

Chapter 7

NONCONFORMITIES

Section 7.1 Purpose

Zoning regulations established by the adoption of this Ordinance or amendments to this Ordinance may cause properties and uses that were lawful prior to the adoption of certain regulations to not meet the requirements after adoption of these regulations. The purpose of this chapter is to establish procedures and regulations for those lawfully established uses of properties or structures that are in conflict with the requirements of this Ordinance. It is not the intent of this section to encourage the continuance of nonconformities that are out of character with the standards of the zoning district. It is the intent of this section, however, to allow certain nonconforming situations to continue as legal exceptions to this Ordinance.

Section 7.2 Nonconformities Defined

A nonconformity shall be any use, lot, improvement, or structure that was legally established but, as a result of adoption of or amendments to this Ordinance, does not meet the current standards of the Ordinance.

A. Nonconforming Uses

Nonconforming uses shall be those legally established uses of property that do not conform with the requirements of the zoning district in which they are located.

B. Nonconforming Lot

A nonconforming lot shall be any legally established parcel that does not conform to the current area or dimensional requirements of the zoning district in which it is located.

C. Nonconforming Structure

A nonconforming improvement or structure shall be any legally established building or structure that fails to meet current Ordinance standards for setback, height, or similar factors.

Section 7.3 Creation of Nonconformities

Except as expressly allowed in this Chapter, no new nonconformities may be created.

Section 7.4 Nonconforming Uses

A. Continuation

Nonconforming uses shall be allowed to continue, but may not expand, with the following exceptions:

1. All nonconforming uses on property that does not include a building or on which the only building is typically an accessory structure associated with the nonconforming use shall be discontinued within six years becoming nonconforming.
2. Nonconforming residential use of garage apartments on properties zoned A1 shall not be reestablished if the use is discontinued for:
 - (a) A period of twelve months or more if the property owner lives on the premises; or
 - (b) A period of six months or more if the property owner does not live on the premises.
3. Nonconforming nonresidential uses, other than those involving the sale of alcohol or located in the Rural zoning district, shall not be re-established if the nonconforming use is discontinued for twelve months.

4. No person operating a business which is presently classified as a legal nonconforming commercial use, as defined in Chapter 2 of the Unified Development Code, may apply for or be issued a license or permit to allow package retail sales of beer and/or liquor for off-premise consumption without first obtaining a petition of 51 percent of the property owners within three hundred feet of said business.
5. Nonconforming uses involving the sale of alcohol shall not be re-established if the sale of alcohol at the business is discontinued for six months or more.
6. Nonconforming uses in the Rural zoning district shall not be re-established if the nonconforming use is discontinued for 36 months.
7. Nonconforming uses located in buildings that are damaged or destroyed to an extent of more than sixty 60 percent of its fair market value, by fire, explosion, act of God, or the public enemy shall not be reestablished.

B. Changes to Nonconforming Uses

If there are no structural alterations, a nonconforming use may be changed to another nonconforming use provided that it is changed to a less intense use as determined in Chapter 8, Zoning Districts. If changed, however, it cannot be changed back to the original nonconforming use.

Section 7.4 Nonconforming Lots

Nonconforming lots may be developed to permit conforming uses; however, the required setbacks may be reduced to reflect the extent of the nonconformity. That is, a nonconforming lot that provides 90 percent of the required lot width required in a zoning district may have the side yard setbacks reduced by up to ten percent.

Section 7.5 Nonconforming Structures

Nonconforming structures may only be enlarged, extended, reconstructed, or structurally altered after approval by the Board of Adjustment.