

Section 2000: Applicability

Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be 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. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended and not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

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 diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved and provided further that all work shall be done pursuant to a valid permit.

Section 2010: Nonconforming Lots

1. The intent of this ARTICLE is to allow for the reasonable development of lawfully existing nonconforming lots.
2. Notwithstanding any limitations imposed by other provisions of this Ordinance, in any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings or structures may be erected on any single, isolated, lawful, nonconforming lot existing at the effective date of adoption of this Ordinance. This provision shall apply even though such lot fails to meet the minimum requirements for area, or width, or both, that are generally applicable in a particular zoning district.
 - a. The construction of a single family dwelling and customary accessory buildings or

structures on a single, isolated, lawful, nonconforming lot shall conform to the minimum front, side and rear yard dimensions and other such requirements applicable to the zoning district in which the lot is located, except that the required total side yards for a principal residential building may be reduced six (6) inches for each one (1) foot of lot width less than the minimum required. Under no circumstances shall the total side yards be less than fifteen (15) feet. In the case of a principal residential building where a private garage is not attached or part of the dwelling, then at least ten (10) feet shall be provided for driveway purposes leading to the rear yard. The minimum side yard in all cases shall be not less than five (5) feet.

- b. A single, isolated, lawful, nonconforming lot is one which is owned by a person at the time of adoption of this Ordinance, that is either situated between two (2) interior lots which are developed or a corner lot contiguous to a developed interior lot and there is:
 - (1) No likelihood of obtaining additional land area to satisfy minimum required lot area, or lot width, or both and;
 - (2) No arrangement is available for public purchase of such lot and;
 - (3) No reasonable likelihood exists to sell the parcel to one, or to both, of the contiguous property owners.
- 3. Whenever two (2) or more nonconforming lots or parts of nonconforming lots are held in common ownership at the time of adoption or amendment of this Ordinance, they shall be considered as one (1) lot for the purposes of this Ordinance and must satisfy the minimum lot width and area requirements for the zoning district in which the lots are located.
- 4. Irrespective of ownership, contiguous vacant, nonconforming lots having a continuous frontage on a private or public street or other officially approved thoroughfare shall be combined to form lots meeting the minimum lot width and lot area requirements for the zoning district in which the lots are located. If, however, fifty-one (51%) percent or more of the lots on both sides of the street, between the nearest cross streets on each side of the subject lot, are developed and do not meet the minimum lot width and lot area requirements, said nonconforming lots may be divided, provided the lot width and lot area are equal to greater than the developed lots on both sides of the street between the nearest cross streets on each side of the subject lot.

Section 2020: Nonconforming Uses of Land

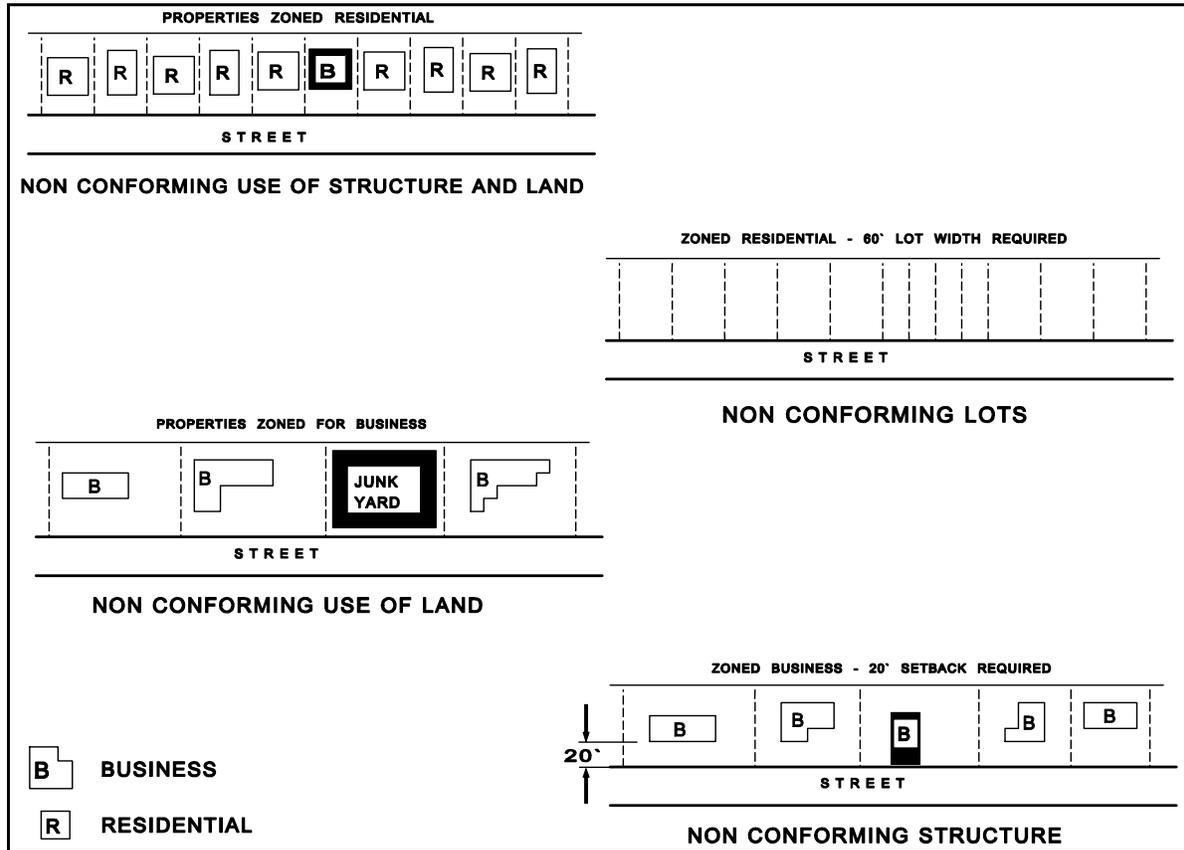
Where at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance, as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions.

