

SECTION 4

NONCONFORMING USES

4.01 INTENT

- A. If within the districts established by this Ordinance there exist lots, structures, and use of land and structures that were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or amendments, it is the intent of this Ordinance to permit these non-conformities 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.
- B. This Ordinance intends that non-conformities must not be enlarged upon, expanded, or extended. Non-conforming uses may not serve as grounds for adding other structures, signs, or uses prohibited elsewhere in the same district.

4.02 EXISTING STRUCTURES AND USES

- A. **Existing Non-conforming Structures**

To avoid undue hardship, nothing in this Ordinance requires 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 when actual building construction has begun. Actual construction includes placing of construction materials in permanent position and fastened in a permanent manner; except that the demolition or removal of an existing building has been substantially begun prior to rebuilding, the demolition or removal will be considered actual construction. The construction must be completed in a reasonable time.
- B. **Non-conforming Lots of Record**

A lot of record on the effective date of this Ordinance that has less area or width than required may be used for any purpose permitted in the district in which it is located, provided all other provisions of this Ordinance are met.
- C. **Non-Conforming 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, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

 - 1. No non-conforming use may be enlarged or increased or extended to occupy a greater use of land than it occupied at the effective date of adoption or amendment of this Ordinance.
 - 2. No non-conforming use may be moved in whole or in part to any other portion of the lot or parcel occupied by the use at the effective date of adoption or amendment of this Ordinance.

3. If any non-conforming use of land ceases for any reason for a period of more than 180 days, any subsequent use of the land must conform to the regulations specified by this Ordinance for the district in which such land is located.

D. Non-conforming 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 restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, the structure remain so long as it remains otherwise lawful, subject to the following provisions:

1. No structure may be enlarged or altered in a way that increases its non-conformity.
2. If the structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it may not be reconstructed unless it conforms with the provisions of this Ordinance. The determination of the replacement cost must be established by a licensed property appraiser. Provided, however, that if the sole reason that the structure would be non-conforming is that the area of the lot is not sufficient to satisfy the requirements of this Ordinance, and the area of the lot is at least 10,000 sq. ft., then the structure may be reconstructed, provided that the new structure is not enlarged or significantly altered from the characteristics of the previous structure, and it otherwise conforms with all of the provisions of this Ordinance.

E. Non-Conforming Uses Of Structures

If a lawful use of a structure, 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 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 may be enlarged, extended, constructed, reconstructed, moved, or structurally altered except that the change converts the premises to a use permitted in the district in which it is located;
2. Any non-conforming use may be extended throughout any parts of a building that were manifestly arranged or designed for a use at the time of adoption or amendment of this Ordinance, but the use must not be extended to occupy any land outside the building;
3. Any non-conforming use that is succeeded by a permitted use must thereafter conform to the regulations for the district in which the structure is located, and the non-conforming use may not resume;
4. When a non-conforming use is discontinued or abandoned for six consecutive months, the structure must conform with the regulations of the district in which it is located;
5. Where non-conforming use status applied to a structure and land in combination, removal or destruction of the structure eliminates the non-conforming status of the land.

F. Repairs or Maintenance on Nonconforming Structures

1. On any building devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement value of the building if the area of the building as it existed at the time of passage or amendment of this Ordinance is not increased.
2. Nothing in this Ordinance prevents the strengthening or restoration of a structure to a safe condition if the structure has been declared unsafe by any appropriate official.

G. A Special Exception Is Not a Non-Conforming Use:

A special exception is not a non-conforming use.