

SECTION 24: NON-CONFORMING BUILDINGS, STRUCTURES AND USES

Subd. 1. Nonconforming Buildings and Uses. Regulations governing nonconforming uses and structures are established to control the continued existence of legal nonconforming uses and structures by bringing about their gradual elimination, by regulating their enlargement, intensification, expansion, or reconstruction, and by prohibiting their reestablishment after abandonment or destruction, and to regulate the use of and construction on nonconforming lots.

No structure or use or part thereof, shall hereafter be erected, constructed, altered, enlarged, relocated, used or intensified in character except in conformity with the provisions of this zoning ordinance. Legal nonconforming uses and structures shall be allowed to continue for so long as they remain otherwise lawful, subject to the provisions of this chapter. Nonconforming uses and structures which were not lawfully in existence on the effective date of this ordinance shall be prohibited.

This chapter imposes a general prohibition on the enlargement, expansion, restoration, relocation, structural alteration or intensification of nonconforming uses and structures, and on the change of any nonconforming use to a use other than one allowed in the district in which the use is located. Nothing in this chapter shall be construed to provide a property owner with any property right or other legal right to compel the city to grant an exception to this general prohibition.

Subd. 2. Change of Tenant or Ownership. A change of tenancy, ownership or management of any nonconforming use shall be allowed, provided there is no change in the nature or character of such nonconforming use or structure, except as otherwise provided in this chapter.

Subd. 3 Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of this Ordinance provided that it fronts on a street. Yard dimensions and other requirements for the lot shall conform to regulations for the district unless a variance is granted.

If two(2) or more lots or combinations of lots and portions of lots with contiguous street frontage in single ownership are of record on the effective date of this Ordinance, and if all or part of the lots do not meet with width and area requirements of this Ordinance for lots in the district, the contiguous lots shall be considered to be an undivided parcel for the purpose of this Ordinance and no portion of such parcel shall be used or occupied which does not meet lot width and area requirements of this Ordinance, nor shall the parcel be so divided that any remaining lot does not comply with such requirements.

Subd. 4. Discontinuance or Loss of Nonconforming Rights.

- A. Structures Present; One Year. In any case in which a structure is an integral or necessary part of a nonconforming use, if the nonconforming use is discontinued for continuous period of one (1) year, it shall be deemed to be abandoned and may not thereafter be reestablished or resumed. Any subsequent use of the land or structure shall conform to the requirements of the district in which it is located.
- B. No Principal Structures Present; 90 Days. In any case involving the nonconforming use of land which does not include any principal structures, or in connection with Which and building or structure is merely incidental to the principal use of the land, if the nonconforming use is discontinued for a continuous period of ninety (90) days, it shall be deemed to abandoned and may not thereafter be reestablished or resumed. Any subsequent use shall conform to the requirements of the district in which it is located.

Subd. 5. Expansion or Alteration of Nonconforming Uses or Structures. By four-fifths (4/5) vote of the entire Council, the City Council may permit the expansion of a legal nonconforming structure or use by Ordinance if in no case would a structure or use prohibited in the zoning district be extended beyond the present lot and upon making the following findings:

- A. The expansion will be compatible with the adjacent property and the other properties in the vicinity.
- B. The expansion will not result in significant increases in adverse off site impacts such as noise, dust, odors, and parking congestion.
- C. The expansion, because of improvements to the property, will improve the appearance or stability of the vicinity.

Subd. 6. Residential Alterations. Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building.

Subd. 7. Restoration. No nonconforming building or structure, except single family dwellings in the Inst, Institutional or R-4 district, which have been damaged by fire, explosion, flood, act of God or other peril to the extent greater than fifty percent (50%) of its market value may be continued if no building permit has been applied for within 180 days of when the structure was damaged except in conformity with the regulations of this Ordinance. The City Council may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent properties. A nonconforming building or structure which is damaged to a lesser degree may be restored and its previous use

continued or resumed provided that restoration is completed in one (1) year following its damage and no enlargement occurs.

Subd. 8. Normal Maintenance. Maintenance, repair or improvement of a nonconforming building or use will be permitted when it includes necessary, nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming building or use. Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the building official and zoning administrator.

Subd. 9. Issued Permits. Nothing herein contained shall require any change in plans, construction or designated use of a building or structure for which a building permit has been issued prior to the effective date of this ordinance, provided, however, that the entire building shall be completed according to such plans as filed within twelve (12) months from the date of issuance of said permit.

Subd. 10. Status of Variances. If a variance has been granted as provided in the Ordinance, it shall not be deemed a nonconformity, but shall without further action be deemed permitted on the property.