

#### 17.80.010 Purpose

This chapter regulates the continued existence of non-conforming uses and non-complying structures as defined in HCC 17.04. While ~~legal~~ non-conforming uses, ~~and/or legal~~ non-complying structures and improvements may continue, this chapter is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and in the development standards prescribed by this code. In addition, applications are reviewed to ensure that they are reducing the degree of non-conformity and improving the physical appearance of the structure and site through such measures as landscaping, building design, or the improved function of the use in relation to other uses.

#### 17.80.020 Determination Of Non-Conforming Status

1. ~~Burden on owner to establish legality~~ Owner's Burden. The owner bears the burden of establishing that any non-conforming use or non-conforming structure lawfully exists.
2. Determination of Status. The Planning Commission shall determine the non-conforming or non-complying status of properties. (Ord. 08-13)

#### 17.80.030 Authority To Continue

1. Continuation of non-conforming use. A ~~lawful~~ legal non-conforming use may continue subject to the standards and limitations of this chapter.
2. Continuation of non-complying structure. A non-complying structure that was lawfully constructed with a permit prior to a contrary change in this code, may be used and maintained, subject to the standards and limitation of this chapter.

#### 17.80.040 Abandonment Or Loss Of Non-Conforming Use

A. ~~Abandonment of non-conforming use~~. A non-conforming use that is discontinued for a continuous period of twelve (12) months is presumed abandoned and shall not thereafter be reestablished or resumed. Any subsequent use of the building, structure, or land must conform to the regulations for the zoning district in which it is located. ~~Businesses and buildings granted approval for Light Manufacturing use in the Residential Agriculture Zone (RA) before April 1, 2008, may continue to be used for Light Manufacturing, and are not under the twelve (12) months time limit for continued use.~~ (Ord. 08-14)

- ~~1.~~ B. Rebuttable Presumption of Abandonment. The presumption of abandonment may be rebutted upon showing that during such period:

1. Any period of discontinued use was caused by governmental actions or an act of god without any contributing fault by the owner and the owner did not intend to discontinue the use; or
2. The owner can demonstrate no abandonment of the use.

#### 17.80.050 Moving, Enlarging, Or Altering Non-Conforming Uses

No non-conforming use may be moved, enlarged, altered, or occupy additional land, except as provided in this chapter.

- A. Enlargement. A non-conforming use may not be enlarged, expanded, or extended to occupy all or a part of another structure or site that it did not occupy on the date on which the use became non-conforming. A non-conforming use may be extended through the same building or structure provided no structural alteration of the building or structure is proposed or made for the purpose of the extension and the parking demand is not increased. ~~Businesses and buildings granted approval for Light Manufacturing Use in the Residential Agriculture Zone (RA) before April 1, 2008, may be expanded within their existing parcel of property, but must meet site plan requirements in current City Code at the time of expansion.~~ (Ord. 08-14)
- B. Exterior or Interior Remodeling or Improvements to Building of Structure. Exterior or interior remodeling or improvements to a structure containing a non-conforming use shall be allowed provided there is no expansion of the area of the non-conforming use. Exterior remodeling shall be done with intent to meet the improvement clause of 17.80.010.
- C. Relocation of Building or Structure. A building or structure containing a non-conforming use may not be moved unless the use shall thereafter conform to the regulations of the zoning district into which the building or structure is moved.
- D. Change of Non-Conforming Use to Another Non-Conforming Use or a Conforming Use. Whenever any non-conforming use is changed to a conforming use, such use shall not later be changed back to a non-conforming use.
  1. Application. Application for any non-conforming use must be made upon forms provided by the ~~City Recorder~~ Zoning Administrator. Upon filing of a complete application, the City shall post the property indicating that an application for modification of a non-conforming use has been filed and that more detailed information may be obtained from the City.
  2. Notification of Abutting Property Owners. Notice shall be given to owners of contiguous properties and those properties across the street ~~from~~ from the property's frontage, or frontages, in the case of a corner lot.
  3. Planning Commission Meeting. Within thirty (30) working days of the receipt of a complete application, and after giving public notice, the Planning Commission shall hold a public meeting on the non-conforming use application. The Commission shall either grant the application in whole or in part, with or without modifications or conditions, or deny the application. The Commission's decision shall be made pursuant to criteria provided below.
  4. Criteria. The Planning Commission shall approve an application to change a non-conforming use if the applicant proves the following criteria:

- a. All reasonable measures will be ~~under-taken~~undertaken to alleviate or reduce the incompatibility or adverse effects of the non-conforming use or building upon abutting properties or in the neighborhood;
- b. All changes, additions, or expansions comply with all current laws except as to use;
- c. The new use, if applicable, will provide for enclosed storage of necessary equipment, materials, and refuse, rather than create a need for additional outside storage; and
- d. The new use does not increase the parking requirement; ~~or if there is an increase,~~the site plan meets the parking requirements for the proposed use as if located in the a conforming zone and the Planning Commission finds that adjoining properties and the neighborhood will not be adversely impacted by the ~~increased~~parking demand.

#### **17.80.060 Non-Complying Structures**

No non-conforming structure may be moved, enlarged, or altered, except in the manner provided in this chapter or unless required by law.

- A. Repair, Maintenance, Alteration, and Enlargement. Any non-complying structure may be repaired, maintained, or altered, ~~or enlarged~~, provided that such repair, maintenance, or alteration, ~~or enlargement~~ shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such structure.
- B. Moving. A non-complying structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zone in which it will be located.

#### **17.80.070 Ordinary Repair And Maintenance And Structural Safety**

The owner may complete normal maintenance and incidental repair on a complying structure that contains a non-conforming use or on a non-complying structure. This chapter shall not be construed to authorize any violations of law nor to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of the Building Official who declares such structure to be unsafe and orders its restoration to a safe condition.

#### **17.80.080 Appeals**

Appeals from a Planning Commission's or Administrator's decision made pursuant to this chapter shall be made to the Administrative Appeals Hearing Officer. Any person filing an appeal for review of any decision made under the terms of this chapter shall file, in writing with the City Recorder, such appeal within ten (10) calendar days after the date of the Planning Commission's or Administrator's final decision as per provisions in HCC 17.16. (Ord. 08-13)