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### 3.24 Nonconforming buildings or structures.

3.24.1 Any lawful use of any dwelling, building, or structure existing as of ~~July 5, 1988~~ **the effective date of this Ordinance** may be continued, even though such use does not conform to the provisions hereof. **Routine maintenance and repair that does not increase the degree of nonconformity shall be permitted.** If no structural alterations are made, a nonconforming use may be changed to another nonconforming use of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. No nonconforming building or structure shall be extended or enlarged except when authorized by the ~~county commissioners,~~ **Board of Commissioners**, who may permit ~~one enlargement or extension up to 25 percent of the floor area of the structure as it existed as of July 5, 1988.~~ **a cumulative enlargement or extension up to fifty (50) percent of the gross floor area of the structure as it existed on the effective date of this Ordinance.**

**Any such enlargement or extension shall not increase the degree of nonconformity and shall be evaluated for consistency with the Future Land Use Map and Comprehensive Plan.**

3.24.2 Whenever the use of a building shall become nonconforming through a change in the zoning ordinance **including zoning map amendments or text amendments**, or the district boundaries, such use may be continued, and if no structural alterations are made, may be changed to another nonconforming use of the same or a more restricted classification.

**Discontinuance of such use shall be governed by Section 3.24.3.**

3.24.3 A nonconforming use of a building or portion thereof that is discontinued for a continuous period of ~~six months~~ **twelve (12) months** shall not be reestablished except in conformity with the regulations of the district in which such building is located.

**Discontinuance shall create a rebuttable presumption of abandonment, and the burden shall be on the property owner to demonstrate otherwise.**

**Seasonal, agricultural, or temporary uses shall not be considered discontinued solely due to periods of inactivity, provided evidence of ongoing or intended use is demonstrated.**

3.24.4 A nonconforming building, other than a single-family dwelling, which has been damaged by fire, explosion, act of God, or act of war to the extent of more than ~~60 percent of its reproduction value~~ **seventy-five (75) percent of its fair market value** at the time of damage shall not be restored except in conformity with the regulations of the district in which it is located. When damage is less than ~~60 percent of its reproduction value,~~ **seventy-five (75) percent of its fair market value** a nonconforming building may be repaired or reconstructed and used as before the time of damage, provided such repairs or reconstruction are completed within ~~one year~~ **two (2) years** of the date of such damage. **Such reconstruction shall not increase the degree of nonconformity and shall comply with applicable floodplain management regulations where applicable.**

3.24.5 Subject to the limitation set forth in section 2.55.2 of this ordinance, a nonconforming single-family dwelling which has been damaged or destroyed by fire, explosion, act of God, or act of war may be repaired, reconstructed, or replaced with a nonconforming structure of the same dimensions and used as before the time of damage, provided such repair, reconstruction, or replacement is completed within ~~one year~~ **two (2) years** of the date of such damage and provided that the structure meets all applicable county building and permitting requirements. **The replacement structure shall not exceed the original footprint, height, or gross**

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floor area. The Board of Commissioners may grant a one-time extension of up to one (1) additional year for good cause.

3.24.6 A nonconforming structure located on a lot in any district, when once removed, shall not be relocated on such lot and shall not be replaced with another nonconforming structure except as otherwise permitted by this ordinance. This provision shall apply only to voluntary removal and shall not prohibit reconstruction permitted under Sections 3.24.4 and 3.24.5 or relocation required by condemnation or governmental action.

### 3.25 Nonconforming lots.

3.25.1 *Remedies.* Where two or more nonconforming lots with continuous frontage are under the same ownership or where a nonconforming lot has a continuous frontage with a larger tract under the same ownership, such lot or lots shall be combined to form one or more building sites meeting the lot requirements of the district in which they are located.

3.25.2 *Dwellings on nonconforming lots.* A building permit may be issued for a single-family dwelling on any nonconforming lot, excluding substandard lots, provided that the remedies set forth in this section cannot be complied with and provided that the regulations of the district in which the lot is located are met.

Dwellings on nonconforming lots. A building permit may be issued for at least one (1) single-family dwelling on a legally existing nonconforming lot, provided that the remedies set forth in this section cannot be complied with and that all other applicable regulations of the zoning district are met.

Legally existing lots that do not meet the minimum dimensional requirements of the zoning district shall be considered nonconforming lots and shall not be required to rezone solely due to such dimensional nonconformity.

Nothing in this section shall be interpreted to limit or prohibit the number of dwelling units otherwise permitted by the underlying zoning district, including, but not limited to, districts that allow two (2) or more dwelling units per lot.

Where a zoning district permits more than one dwelling unit per lot, such units may be permitted on a nonconforming lot only where all applicable zoning, health, and development standards can be met.

Where a proposed development cannot meet applicable zoning requirements, the property owner may seek relief through a variance, rezoning, or other applicable approval process in accordance with this Ordinance.

3.25.3 *Nonconforming uses of land.* The nonconforming use of land not involving any principal building or structure existing on the effective date of this ordinance may be continued for a period of not more than ~~three years~~; **five (5) years**; provided, however, that no such nonconforming use of the land shall in any way be expanded or extended either on the same or adjoining property. If such nonconforming use of land or any portion thereof is discontinued or changed, any future use of such land shall be in conformity with the provisions of this ordinance. **Active agricultural and forestry uses consistent with the Comprehensive Plan shall be exempt from this limitation, provided they do not create adverse impacts on surrounding properties.**

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~~3.25.4 Dwellings on substandard lots.~~ The county commissioners may authorize the issuance of a building permit for a single-family dwelling for a substandard lot only after it has been determined that remedies as set forth in this section cannot be complied with. The county commissioners may also grant variances to lot and building requirements in cases of hardship, if conditions detrimental to the public health, safety, and welfare are not caused. **Dwellings on nonconforming lots.** The Board of Commissioners may authorize the issuance of a building permit for a single-family dwelling on a legally existing nonconforming lot only where it is demonstrated that compliance with the requirements of this section cannot be achieved. The Board of Commissioners may also grant variances to lot and building requirements in cases of hardship, provided that such relief does not create conditions detrimental to the public health, safety, and welfare.

### **3.26 Nonconforming use of buildings and structures.**

Use of any building or structure not in conformance with these regulations pertaining to uses permitted on the effective date of this ordinance may not be:

- 3.26.1 Changed to another nonconforming use except where it is determined by the county commissioners that the design, construction, and character of the building is suitable for uses permitted in the district in which such nonconforming use is situated.
- 3.26.2 ~~Reestablished after discontinuance for six months~~ **Reestablished after discontinuance for twelve (12) months** except where it is determined by the ~~county commissioners~~ **Board of Commissioners** that the design, construction, and character of the building is unsuitable for conforming uses.
- 3.26.3 Extended, enlarged, or expanded except when authorized by the ~~county commissioners~~ **Board of Commissioners** who may permit ~~one enlargement or extension up to 25 percent of the floor area of the structure as it existed at the time of passage of this ordinance.~~ **a cumulative enlargement or extension up to fifty (50) percent of the gross floor area of the structure as it existed on the effective date of this Ordinance.** Such expansion shall not increase the degree of nonconformity and shall be evaluated for consistency with the Future Land Use Map and Comprehensive Plan.