

NONCONFORMITIES

WORLDWIDE

NONCONFORMITIES

1.09 NONCONFORMITIES. Within the districts established by this Ordinance there exist:

1. lots,
2. structures,
3. uses of land and structures, and
4. characteristics of use,

which were lawful before these regulations were adopted or amended, but which are prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district; however, it is the intent of this Ordinance to allow structures which were nonconforming under the previous Ordinance, but which are conforming under this Ordinance to be considered legal as of the date of adoption of this Ordinance and shall be allowed to be rebuilt, added to, or modified within the terms and requirements of this Ordinance.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

1.10 NONCONFORMING LOTS OF RECORD. Variance of yard requirements shall be obtained only through the action of the Board of Adjustment.

1.11 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of adoption of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these regulations.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of twelve (12) months, then any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
4. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

1.12 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of these regulations by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in such a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

1.13 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of these regulations, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impedes access to the premises) the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

6. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction. Replacement shall begin within six (6) months of the time of destruction or the nonconforming status shall expire. Said construction shall also be completed within eighteen (18) months of the time of destruction or the nonconforming status shall expire.

1.14 REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, provided that the cubic content of the building as it existed at the time of adoption or amendment of this Ordinance shall not be increased.

1.15 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NON-CONFORMING USES. Any use which is permitted as a special exception in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use not in such district, but shall without further action be considered a conforming use.

