



Memorandum

To: The Planning Commission
From: Niall Connolly, Principal Planner
Date: October 31st, 2025
Re: Noncomplying Buildings

Introduction

At the last work meeting, the Planning Commission discussed various ways to clarify the Town's regulations relating to noncomplying buildings. In particular, how to define more precisely what "removal of a structure" should consist of, and what degree of improvements could be included by the term "ordinary maintenance and repair". The Commission considered the pros and cons of adopting an approach currently used in Chapter 10-13A of the Town Code, known as "Substantial Improvement". "Substantial Improvement" is a principle that originates in FEMA's National Flood Insurance Program. The Commission instructed staff to explore how the Substantial Improvement methodology might be adapted for this purpose, and to prepare ordinance language for discussion.

Proposed Ordinance Language

The draft language now presented to the Planning Commission alters two sections of the Code:

1. Noncomplying Buildings (10-21-3)

The draft language expands on the definition of building removal. It draws on the Substantial Improvement methodology, by deeming that a building has been removed if reinstating the parts that have been removed would cost 50% or more of the value of the pre-demolition structure. The Commission should determine whether this is an appropriate methodology, and whether 50% is the right benchmark.

It also states that a demolition permit is required. The Town does not currently have a demolition permit process, but a resolution to introduce such a process is being brought to the Town Council in their November meeting. The benefit of requiring a demolition permit here is that it would make it possible to calculate the 50% in advance of demolition occurring, and would be easier to track exactly what has been removed.

This section also states that the Town will not approve more than one demolition permit for the same structure within any 180-day period. The intention of this requirement is to avoid the reconstruction of noncomplying buildings in stages. The Commission should consider whether this would be an effective deterrent. Also, the Commission should consider whether or not 180 days is the right timeline, or if a different period would be better. Alternatively, the language could be edited to consider the cumulation of any demolition from the date that the structure became noncomplying.

2. Ordinary Maintenance and Repair

The proposed language adds detail to what exactly this term means. The intent is that reasonably significant repairs could be carried out, but that removal of the framed structure cannot be considered “ordinary maintenance and repair”. It also adds a requirement for consultation with the Town’s Building Inspector so that the property owner’s contractor is not making that determination by themselves.

Next Steps

The Commission should review the draft ordinance language and discuss whether or not it achieves the intended aims of this ordinance revision. The Commission should provide direction to staff on any necessary changes to the proposed language.

10-21-3: NONCOMPLYING BUILDINGS:

A noncomplying building or structure in any zone may be continued, provided no additions, enlargements or alterations are made to said building, except as allowed or required by law or as provided in other sections of this chapter. If any such noncomplying building is removed, every future building on the lot or parcel of land shall comply with the provisions of this title.

- A. A building or structure is deemed to have been removed when the cost of reinstating those elements of the building or structure which have been removed would equal or exceed 50 percent of the market value of the building or structure before demolition commencing (as defined in 10-21-3(B) of this Title).
- B. "Demolition commencing" means the date the demolition permit was issued.
- C. A property owner must be in possession of a valid demolition permit issued by the Town of Springdale prior to demolishing or partially demolishing a noncomplying building or structure. The Town will not approve more than one demolition permit for the same structure within any 180-day period. Any portion of a non-complying building or structure removed or demolished in the absence of a valid, town-issued demolition permit will lose non-complying building or structure status, regardless of the provisions of 10-21-3(A) and (B). Buildings and structures damaged or lost because of a catastrophic event are subject to the provisions of 10-21-6 and 10-21-7.

10-21-8: MAINTENANCE, REPAIR, ALTERATION AND IMPROVEMENTS TO NONCOMPLYING BUILDING OR STRUCTURE:

Anything in this chapter notwithstanding, the following shall regulate the maintenance, repair, alteration and improvement of noncomplying buildings and structures. In all cases, where works constitute a substantial alteration of a structure, the works shall include measures, as necessary, to ensure the structure complies with town's current flood hazard reduction provisions, as set out in section 10-13A-8 of this title.

- A. ~~A.~~ Ordinary maintenance and repair: Ordinary maintenance and repair of noncomplying buildings and structures is allowed so long as such maintenance or repair will not result in expansion of any existing nonconformities or creation of new nonconformities. "Ordinary maintenance and repair" means improvements made to a building for the purpose of keeping the structure in a state of repair and protecting the structure from failure or decline. The term shall also apply to the rehabilitation of a building or structure which is in disrepair for the purpose of making the structure safe and sanitary, in accordance with local building code and in consultation with the Town's Building Inspector. Further, interior improvements within existing walls, not resulting in additional habitable space, shall be permitted. The term "Ordinary maintenance and repair" includes:
 - a. Replacement of roof surface materials, but not replacement of structural elements such as the roof trusses.
 - b. Replacement of wall sheathing or cladding, but not replacement of the structural framing elements such as studs or floor joists.
 - c. Replacement and upgrades of electrical and mechanical systems to make them more efficient or to comply with current codes.
 - d. Cosmetic enhancements such as painting, re-stuccoing, replacement of warped or cracked wood trim, and internal cosmetic work.
 - e. Other work similar in scope and scale to those listed above.
- B. Alterations:

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1. *Single-family dwellings:*
 - a. A single-family dwelling having nonconforming aspects may be altered or added to if such alteration or addition will not result in expansion of any existing nonconformities or creation of new nonconformities.
 - b. When a single-family dwelling is nonconforming as to setbacks, additions or alterations shall be permitted on the first floor if such addition or alteration will not result in the expansion of any existing nonconformities or the creation of new nonconformities.
 2. *Multi-family dwelling or commercial building:* A duplex, multi-family dwelling or commercial building or structure having nonconforming aspects, but having a use that is conforming, may be altered or added to, with the approval of the Town Council, provided such alteration or addition will not result in an expansion of any existing nonconformities or creation of new nonconformities.

(Ord. No. 2023-01, § 2, 2-8-2023)