

Sec. 16-1357. - Nonconforming uses.

Nonconforming uses are declared by this chapter to be incompatible to, and inconsistent with, the allowable uses set forth within any particular zoning district. Although such uses do not conform to the provision of this chapter or the particular zoning district within which the use may be located, such uses may continue subject to the following limitations and restrictions:

- (1) *Change in use.* A change from a nonconforming use to a different nonconforming use is hereby prohibited. However, the continuation of an original nonconforming use, which existed at the effective date of this chapter, may be permitted provided that it remains otherwise lawful and conforming to the terms of this article.
- (2) *Change in volume or intensity of use.* A change in the volume or intensity of the use which existed at the effective date of this chapter, is hereby prohibited, unless otherwise authorized herein.
- (3) *Change in location of use.* No nonconforming use shall be moved in whole or in part to any other portion of the lot, parcel, or site which was occupied by such use on the effective date of this chapter.
- (4) *Change of ownership or tenancy.* All rights and obligation associated with a nonconforming use of land run with the land and are not personal to the present owner or tenant of the nonconforming use and are not affected by a change in ownership or tenancy.
- (5) *Accessory or incidental uses.* Uses accessory to a nonconforming use in existence on the date of adoption of this chapter are permitted, provided, however, they remain otherwise lawful. Accessory or incidental uses to a nonconforming use not in existence on the date of adoption of this chapter, are hereby prohibited. Only uses which are accessory or incidental to permitted uses in the zoning district within which the permitted use is located are allowed under the terms of this chapter.
- (6) *Increase, extension, or enlargement of use.*
 - a. An increase, extension, or enlargement of the principal building or structure housing a residential nonconforming use existing at the adoption date of this chapter may be permitted. Provided, however, that the above stated increases, extensions or enlargements shall not in any way increase the density or violate the lot coverage or setback requirements of the specific zoning district within which the particular use is located. An increase, extension, or enlargement as specified herein, shall be deemed to be any expansion of any impervious ground surface of any building or structure, or any roof or rooflike structure, which includes but is not limited to a canopy, carport, overhang, awning, or similar type structure.
 - b.

A non-residential nonconforming use shall not be increased, extended, or enlarged to occupy a greater area of land than was occupied on the adoption date of this chapter or in any manner which increases its noncompliance with the use regulations of this chapter, unless such nonconforming use is changed to a use permitted in the zoning district within which such use is located and complies with all other regulations of the zoning district. An increase, extension, or enlargement as specified herein, shall be deemed to be any expansion of any impervious ground surface of any building or structure, or any roof or rooflike structure, which includes but is not limited to a canopy, carport, overhang, awning, or similar type structure.

- (7) *Repairs and maintenance.* Routine repairs and maintenance of buildings and structures, which house or contain nonconforming uses, necessary to maintain the health and safety may be permitted. Such repairs and maintenance shall include only the following: electrical fixtures and wiring, plumbing and plumbing fixtures, windows, roof, and interior walls. The cost of said repairs and maintenance, when calculated for those performed in any period of twelve (12) consecutive months, shall not exceed fifty (50) percent of the assessed value of the specific building or structure in which the nonconforming use is located, repaired or maintained. Such assessed value shall be that which is current at the time of the repair or maintenance and shall not include any land value assessments. Prior to such repair and maintenance taking place, the city's engineering and building department shall be consulted to determine if a building permit is necessary. If such determination is made, then all applicable work performed shall be accomplished through the issuance of a valid building permit.
- (8) *Replacement or restoration of use.* In the event that any existing nonconforming use, as provided for in this article, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement or restoration value of the use at such time of destruction, or to an extent of more than fifty (50) percent of the square footage of the physical building or structure within which such nonconforming use is located said use shall not be replaced nor shall such building or structure be reconstructed unless such use is brought into full compliance with the provisions of this chapter. Notwithstanding the foregoing restrictions as to replacement or restoration, any building or structure housing a nonconforming residential use or a use accessory to a residential nonconforming use which is partially or wholly destroyed may be rebuilt as it existed prior to such destruction. Such structure may be rebuilt on its original footprint or foundation and to its original height and density of units per acre.
- (9) *New services or activities.* No new services or activities shall be permitted in an existing nonconforming use as provided for in this article.
- (10) *Abandonment or discontinuance of use.* The abandonment or discontinuance of a nonconforming use for a period of time which exceeds six (6) consecutive months or for eighteen (18) months during any three (3) consecutive years shall immediately render the

nonconforming use status of the specific nonconforming use null and void. The continuance of such use after such period is specifically prohibited, and any subsequent use shall fully conform to the regulations specified by this chapter for the district in which such use is located. Documents shall be provided by the property owner to establish that the abandonment or discontinuance period had not elapsed. Affidavits alone are not sufficient to establish the maintenance of the use's nonconforming status.

(Code 1966, § 32-50(b); Ord. No. 95-09, § 2, 6-19-95)

Sec. 16-1358. - Nonconforming buildings and structures.

