

## **CHAPTER 17.24 NONCONFORMING USES AND STRUCTURES**

### **17.24.010 NONCONFORMANCE REGULATED**

The purpose of this chapter is to provide for the gradual elimination of nonconforming uses and structures. The lawful use of land or a structure exactly as the land or structure existed at the time of enactment of the ordinance may be continued except as otherwise provided herein although the use or structure does not conform with the ordinance. However, a nonconforming use shall be subject to, and the owner shall comply with, the regulations of this chapter. A change in tenancy, ownership or management does not change the status of a nonconforming use.

### **17.24.020 NONCONFORMING USES**

If lawful use involving individual structures exists at the effective date of adoption of this title that would not be allowed in the district under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A.** No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, resumed, or restored, 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.
- B.** If any such nonconforming use of a structure ceases for any reason for a period of more than 6 months, such use shall conform to the regulations specified by this title for the district in which such use is located.
- C.** A structure devoted to a nonconforming use may be maintained but not structurally altered so that the life of the structure is extended.
- D.** If no structural alterations are made, any nonconforming use of a structure, or if the same is more restricted classification provided that the Zoning Board of Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such changes the Board may require conditions and safeguards in accord with the purpose and intent of this chapter. Where a nonconforming use, a structure, land or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a more nonconforming use.
- E.** Whenever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.

### 17.24.030 NONCONFORMING STRUCTURES BY CLASS

Generally, nonconforming structures are declared by this title to be incompatible with permitted structures in the district involved. However, in pursuit of the public interest, a distinction is made between nonconforming structures that should be eliminated as rapidly as possible and nonconforming structures that may be given separate treatment.

To this end, there are established 2 classes of nonconforming structures: 1) Class A, those that could be altered to extend their usefulness and longevity; and 2) Class B, those that are not desirable and useful and will only be allowed to be continued until they are removed or voluntarily discontinued.

**A. CLASS A NONCONFORMITIES.** The following nonconformities shall be classified as Class A nonconformities and may be enlarged, extended, constructed, resumed, or restored, reconstructed, moved or structurally altered as provided here in this subsection.

1. Detached single-family residential dwellings that contain a conforming use that are nonconforming due to side yard setbacks or front yard setbacks may have a second story addition constructed provided that the addition adheres to the same setbacks as the existing dwelling.
2. Detached single-family residential dwellings that contain a conforming use that are nonconforming due to side yard setbacks may have a first floor addition added to them provided that the addition, complies with all current setback and height requirements.

**B. CLASS B NONCONFORMITIES.** The following nonconformities shall be classified as Class B nonconformities:

1. Detached single-family dwellings that contain a conforming use that are nonconforming due to rear yard setbacks or minimum floor area.
2. Buildings that contain a nonconforming use.
3. Detached single-family dwellings that are on a single lot with another detached single-family dwelling.
4. Conforming structures that contain nonconforming uses.
5. Uses that do not have required off-street parking.

Class B nonconformities shall not be enlarged, extended, constructed, resumed, or restored, reconstructed, moved or structurally altered. They shall not be changed to another nonconforming use or rebuilt except in conformance with the provisions of this chapter. They shall not be repaired if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the State Equalized Value (SEV).

#### **17.24.040 NONCONFORMING LOTS OF RECORD**

In any district in which single family dwelling units are permitted, notwithstanding limitations imposed by other provisions of this subsection, a single family dwelling and customary accessory buildings may be erected on any lot of record at the effective date of adoption or amendment of this subsection. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided, however that setbacks and other requirements not involving area or width or both conform to the regulations for the district in which such lot is located. If 2 or more lots or a combination of lots or portions of lots with a continuous frontage and single ownership are of record at the effective date of adoption or amendment of this subsection, or at any time thereafter; and if all or part of the lots do not meet the requirements for lot area or width as established by this chapter, the lands involved shall be considered an undivided parcel or zoning lot for the purpose of this chapter, and no portion of such undivided parcel or zoning lot shall be used or occupied which does not meet lot area or width requirements as established by this chapter, nor shall any division of the parcel or zoning lot be made which leaves remaining on any lot with area or width below the requirements stated in this chapter.

#### **17.24.050 REPAIRS AND MAINTENANCE**

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to a lack of repairs and maintenance and is declared by the Building Official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

#### **17.24.060 RECONSTRUCTION OF DAMAGED NONCONFORMING BUILDINGS AND STRUCTURES**

Nothing in this title shall prevent the reconstruction, repair or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this title, wherein the sum total of the expense including labor, materials and other charges of such reconstruction does not exceed 50 percent of the State Equalized Value (SEV) of the entire building or structure at the time such damage occurred; provided, that such restoration and resumption shall take place within 3 months of the time of such damage and that it be completed within one year from time of such damage; and provided further, that said use shall be identical with nonconforming use permitted and in effect directly preceding said damage. Where pending insurance claims require an extension of time, the Building Official may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay. Until such time as the debris from the fire damage is fully removed, the premises shall be adequately fenced or screened from access.

**17.24.070 MOVING**

No nonconforming building or structure shall be moved in whole or in part to another location unless such building or structure and the off-street parking spaces, yard and setbacks, and other requirements of this title are made to conform to all the regulations of the district in which such structure is to be located.

**17.24.080 NOTIFICATION OF NONCONFORMING STATUS**

- A.** After the adoption of this title, or any amendments thereto, the City shall prepare a record of all known nonconforming uses existing at the time of such title or amendment. Such record shall contain the names and addresses of the owners of record as provided in the City's tax rolls, the legal description, the nature of use, and a description of the nonconformity. Each owner and occupant shall be notified by mail of the nonconforming character of the structures and uses thereof. Such record shall remain on file at the City shall be periodically revised to reflect those nonconforming uses which have ceased to exist and any new nonconforming uses discovered by the City.
- B.** Should the City become aware of a nonconforming use, the owner of said nonconforming use shall be notified by the City in writing of the provisions of this title and that his property constitutes a nonconforming use.
- C.** Should the City become aware that the nonconforming use of a structure has ceased for a period of more than 6 months, the City shall notify the owner of the structure that future uses shall conform to the regulations specified by this title for the district in which such use is located.

**17.24.090 PLANS ALREADY FILED**

In any case where plans and specifications for a building or structure have been filed, which would conform with the zoning regulations effective at the date of such filing but not with the regulations of this title, and where a building permit for such building or structure has been issued and construction work started at the effective date of this title, such work may proceed provided it is completed within one year of said date.