



**To: Mayor Kudron and the Board of Trustees**

**From: John Crone, Town Manager**

**Re: Ordinance 10-2022, Amending Grand Lake Town Code 12-2-32, Non-Conforming Uses and Structures**

**Date: August 8, 2022**

### **Background**

At the July 11, 2022, Board of Trustees meeting, the Board was advised by the Town attorney that certain changes should be made to the Town Code which would strengthen the Town's ability to limit the enlargement of non-conforming structures.

The attached ordinance changes the code to restrict the expansion of non-conforming structures. Previously, non-conforming structures were allowed to expand so long as the non-conformance was not enlarged. The revision will disallow any expansion so long as any part of the building is non-conforming.

The revised code will allow for exceptions related to repair or maintenance. It will also allow the Planning Commission to authorize exceptions in certain situations.

This revision will allow for stricter control over non-conforming buildings without completely eliminating the option to allow expansion when such an expansion is in the best interests of the Town or necessary for the continued enjoyment of the building.

### **Recommended Motion**

I Move to Adopt Ordinance 10-2022, An Ordinance Amending Grand Lake Town Code Chapter 12, Article 2, Section 32, Non-conforming Uses and Structures

**TOWN OF GRAND LAKE  
ORDINANCE NO. 10-2022**

**AN ORDINANCE AMENDING GRAND LAKE MUNICIPAL CODE CHAPTER 12,  
ARTICLE 2, SECTION 32, NON-CONFORMING USES AND STRUCTURES**

**WHEREAS**, the Town of Grand Lake Municipal Code 12-2-32, Non-conforming Uses and Structures does not adequately address certain possible situations involving expansion of non-conforming buildings; and,

**WHEREAS**, the Town of Grand Lake Board of Trustees was advised by the Town Attorney to make necessary changes to the Municipal Code provisions controlling these situations on July 11, 2022; and,

**WHEREAS**, the Town of Grand Lake Board of Trustees has determined that it is in the best interests of the Town to update restrictions on the expansion of non-conforming buildings.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO, THAT:**

1. Chapter 12, Article 2, Section 32 of the Municipal Code of the Town of Grand Lake is hereby amended as attached in Exhibit A.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts are declared unconstitutional or otherwise invalid.
3. Repeal. Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance. Except as specifically amended by this ordinance, all other provisions of the Grand Lake Town Code shall remain in full force and effect.

**INTRODUCED, APPROVED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE THIS 8th DAY OF AUGUST 2022.**

(SEAL)

Votes Approving:  
Votes Opposing:  
Votes Abstaining:  
Absent:

ATTEST:

TOWN OF GRAND LAKE

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Alayna Carroll, Town Clerk

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Stephen Kudron, Mayor

## 12-2-32 - Non-Conforming Uses and Structures.

The Regulations set forth in this Section, or set forth elsewhere in this Article, when referred to in this Section are the Regulations for Non-Conforming Uses and Buildings.

(A) Non-Conformance. Certain uses of land and buildings may be found to be in existence at the time of the passage of this Article which does not meet the requirements as set forth herein. It is the intent of this Article to allow the continuance of such non-conforming use.

1. A building or use that is in violation of the requirements of this Code and was constructed or established since the adoption of this Code without the necessary approvals, permits or authorizations from the Town is considered nonconforming. The owner and/or operator of a nonconforming building or use shall be subject to actions and penalties allowed by this Code and all other applicable Town Ordinances and shall be required to correct the nonconforming situation to come into conformance with all applicable standards and regulations of this Code.

(B) Expansion or Enlargement. A non-conforming building or use to be extended or enlarged shall conform with the provisions of this Article.

1. ~~A non-conforming structure may be enlarged so long as the non-conformance is not expanded. A nonconforming structure may only be expanded pursuant to Section 12-2-32(c), Repairs and Maintenance, and any such expansion shall be in full compliance with this code.~~

(a) Special Exceptions to Provisions on Expansion of Non-Conforming Structures and Uses.

