:

- A completed Nonconforming Use Permit Application Form, including evidence that all of the required conditions are met. This may include floor plans, site plans and other information to substantiate the case.
- The required Fee

**Please submit the above with:**
Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 Fourth Street West
Saint Paul, MN 55102
(651) 266 - 6589

All items to be placed on an agenda must be submitted at least three weeks prior to the hearing date, according to the Planning Commission Hearing Schedule. The process for obtaining a Nonconforming Use Permit takes a minimum of four to six weeks.