

TITLE SEVEN--Nonconformities  
Chap.1171 Nonconformities

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**CHAPTER 1171**  
**Nonconformities**

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**1171.01 PURPOSE.**

It is the purpose of this code to regulate nonconforming uses and structures because they are incompatible with permitted uses and structures in the district in which they are located. The lawful use of any building or land existing on the effective date of this code may continue even though such use or land does not conform with the provisions of this code. Nonconforming structures shall be regulated to prevent an increase in the degree of nonconformity.

**1171.02 GENERAL PROVISIONS.**

(a) The lawful use of any structure or premises existing and lawful at the time of enactment of or an amendment to this code, may be continued, even though such use does not conform with the provisions of this code. However, nothing in this code shall be interpreted as authorization for continued use of a structure or land established in violation of the zoning regulations in effect prior to the enactment of this code and in continued violation of this code.

(b) Regardless of any other provision of this code, a nonconforming use shall be treated as a conforming use for as long as the use is in existence. Accordingly, the following rights shall be granted:

- (1) If a nonconforming use is damaged by fire, explosion, act of God, or by a public enemy, it may be restored.
- (2) If a structure or structures for a nonconforming use is destroyed or damaged by fire, explosion, act of God, or by a public enemy, they may be reconstructed.
- (3) A nonconforming use shall be permitted to have the same amount and type of signage as would be allowed for such use in the most restrictive district in which such nonconforming use is allowed.

- (4) A nonconforming use may be converted to another nonconforming use first permitted in the same or more restrictive district as the existing use, provided it is not converted to a use permitted in a more restrictive district than the district in which the nonconforming use is located.

#### **1171.03 NONCONFORMING USES.**

Except as otherwise provided in this code, nonconforming uses and structures for nonconforming uses shall be regulated as follows:

- (a) No nonconforming use shall be relocated on a lot. However, if the building is nonconforming, it may be relocated meeting the requirements of Section 1171.04 below.
- (b) A nonconforming use may be enlarged as a conditional use authorized by the Board of Zoning Appeals, provided the following limitations shall apply:
  - (1) The enlargement may not exceed 25 percent of the total floor area of the use when it first became nonconforming.
  - (2) The enlargement may not violate the yard and area requirements of Chapter 1150 nor the height requirements of Chapter 1151.
- (c) A nonconforming use that has become abandoned for one (1) year or more shall revert to a conforming use. However, a nonconforming use may be reestablished as a conditional use authorized by the Board of Zoning Appeals, provided the following limitations shall apply:
  - (1) The conditional use shall be for one of the following uses:
    - A. The nonconforming use that previously existed.
    - B. Another nonconforming use first permitted in the same or more restrictive district as the previous use and that is not a use permitted in a more restrictive district than the district in which the nonconforming use is located.
    - C. Any use that has been granted an exemption from federal taxes under the Internal Revenue Code as a Section 501(c)(3) organization.
  - (2) The Board shall determine that the building in which the previous nonconforming use was located is not suitable as a building for a conforming use.
  - (3) The building in which the previous nonconforming use was located shall be brought into compliance with other city and state regulations.

#### **1171.04 NONCONFORMING STRUCTURES.**

Except as otherwise provided in this code, nonconforming buildings and

structures shall be regulated as follows:

- (a) Changes, including structural alterations, may be made to a nonconforming structure or to a structure for a nonconforming use to meet the minimum requirements of other city and state regulations.
- (b) A nonconforming structure that has been destroyed or damaged by fire, explosion, act of God, or by a public enemy may be rebuilt as it existed before. However, the structure cannot be rebuilt or restored in a different form or in a way that would increase its degree of nonconformity. (Ord. 02-177. Passed 4-16-02.)
- (c) Except for buildings in an Historic Preservation District, a nonconforming structure that has been damaged by fire, act of God, or by a public enemy to the extent of 100% or more of the structure's appraised value, as determined by the County Auditor, shall not be restored except in compliance with the provisions of this code.
- (d) A nonconforming building in an Historic Preservation District that has been damaged by fire, act of God, or by a public enemy regardless of the extent of damage, may be restored as a conditional use authorized by the Board of Zoning Appeals. However, the building may not be restored except in compliance with the following requirements:
  - (1) The building shall be placed upon its original foundation or the site of the original foundation or in a location that lessens the degree of the building's nonconformity.
  - (2) The building shall be reconstructed as nearly as possible to the original historic appearance of the building or as regulated by the Landmarks Commission.
  - (3) The Landmarks Commission shall give authorization to the manner in which the building is reconstructed.
- (e) Any nonconforming structure containing a conforming use may be converted to another conforming use.
- (f) Except as otherwise provided, a nonconforming structure may be structurally enlarged, provided it is structurally enlarged in a way that does not increase or extend the manner in which the structure is nonconforming.
- (g) Any nonconforming structure that is relocated on the same lot shall conform to the provisions of this code.

#### **1171.05 NONCONFORMING LOTS.**

Except as otherwise provided in this code, nonconforming lots shall be regulated as follows:

- (a) Any use or structure for a use permitted in the district in which the nonconforming lot is located, may be established or built, provided the use or structure meets all other requirements of this code. However, if a lot in a residential district does not have sufficient area for any residential use, only a single-family dwelling may be constructed on the lot subject to building setback and parking requirements.

- (b) If two or more abutting lots are purchased by one person and either one or both lots are nonconforming, the lots involved shall be deemed a single lot for the purposes of this code and no portion of the combined lots shall be sold or used that diminishes compliance with lot frontage, width, and area requirements.