

SECTION 28

NONCONFORMING USES AND DEVELOPMENT

2801 Purpose

Within the various districts established by this title or amendments that may later be adopted, there exist structures and uses of land and structures that were lawful prior to the adoption of the ordinance codified in this title but that would be prohibited, regulated, or restricted under the provisions of this title. It is the intent of this title to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this title to be incompatible with permitted uses in the districts involved.

All nonconforming use of land, use of structures and nonconforming structures shall cease upon change of ownership (with the exception for change of ownership to an immediate family member), of the land use of structure or structure.

2802 Regulations Additive

Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

2803 All Districts

a. Nonconforming Use of Land

The lawful use of land upon which no building or structure is erected or constructed that becomes nonconforming under the terms of this title as adopted or amended 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 the ordinance codified in this title.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel that was not occupied by such use at the effective date of adoption or amendment of the ordinance codified in this title.
3. If any such nonconforming use of land ceases for any reason for a period of more than three months, any subsequent use of such land shall conform to the regulations for the district in which such land is located.

b. Nonconforming Use of Structures

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of the ordinance codified in this title, that would not be allowed in the district under the terms of this title, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted entirely or in part to a use not permitted by this title in the district in which it is located, except when required by law, shall be enlarged, extended,

Nonconforming Development

reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

2. In the event that a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for a period of three months, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
3. Any structure devoted to a use made nonconforming by this title that is destroyed by any means to an extent of fifty percent of the assessed value of the structure at the time of destruction, shall not be reconstructed and used as before such happening. If the structure be less than fifty percent of the assessed value of the structure, it may be reconstructed and used as before, provided it be done within six months of such happening, and be built of like or similar materials.

c. Nonconforming Structures

Where a structure exists at the effective date of adoption or amendment of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions 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.
2. Should such structure be destroyed by any means to an extent of fifty percent of assessed value of the structure, it shall not be reconstructed except in conformity with the provisions of this title.

2804 Repair, Maintenance and Remodeling of Nonconforming Structures

- a. On any non-conforming structure or portion of a structure containing a con-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty-five (25) percent of the current assessed value of the structure, of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.
- b. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized 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.

2805 Recognition of Nonconformances

- a. Unauthorized Nonconformances

Nonconforming Development

Any use of land or structure which was not an authorized nonconformity under any previous zoning ordinance or similar regulations shall not be authorized to continue its nonconforming status pursuant to this title.

b. Nonconforming Uses and Conditional Use Permits

A lawful pre-existing use that would require a Conditional Use Permit in its zoning district shall be presumed to have the appropriate permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of permits, set forth in Section 29.