

CHAPTER 1276
Nonconforming Uses, Structures and Lots

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1 1276.0 INTENT.

Certain existing lots, structures and uses of lots and structures were lawful before this chapter was adopted, but have become nonconforming under the terms of this chapter and its amendments. It is the intent of this chapter to permit such non-conformities to remain until they are discontinued or removed, but not to encourage their survival or where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Nonconforming uses or structures shall not be enlarged, expanded or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Nonconforming uses, structures and lots are declared by this chapter to be incompatible with the structures and uses permitted in the various districts.
(Ord. 275. Passed 9-23-03.)

1276.02 NONCONFORMING LOTS.

(a) In any district in which one-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Code, a one-family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of the adoption or amendment of this Zoning Code. 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 that yard dimensions and other requirements not involving the area or width, or both, of the lot, conform to the regulations for the district in which such lot is located.

(b) If two (2) or more lots, or combinations of lots and portions of lots with continuous frontage in single ownership, are of record at the time of passage or amendment of this Zoning Code, and if all or part of the lots does not meet the requirements for lot width and area as established by this Zoning Code, the lands involved shall be considered to be an undividable parcel for the purpose of this

Zoning Code, and no portion of such parcel shall be used or sold which does not meet the lot width and area requirements established by this Zoning Code. No division of the parcel shall be made which leaves remaining any lot with a width or area below the requirements of this Zoning Code.
(Ord. 275. Passed 9-23-03.)

1276.03 NONCONFORMING USES OF LAND.

Where, on the effective date of the adoption or amendment of this Zoning Code, a lawful use of land exists that is no longer permissible under the terms of this Zoning Code, as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such nonconforming use of land shall be enlarged or increased or extended to occupy a greater area of land than was occupied upon the effective date of the adoption or amendment of this Zoning Code.
- (b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use upon the effective date of the adoption or amendment of this Zoning Code.
- (c) If such nonconforming use ceases, for any reason, for a period of more than six (6) months, or a nonconforming use of land which is seasonal in nature is discontinued or does not open for business during a twelve (12) month period, any subsequent use of land shall conform to the regulations specified in this Zoning Code for the district in which such land is located.

(Ord. 275. Passed 9-23-03.)

1276.04 NONCONFORMING STRUCTURES.

Where a lawful structure exists upon the effective date of the adoption or amendment of this Zoning Code that could not be built under this Zoning Code because 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:

- (a) No such structure shall be enlarged or altered in a way that increases its nonconformity, but such structures may be enlarged or altered in a way that does not increase its nonconformity. An alternation or enlargement of a structure that would not increase the nonconformity could include adding a bay window or other architectural features (such as a dormer), providing it does not increase the floor area of the use, and changing exterior facade treatments.
- (b) Should such structure be destroyed, by any means, the same may be reconstructed within one (1) year from the date of destruction, without regard to conformity with this Zoning Code, so long as the same type and style of structure are rebuilt in the same location and area of the destroyed structure.
- (c) Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

(Ord. 275. Passed 9-23-03.)

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1276.05 NONCONFORMING USES OF STRUCTURES AND LAND.

If a lawful use of a structure, or of a structure and land in combination, exists upon the effective date of the adoption or amendment of this Zoning Code that would not be permitted in the district under this Zoning Code, the lawful use may be continued, so long as it remains otherwise lawful, subject to the following:

- (a) No existing structure devoted to a use not permitted by this Zoning Code in the district in which it is located, shall be enlarged, extended, constructed, 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) A nonconforming use may be extended throughout any part of a building that was manifestly arranged or designed for such use and which existed at the time of the adoption or amendment of this Zoning Code, but no such use shall be extended to occupy any land outside such building.
- (c) If no structural alterations are made, a nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with the purpose and intent of this Zoning Code. Where a nonconforming use of a structure, land or structure and land in combination, is hereafter changed to a more conforming use, it shall thereafter be changed to a less conforming use.
- (d) A structure, or a structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations of the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- (e) Except as to those matters set forth in division (g) hereof, a nonconforming use of a structure, or a structure and land in combination, which is discontinued or ceases to exist for six (6) consecutive months, shall thereafter be used in conformity with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be exempted from this provision.
- (f) Except as to those matters set forth in division (g) hereof, where nonconforming use status applies to a structure and land in combination, removal of the structure shall eliminate the nonconforming status of the land.
- (g) If an existing structure is destroyed by any means, said existing structure may be reconstructed within one (1) year from the date of destruction without regard to conformity with this Zoning Code, so long as the prior use of such structure is continued, or a conforming use is established.

(Ord. 275. Passed 9-23-03.)

1276.06 REPAIRS AND MAINTENANCE.

(a) For a building devoted in whole or in part to a nonconforming use, work may be done in any period of twelve (12) consecutive months to complete ordinary repairs, or on the repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of

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the building, provided that the cubic content of the building, as it existed as the time of passage or amendment of this Zoning Code, is not increased.

(b) Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition, a building, or part thereof, declared to be unsafe by an official charged with protecting the public safety, upon the order of such official.

(Ord. 275. Passed 9-23-03.)

**1276.07 USE ALLOWED AS SPECIAL LAND USES, NOT
NONCONFORMING USES.**

Any uses for which a special land use is required, as provided in this Zoning Code, shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such district.

(Ord. 275. Passed 9-23-03.)

1276.08 CHANGE OF TENANCY OR OWNERSHIP.

There may be a change of tenancy, ownership or management of existing nonconforming uses of land, structures and premises, provided that there is no change in the nature or character of such nonconforming use.

(Ord. 275. Passed 9-23-03.)

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