

SECTION 21

NONCONFORMING USES

21-010 NONCONFORMING USES

The lawful use of a building or premises existing at the time of the effective date of this ordinance may as a non-conforming building or premises be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of the same or of a more restricted classification shall apply. Whenever a non-conforming 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. Generally, nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses. * See Definition Section

- a. Whenever the use of a building or premises becomes non-conforming through a change in the zoning ordinance or district boundaries, such use may be continued and, if no structural alterations are made, it may be changed upon approval to another non-conforming use of the same or of a more restricted classification.
- b. In the event that a non-conforming use of any building or premises is discontinued for a period of twelve (12) months, the use of the same shall thereafter conform to the use permitted in the district in which it is located. (Amended by Ordinance # 1184 5/9/05)
- c. No existing building or premises devoted to a use not permitted by this ordinance in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located.
- d. The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use and the existence of a non-conforming use on the part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.
- e. If a building is damaged by more than 50% of its fair market value, such building shall not be restored if the use of such building is not in conformance with this Zoning Ordinance.
- f. Whether a non-conforming use exists shall be question of fact and shall be decided by the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board.
- g. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be

performed on any structure that is devoted in whole or in part to a nonconforming use.

- h. No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- i. The lawful use of any sign existing at the time of the passage of these ordinances, in conjunction with a nonconforming use, may be continued. Any sign installed subsequent to the passage of this Zoning Ordinance for a nonconforming use must conform to Section 25 of this Ordinance and in compliance with the district in which the nonconforming use is located.
- j. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

21-011 STATUS OF SPECIAL USE PERMITS

a. Status of Existing Special Use Permits:

Where a special use permit exists at the effective date of these ordinances and is permitted by these regulations as a special use permit in the zoning district in which it is located, such use shall be deemed a lawful conforming use in such zoning district, as provided by prior approval. Where a special use permit exists at the effective date of these ordinances and is not permitted as a special use permit in the zoning district in which it is located, such use shall be deemed a continuing nonconforming use.

b. Status of Future Special Use Permits:

Any use for which a special use permit has been approved, as provided in these regulations shall be deemed to be a lawful conforming use.

21-012 DEFINITIONS

- a. Dimensional Nonconformity: A nonconforming situation that occurs when the height, size, or minimum floor area of a structure, or the relationship between an existing building or buildings and the other buildings or lot lines, does not conform to the regulations applicable to the zoning district in which the property is located.
- b. Nonconforming Lot of Record: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.
- c. Nonconforming Structure: Any existing structure, dwelling unit, or undertaking which does not comply with the lot coverage, height or yard requirements which are applicable to new structures or dwelling units in the zoning district in which it is located.

- d. Nonconforming Site Improvement: A situation that occurs when, on the effective date of this ordinance, an existing site improvement on a lot, including but not limited to parking areas, storm drainage facilities, sidewalks and landscaping, no longer conforms to one (1) or more of the regulations of this ordinance applicable to the property.
- e. Nonconforming Use: An existing use of a structure, dwelling unit, or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
- f. Nonconforming Situation: A situation that occurs when, on the effective date of this ordinance, an existing lot, structure or improvement, i.e. parking and landscaping, or the use of an existing lot, structure or improvement no longer conforms to one (1) or more of the regulations applicable to the zoning district in which the lot, structure or improvement is located.
- g. Nonconforming Sign: A sign that, on the effective date of this ordinance, does not conform to one (1) or more of the regulations set forth in Section 25.

21-013 UNSAFE BUILDINGS

Nothing in this article shall prevent the strengthening and restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.