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 this Ordinance.
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 such nonconforming use of land ceases for any reason for a period of twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

Section 2030: 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 this Ordinance by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase their nonconformity.
2. Should such structure be destroyed by any means to an extent that the cost for repair exceed its State Equalized Value, as determined by the City Assessor, exclusive of the foundation, it shall be reconstructed only 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 removed.



Section 2040: Nonconforming Uses of Structures and Land

If a lawful use of a structure, or of structure and land 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 this Ordinance, the lawful use may continue 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, moved 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 be changed to another nonconforming use provided that the Board of Appeals, 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 Appeals may require appropriate conditions and safeguards in accord 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 in which such structure is located, 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, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
6. Where 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.

Section 2050: Nonconforming Characteristics of Use

It is the intent of this ARTICLE to eliminate, as nearly as is practicable with the prevailing requirements of this Ordinance, nonconforming characteristics of use and to eliminate them as rapidly as is possible.

1. Notwithstanding other provisions of this Ordinance, whenever a change in use, or when structural alterations are made, or when renewal of operating license as provided by other City Ordinance is made, those nonconforming characteristics of a use which were lawfully inadequate or totally lacking at the effective date of this Ordinance, or amendments thereto, shall be eliminated as nearly as is practicable with the prevailing requirements of this Ordinance relative to characteristics of use.
2. Such upgrading of characteristics of use shall be completely and entirely prosecuted within eighteen (18) months after the occurrence of a change in use, or after issuance of building permit for structural alterations, or before the expiration date of the renewed operating license.
3. The Board of Zoning Appeals may grant an extension of time not to exceed one (1) year to remedy those deficient characteristics of use found to exist.
 - a. In granting such extension of time, the Board of Zoning Appeals shall base its written decision upon findings that:
 - (1) The applicant can document conclusively that personal hardship exists presently but there is likelihood that the improvements can be completely and

entirely prosecuted if the initial time allotment is extended and;

- (2) That the reasons for personal hardship justify granting an extension of time so as to make possible the reasonable use of land, building or structure concurrent with the likelihood for upgrading, as nearly as is practicable, those deficient characteristics of use found to exist.
- b. In granting such extension of time, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the spirit and intent of this Ordinance inclusive of requiring the posting of a cash bond or other acceptable surety to guarantee that the required upgrading is completely and entirely prosecuted.

Section 2060: Repairs and Maintenance

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 2070: Special Approval Uses Not Nonconforming

Any use which exists as a special approval use is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

Section 2080: Change of Tenancy or Ownership

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses.

Section 2090: Purchase of Nonconforming Lots, Uses, Buildings or Structures

1. Except as provided herein, the elimination of nonconforming lots, uses, buildings or structures is hereby declared to be for a public purpose and for a public benefit.
2. The City Council may in its discretion acquire by purchase, condemnation or otherwise private property for the removal of nonconforming lots, uses, buildings or structures. The City Council may in its discretion solicit the recommendation of the Planning Commission prior to instituting proceedings for the removal or elimination of nonconforming lots, uses, buildings or structures.
3. The City Council may in its discretion provide that the cost and expense of acquiring such

private property, be paid from general funds, or the cost and expense or any portion thereof be assessed to a special district.

4. The City Council shall have authority to institute and prosecute proceedings for the condemnation of nonconforming lots, uses, buildings or structures under the power of eminent domain in accordance with Ordinance provisions relative to condemnation and State Statutes in such case made and provided.