

CHAPTER 3. NONCONFORMING USES

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7-3-1. Nonconforming Use Defined.

As used in this Title, a nonconforming use is the use of any building, structure, or land which is prohibited by any zoning, building, or other regulatory ordinance, but which lawfully existed prior to the effective date of such ordinance. A noncomplying structure is a structure or building regulated by but not in compliance with uniform building codes, but which was lawfully constructed prior to the effective date of such codes.

(Ord. 2006-25, 01-03-2007); (Ord. 1995-16, 08-19-95)

7-3-2. Noncomplying Structures.

A noncomplying structure, or use thereof, existing at the time this Ordinance became effective, may continue to exist, provided that:

(1) the building or structure is occupied or utilized for at least 30 days in each calendar year;

(2) the floor space of the building or structure is not increased;

(3) no structural alterations are made to the building or structure except as provided by this [zoning] Title; and

(4) any nonconforming use of the building or structure not extend beyond the floor area of the building or structure.

(Ord. 2006-25, 01-03-2007); (Ord. 1995-16, 08-19-95)

7-3-3. Maintenance and Repair of Noncomplying Structures.

A noncomplying structure may be maintained and repaired, subject to the provisions of this Chapter. (Ord. 2006-25, 01-03-2007); (Ord. 1995-16, 08-19-95)

7-3-4. Restoration of Noncomplying Structures.

(1) Except as provided in subsection (3) below, a noncomplying structure may be reconstructed and restored after the structure has been involuntarily destroyed in whole or in part due to fire or other calamity.

(2) Except as provided in subsection (3), below, a nonconforming use of a noncomplying structure that is involuntarily destroyed in whole or in part due to a fire or other calamity may resume and continue that use upon reconstruction or restoration of the structure.

(3) A noncomplying structure may not be

reconstructed or restored, and a nonconforming use of a noncomplying structure may not be resumed or continued, if:

(a) at the time the structure is destroyed in whole or in part, it has been unoccupied or unused for one (1) year pursuant to Section 7-3-7, below;

(b) the structure has been allowed to deteriorate to a condition that the structure is rendered uninhabitable, in the opinion of the Building Official, and is not repaired or restored to a state of habitability within six (6) months, after written notice is mailed to the property owner or posted upon the structure property that the structure is uninhabitable and that the structure or the nonconforming use of the structure will be lost if the structure is not repaired or restored to habitability within six (6) months; or

(c) the property owner has voluntarily demolished a majority of the structure or the building that houses the nonconforming use.

(Ord. 2006-25, 01-03-2007); (Ord. 1995-16, 08-19-95)

7-3-5. Nonconforming Use of Land.

A nonconforming use of land, existing at the time that the land use ordinances applicable to the land changed so as to prohibit the use, may be continued, provided that:

(1) the land is used for such nonconforming use at least 30 days in each calendar year; and,

(2) the nonconforming use is in no way expanded or extended either on the same or on adjoining property.

(Ord. 2012-26, 12-05-12); (Ord. 1995-16, 08-19-95)

7-3-6. Change of Use.

A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use.

(Ord. 1995-16, 08-19-95)

7-3-7. Discontinuance of Nonconforming Uses.

(1) If any noncomplying structure remains unoccupied or unused for the period of one year, or if the noncomplying structure does not satisfy the requirements of this Chapter, any future use of that building shall conform to the provisions of the zone in which the structure is located.

(2) If any nonconforming use of land is discontinued for the period of one year, or if the nonconforming use does not satisfy the requirements of this Chapter, any future use of that land shall conform to the provisions of the zone in which the land is located.

(3) Upon allegation of discontinued occupation or nonconforming use of a noncomplying structure, discontinued use of a nonconforming use of land, or other failure to comply with this Chapter, the owner of the structure or land shall have the burden of establishing compliance with this Chapter.

(Ord. 2006-25, 01-03-2007); (Ord. 1995-16, 08-19-95)