

CHAPTER 19

NONCONFORMITIES

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SECTION 1900 GENERAL

Within the districts established by this Code or amendments that may later be adopted there exists uses, structures, and lots which were lawful before this Code was adopted or amended, but which would be prohibited under the terms of this Code or future amendment to this Code. These uses, structures, and lots, herein referred to as "nonconformities" may continue as regulated by this chapter. A use lawfully existing prior to the effective date of this Code, or amendment thereto, which does not comply with a parking, loading, screening, bulk and area, sign, or enclosure requirement or requirements, but which is otherwise lawful shall be deemed nonconforming and may continue as regulated by this chapter.

SECTION 1910 NONCONFORMING USES OF UNIMPROVED LAND

When at the effective date of this Code or amendment thereto a lawful use of land exists, which would not be permitted by the terms of this Code or amendments thereto, and the only structures employed in connection with such uses are all accessory or incidental to such use and in the aggregate do not cover more than 10% of the lot area devoted to the nonconforming use, such use shall be deemed a nonconforming use of unimproved land and shall terminate as follows:

- (a) If the replacement cost of the accessory structures (other than fences) is less than \$1,000.00, the nonconforming use shall terminate within 5 years from the effective date of this Code or from the date the use became nonconforming, whichever is later.
- (b) If the replacement cost of the structures (other than fences) is \$1,000.00 or more, the nonconforming use shall be terminated on the basis of amortization of the replacement cost of the accessory structures at a rate of \$200.00 per year from the effective date of this Code or from the date the use became nonconforming, whichever is later.

Pending termination, the nonconforming use of land may be continued provided:

- (a) No such nonconforming use shall be changed to another nonconforming use, nor enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this Code or amendment thereof.

- (b) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of this Code or amendment thereof.
- (c) No additional structure (other than fences) shall be erected in connection with such nonconforming use of land.
- (d) If any such nonconforming use of land ceases for any reason for a period of more than 90 days, (except when government action impedes access to or use of the premises) any subsequent use of such land shall conform in all respects to the regulations of the district in which located.

SECTION 1920 NONCONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION

When at the effective date of this Code or amendment thereto, there exists a lawful use of a building, or use of a principal building and land, or use of land and accessory structures, such structures covering more than 10% of the lot area, and such use would not be permitted by right under the terms of this Code or amendment thereto, such use shall be deemed nonconforming and may continue subject to the following provisions:

- (a) No building devoted to a nonconforming use shall be enlarged or extended, except in changing the use of the building to a use permitted in the district in which it is located.
- (b) A nonconforming use of a portion of a building may be extended to the remaining portions of the building if such portions were manifestly arranged and designed for such use, but such use shall not be extended to occupy any land outside the building.
- (c) A nonconforming use of a building, or building and land in combination, if superseded by a permitted use, shall not thereafter be resumed.
- (d) A nonconforming use of a building, or building and land in combination, if discontinued for 24 consecutive months or for 24 months during any three year period, (except when governmental action impedes access to or the use of the premises) shall not thereafter be resumed.
- (e) Where nonconforming use status applies to a building and land in combination, termination of use of the building within the meaning of 1920 (d) shall eliminate the nonconforming status of the use of the land.
- (f) A nonconforming use of a building or of a building and land in combination; when located within a residential district shall not be changed unless changed to a use permitted in the district in which located. A nonconforming use of a building or of a building and land in combination; when located within a district other than a Residential district, may, as a Special Exception, be changed upon approval of the Board of Adjustment after a finding that the proposed use will not result in any increase of incompatibility with the present and future use of the proximate properties.
- (g) Should the structure containing a nonconforming use be damaged or partially destroyed to the extent of more than 50%, but less than 75% of its current replacement

cost at time of damage, the restoration of the structure shall be subject to the Board of Adjustment's finding after adherence to the procedural requirements for a Special Exception, that the contemplated restoration is necessary for the continuance of the nonconforming use, and will not result in any increase of incompatibility with the present or future use of proximate properties. Should the structure containing a nonconforming use be damaged or destroyed to the extent of more than 75% of its replacement cost at time of damage, the nonconforming use shall not thereafter continue or be resumed.

