

Article 73. Nonconforming Structures and Uses

These provisions provide for the orderly correction or termination of nonconforming structures and uses in a reasonable manner to promote the public health, safety and general welfare.

Sec. 8-5.7301. Nonconforming Structures.

A nonconforming structure may continue and be maintained, subject to the following limitations:

- A. Maintenance, repairs, changes to interior partitions and other nonstructural improvements may be made to a nonconforming structure.
- B. Structural repairs, such as bearing walls, columns, beams or girders, may be modified only when the Building Official determines that such modification or repair is immediately necessary to protect the health and safety of the public, occupants of the nonconforming structure or adjacent property, and the cost does not exceed one half of the replacement cost of the nonconforming structure.
- C. If a nonconforming structure is damaged or partially destroyed by fire or any other calamity or act of God to the extent of not more than 50 percent of its replacement cost, it may be restored to its original dimensions, and no more. If such damage or destruction exceeds 50 percent of the fair market value of such nonconforming structure, no repairs or reconstruction shall be made unless every portion of such building and the site is made to conform to all the regulations of the district in which it is located.
- D. A nonconforming structure shall not be enlarged or extended in any manner unless all such changes and/or improvements conform to all regulations of the zoning district in which it is located.
- E. If the use of a nonconforming structure is discontinued for a period of one year or more the structure shall lose its nonconforming status and shall not be reused unless it is brought into conformance with the provisions of this chapter.

Sec. 8-5.7302. Nonconforming Use of a Structure.

The nonconforming use of a structure may be continued subject to the following limitations:

- A. A nonconforming use of a structure may be changed to another nonconforming use of the same or a more restrictive classification; provided, however, when such use is changed to a use of a more restrictive classification, it shall not thereafter be changed back to a use of a less restrictive classification.
- B. If a nonconforming use of a structure or a portion thereof is converted to a conforming use, no nonconforming use may be resumed in the structure or portion thereof.

- C. A nonconforming use of a portion of a structure which otherwise conforms to the use regulations shall not be expanded or extended into any other portion of a structure nor changed except to a conforming use.
- D. If any nonconforming use of a structure or portion thereof is abandoned, discontinued or terminated for a period of one year or more, the right to continue the nonconforming use shall expire and subsequent use of the structure or portion thereof shall be in conformity with the regulations of the zoning district in which it is located.

Nonconforming use of a structure may be re-established in a structure which cannot be used for conforming uses because of the original design or because of lawful structural changes made for a previous nonconforming use. A use permit shall be required to re-establish uses. In order to grant a use permit, the Planning Commission shall be required to make the following findings:

1. The structure can be reasonably expected to remain in active use for a period of 20 years without requiring repairs or maintenance in excess of 50 percent of the structure value within any 5 year period.
2. The continuation of the use or structure will not be incompatible with or detrimental to neighboring conforming uses.

As a condition of the use permit a time limit may be placed on the ongoing nonconforming use of the structure.

Sec. 8-5.7303. Nonconforming Use of Land.

The nonconforming use of land, except as otherwise provided in this article, may be continued, provided:

- A. No such nonconforming use of land shall in any way be expanded or extended, either on the same or adjoining property.
- B. If such nonconforming use of land, or any portion thereof is discontinued for a period of one year, any future use shall be in conformity with the regulations of the district in which it is located.
- C. A nonconforming use of land may change to only a use that is in conformance with the regulations of the district in which it is located.

Sec. 8-5.7304. Nonconforming Lots.

Any lawfully created lot which fails to meet the standards for area or dimensions of the district in which it is located shall be considered buildable for purposes of this chapter, provided that all site development standards for the improvements are met or a variance (Sec. 8-5.7004) from any of the site development standards is approved.

Sec. 8-5.7305. Nonconforming Junk Yards.

Any junk yard which exists as a nonconforming use in any district other than a residence district shall, within one year after the effective date of any change in district creating such nonconforming use, be removed, be changed to a conforming use, or be completely enclosed within a building or within a continuous solid fence not less than 8 feet high so as to completely screen all the operations of such junk yard.

Sec. 8-5.7306. Nonconforming Signs.

A nonconforming sign may be continued subject to the limitations pursuant to Sec. 8-5.7302 of this article.