



Permit Center

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CONDITIONAL USE PROCEDURE ADDENDUM

EXPANSION OF A NON-CONFORMING USE

(Excerpt from Bellingham Municipal Code, Chapter 20.14, unless noted)

CHAPTER 20.14.020: USES

- A.** Any existing use lawfully established prior to the passage of this ordinance, which is not permitted in the Use District in which it is located is hereby declared a nonconforming use and not in violation of this ordinance.
- B.** A nonconforming use shall not be relocated, expanded, enlarged, or increased in intensity unless such activity is approved through issuance of a Conditional Use Permit as provided by paragraph E below. Such prohibited activities shall include without being limited to:
1. Any activity, which would require a building permit other than repair or replacement of existing structures or improvements.
 2. Extension of a nonconforming use to any building or other structure or land area other than one occupied by such use on the effective date of this ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming).
 3. Extension of a nonconforming use within a building or other structure to any portion of the floor area that was not occupied by such use on the effective date of this ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming); provided, however, that a nonconforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.
 4. Operation of a nonconforming use in such manner as to conflict with, or to further conflict with if already conflicting on the effective date of this ordinance (or on the effective date of a subsequent amendment thereto that results in such use becoming nonconforming), any performance standards established for the district in which the use is located.
 5. Nothing contained in this section shall in any way prohibit a nonconforming use from acquiring additional off-street parking area or from installing any device, equipment, or structure whose sole purpose is to reduce any adverse environmental impact emanating from the nonconforming use.
- C.** The Hearing Examiner may grant a Conditional Use Permit for a period not more than 5 years permitting a nonconforming use to change to another use not permitted in the Use District in which it is located provided the owner clearly demonstrates (1) that the structure, because of its particular design, cannot be reasonably used to house a Permitted Use, (2) that the proposed use will be more compatible with the Permitted Uses of the Use District than was the existing use. The Hearing Examiner may condition such permit if it finds that provisions have to be taken to safeguard adjoining properties from detrimental effects that might result from the proposed use.

- D.** The Hearing Examiner may extend such conditional use permit for an additional period or may declare such use a permanent nonconforming use provided the owner clearly demonstrates that the structure cannot be reasonably used for a permitted use because of its particular design. In determining whether to grant such an extension, and if so, for what period, the Hearing Examiner shall take into account the following:
1. If the Hearing Examiner finds that the nonconforming use's contribution to the welfare of the community at its present site outweighs detriment to the neighborhood, then the Hearing Examiner may declare such use a permanent nonconforming use.
 2. If the Hearing Examiner finds that the detriment to the surrounding properties outweighs the nonconforming uses contribution to the general welfare of the community, then a period should be set which provides (a) a reasonable allowance of time for amortization of investments in the building and improvements, while (b) minimizing future detriment to the surrounding properties.
 3. If the Hearing Examiner finds that the detriment to the surrounding properties significantly outweighs any deprivation of the property owners rights in the nonconforming uses caused by termination of such use, the Hearing Examiner may order that the use be terminated within a period of one year or longer.

The Hearing Examiner may otherwise condition the use so as to minimize detriment to the neighborhood. A time period shall be set so that the public benefit exceeds any private loss. No further extension shall be granted.

- E.** The Hearing Examiner may grant a Conditional Use Permit allowing a nonconforming use to expand, enlarge, or increase in intensity provided that:
1. The use may not expand beyond the site, lot, or parcel as defined by the legal description on the Certificate of Occupancy for a Nonconforming Use, or as owned or leased by the nonconforming use as of the date it became nonconforming in the event there is no Certificate of Occupancy,
 2. Uses which are nonconforming due to the number of residential units may not add additional units,
 3. The proposed modification will not result in further infringement of the provisions of this ordinance; modifications shall comply with all regulations (other than use restrictions) including but not limited to lot coverage, yard, height, open space, density provisions, or parking requirements unless waived by the Hearing Examiner through variance as provided by this ordinance,
 4. The nonconforming use must be a permitted use within at least one of the General Use Types, and
 5. The use must not be an industrial use in a Residential Single or Residential- Multi Duplex district. For the purpose of this section, "industrial use" shall mean any use, which is permitted only in Industrial general use type districts.