1. The Planning Commission may authorize, upon appeal in specific cases, an exception permitting an increase in either or both the land use area or the floor area on a non-conforming building structure or buildings occupied by a non-conforming use, subject to terms and conditions fixed by the Commission. Every exception authorized hereunder shall be personal to the applicant therefore and shall not be transferable, shall run with the land only after the construction of any authorized building and only for the life of such building. No exception shall be authorized hereunder unless the Commission shall find that all the following conditions exist:

(i) The structure or use is ~~a non-conforming use~~ as defined by this Article and is in full compliance with all requirements of this Article applicable to non-conforming structures or uses;

(ii) That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Article regarding non-conforming structures or uses will result in unnecessary hardship;

(iii) That the exception will not substantially or permanently injure the appropriate use of adjacent conforming property in the same zone district or other zone districts;

(iv) That the exception will not alter the essential character of the district in which is located the property for which the exception is sought;

(v) That the exception will not weaken the general purposes of this Article or the regulations established herein for the specific district;

(vi) That the exception will be in harmony with the spirit and purposes of this Article;

(vii) That the exception will not adversely affect the public health, safety, or welfare.

2. A non-conforming use may be extended throughout any part of a building which was arranged or designed for such use at the enactment of this Article.

3. The Planning Commission may authorize, upon appeal in specific cases, an exception permitting an increase in a non-conforming use on a parcel when the parcel has similar non-conformances, subject to terms and conditions fixed by the Commission. No exception shall be authorized hereunder unless the Commission shall find that all the following conditions exist:

(a) The use is a non-conforming use as defined by this Article and is in full compliance with all requirements of this Article applicable to non-conforming uses;

(b) That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Article regarding non-conforming uses will result in unnecessary hardship;

(c) That the exception will not substantially or permanently injure the appropriate use of adjacent conforming property in the same zone district or other zone districts;

(d) That the exception will not alter the essential character of the district in which is located the property for which the exception is sought;

(e) That the exception will not weaken the general purposes of this Article or the regulations established herein for the specific district;

(f) That the exception will be in harmony with the spirit and purposes of this Article.

(g) That the exception will not adversely affect the public health, safety, or welfare.

(C) Repairs and Maintenance. The following changes or alterations may be made to a non-conforming building or building containing a non-conforming use:

1. Maintenance repairs that are needed to maintain the good condition of a building, except that if a building has been officially condemned, it may not be restored under this provision.

2. Any structural alteration or change in use that more than insignificantly reduces the degree of non-conforming or changes the use to conforming use.

(D) Restoration or Replacement.

1. Non-purposeful destruction. Any nonconforming building or building containing a nonconforming use which is demolished or destroyed by an act of nature, or through any manner not purposefully accomplished by the owner, may be restored as of right if a building permit for reconstruction is issued within twelve (12) months of the date of destruction.

2. Purposeful destruction. Any nonconforming building or building containing a nonconforming use which is purposefully demolished or destroyed may be replaced with a different building only if the replacement building is in conformance with the current provisions of this Code.

3. If a building has been officially condemned, it may not be restored under this provision.

(E) Discontinuance.

1. Whenever a non-conforming use has been discontinued for a period of twelve (12) months it shall not thereafter be re-established and any further use shall be in conformance with the provisions of this Article.

2. Any non-conforming use in existence at the time of the effective date of this Article that has an assessed valuation of all improvements of three hundred fifty dollars (\$350.00) or less shall be discontinued within two (2) years from the effective date of non-conformance.

(F) Non-Conforming Lots. Non-conforming lots on record at the time of passage of this Article may be built upon providing that all other relevant district requirements are met and the approval of the Board of Adjustment is obtained.

(G) Change in Non-conforming Use. A non-conforming use of a building or lot may be changed to a conforming use.

(H) Construction Prior to Ordinance Passage. Nothing herein contained shall require any change in plans, construction, or designated use of a building or buildings for which a building permit has been issued or City approval obtained and construction of which shall have been diligently prosecuted within three (3) months of the date of such permit or approval.

(I) Creation of a non-conforming use or building from rezoning of property initiated by the Town of Grand Lake after January 2006.

1. Uses and Buildings that were conforming prior to the Town of Grand Lake initiating rezoning of the property will be permitted to expand the building or building containing a nonconforming use to the Building Height Limit and Area Regulations of the previous zone as declared in the ordinance adopted by the Board of Trustees and recorded with the Grand County Clerk and Recorder's Office.