Nonconforming buildings and structures are declared by this chapter as those which are existing at the time of the passage of this chapter or amendment thereto, which do not conform to the regulations of area, height, lot coverage, or other like requirements of the district in which such building or structure is located. Although such buildings or structures do not conform to the provisions of this chapter or the particular zoning district within which the building or structure may be located, such buildings or structures may continue subject to the following limitations and restrictions:

- (1) *Increase, extension, expansion or enlargement of building or structure.* An increase, extension, or enlargement of a nonconforming building or structure existing at the adoption date of this chapter may be permitted. Provided, however, that the above stated increases, extensions, or enlargements shall not in any way violate the lot coverage, setback or density requirements of the specific zoning district within which the particular use is located. Further, these increases, extensions, or enlargements shall not in any way increase the building's or structure's noncompliance with any of the regulations of this chapter. An increase, extension, or enlargement as specified herein, shall be deemed to be any expansion of any impervious ground surface of any building or structure, or any roof or rooflike structure, which includes but is not limited to a canopy, carport, overhang, awning, or similar type structure. Notwithstanding the foregoing restrictions, construction which takes place under an existing roof shall not be deemed a violation of setback requirements nor an increase in the noncompliance of a building or structure.
- (2) *Replacement, restoration, or reconstruction of nonconforming buildings and structures.* In the event that any existing nonconforming building or structure, as provided for in this article, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement, restoration or reconstruction value of the building or structure, or to an extent of more than fifty (50) percent of the square footage of the physical building or structure which is nonconforming, such building or structure shall not be replaced, restored, or reconstructed unless it is brought into full compliance with the provisions of this chapter.

Notwithstanding the foregoing restrictions as to replacement, restoration or reconstruction, any residentially used structures or structures accessory to existing residential uses which are partially or wholly destroyed may be rebuilt as they existed prior to such destruction. Such structures may be rebuilt on their original footprints or foundations and to their original heights and densities of units per acre.

- (3) *Repairs and maintenance.* Routine repairs and maintenance of nonconforming buildings and structures necessary to maintain health and safety may be permitted. Such repairs and maintenance shall include only the following: electrical fixtures and wiring, plumbing and plumbing fixtures, windows, roofs, and interior walls. The cost of such repairs and maintenance, when calculated for those performed in any period of twelve (12) consecutive months, shall not exceed fifty (50) percent of the assessed value of the specific building or structure which is to be repaired or maintained. Prior to such repair and maintenance taking place, the city's engineering and building department shall be consulted to determine if a building permit is necessary. If such determination is made, then all applicable work performed shall be accomplished through the issuance of a valid building permit.
- (4) *Change in location.* Should any nonconforming building or structure be moved for any reason for any distance whatever from its original permitted location, it shall thereafter conform to the property development regulations for the zoning district in which it is located after it is moved.

(Code 1966, § 32-50(c); Ord. No. 95-09, § 3, 6-19-95)

Sec. 16-1359. - Nonconforming components of use.

Components of use include, but are not limited to, off-street parking, off-street loading, and landscape requirements which are synonymous with and part of the nonconforming classification of such uses, buildings, and structures which were legally permitted and existing at the time of passage and adoption of this chapter or amendment thereto, although such components of use do not conform to the provisions and development regulations of this chapter.

- (1) *Increase, extension, or enlargement.* An increase, extension, or enlargement of the existing square footage of the nonconforming component of use existing at the adoption date of this chapter may be permitted. Provided, however, that the above stated increases, extensions, or enlargements shall not in any way violate requirements of the specific zoning district within which the particular component of use is located. Further, these increases, extensions, or enlargements shall not in any way increase the component's noncompliance with any of the regulations of this chapter.

(2)

Replacement, restoration, or reconstruction. In the event that any existing nonconforming component of use, as provided for in this article, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement, restoration, or reconstruction value of the component of use, or fifty (50) percent of the square footage of the physical area comprising such component of use which is nonconforming, such component of use shall not be replaced, restored, or reconstructed unless it is brought into full compliance with the provisions of this chapter.

- (3) *Repairs and maintenance.* Routine repairs and maintenance of nonconforming components of use necessary to maintain health and safety may be permitted. Such repairs and maintenance shall include such activities as resurfacing of parking lots, driveways, etc., replacement of damaged or destroyed landscape materials. The cost of such repairs and maintenance, when calculated for those performed in any period of twelve (12) consecutive months, shall not exceed fifty (50) percent of the assessed value of the specific component of use which is to be repaired or maintained. Such assessed value shall be that which is current at the time of the repair or maintenance and shall not include any land value assessments. Prior to such repair and maintenance taking place, the city development controls division of the planning and development department shall be consulted to determine if a building permit is necessary. If such determination is made, then all applicable work performed shall be accomplished through the issuance of a valid building permit.

(Code 1966, § 32-50(d); Ord. No. 95-09, § 4, 6-19-95)