SECTION 1930 NONCONFORMING SIGNS

1930.1 Outdoor Advertising Signs

- (a) Outdoor advertising signs lawfully existing on the effective date of this ordinance but which would be prohibited by its terms, shall be removed, or made to conform if possible, on or before January 1, 1997. In addition, said sign shall be subject to the following regulations:
1. The sign shall be maintained in good repair and visual appearance.
 2. Should the sign be damaged or partially destroyed to the extent of more than 50% of its current replacement cost at the time of damage, the sign shall be removed, or made to conform if possible.
 3. If the sign is not used for advertising purposes for a period of 180 consecutive days, the sign shall be deemed abandoned and shall be removed.

1930.2 Business Signs

- (a) Business signs lawfully existing on the effective date of this ordinance, or amendment thereto, but which would be prohibited by its terms shall be removed, or made to conform if possible, on or before January 1, 1997.
- (b) Signs with flashing lights lawfully existing on the effective date of this ordinance or amendment thereto, but which would be prohibited by its terms shall be removed, or made to conform to the provisions of this chapter, within one year from the effective date of this amendment provided, however, that promotional business signs shall comply with this ordinance immediately, from and after its effective date.

SECTION 1940 NONCONFORMING LOTS

- (a) In residential districts, on any lot or subdivision of record on or before a single-family detached dwelling may be erected without complying with the required area or width of the required side yard which abuts a public street, provided that no side yard shall be less than five (5) feet and all other requirements of the district are complied with.
- (b) In nonresidential districts, on any lot or subdivision filed of record on or before the permitted use may be located on such lot irrespective of its area or width provided that other requirements of the district are complied with.

SECTION 1950 STRUCTURAL NONCONFORMITIES

A structure, lawfully existing at the effective date of the adoption or amendment of this Code, but which would be prohibited by the terms of this Code by reason of restriction on floor area, density, intensity, height, yards, its location on the lot, or other requirements concerning the structure, shall be deemed nonconforming and may continue, subject to the following provisions:

- (a) No such nonconforming structure may be enlarged or altered in any manner which increases its nonconformity, provided that the addition of a mezzanine or similar alteration which does not increase the cubic content of the structure shall not constitute an "increase in nonconformity".
- (b) Should such structure be damaged or partially destroyed by any means to the extent of more than 50% of its current replacement cost at time of damage, the restoration as a nonconforming structure shall be subject to the Board of Adjustment's finding, after adherence to the procedural requirements for a Special Exception, that its restoration to a conforming structure cannot reasonably be made in view of the nature and extent of the nonconformity and the nature and extent of the damages.
- (c) Should such structure be moved for any distance whatever, it shall thereafter conform to the provisions of the district in which located.
- (d) A mobile home or a mobile home park which lawfully existed at the effective date of the Code, but which would be prohibited by the terms of this Code is classified as a structural nonconformity and may continue, except for the following conditions and the other provisions of Section 1950:
 1. A nonconforming mobile home, outside of a licensed mobile home park, if removed from the site, shall not be thereafter reestablished, or if said mobile home remains unoccupied for a period of 12 months during any 18 month period, the mobile home shall be removed from the site at the owner's expense.
 2. If a nonconforming mobile home park discontinues operations for 12 months during any 18 month period, the mobile home park shall not thereafter resume operations.

SECTION 1960 REPAIRS

- (a) On any building containing a nonconforming use or any nonconforming structure, ordinary repairs and maintenance may be made provided that the cubic content of the building is not increased, and structural nonconformity is not increased.
- (b) If a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and a final order of vacation or demolition is entered by any duly authorized official by reason of physical condition, it shall not thereafter be used, restored, or repaired, or rebuilt except in conformity with the provisions of the district in which located.

SECTION 1970 PARKING, LOADING AND SCREENING NONCONFORMITIES

A use lawfully existing at the effective date of this Code, or amendment thereto, but which does not comply with a parking, loading or screening requirement or requirements of this Code, shall be deemed nonconforming and may continue, subject to the following provisions:

- (a) No such use may be enlarged or extended unless parking and loading is provided as required for the enlargement or extension.
- (b) No such use may be enlarged or extended unless screening is provided as required for the use.
- (c) No such use may be changed unless parking, loading and screening is provided as required for such use; provided however, that the Board of Adjustment may modify such parking and loading requirements as a special exception after finding that the proposed use meets the standards contained in Section 2180.3, and the proposed use will not result in any increase of incompatibility with the present and future use of the proximate properties.