

Chapter 16.52

NONCONFORMING USES AND STRUCTURES

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16.52.010 Continuation of nonconforming use or structure.

Subject to the provisions of this section, a nonconforming structure or use may be continued but shall not be altered, changed, or extended except as provided herein. Other than those expansions specifically permitted by section 16.52.035, the expansion of nonconforming uses shall not be permitted. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80 (A), 1984 Ord. 1019 section 10, 1999)

16.52.020 Nonconforming structure.

A structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended as follows:

- A.** If the new or reconstructed area meets all development standards and code requirements, a nonconforming structure application is not required.
- B.** The Planning Commission may allow existing nonconforming structures to be reconstructed over existing legally approved building footprints. Approval of a nonconforming structure application under this Chapter is required.
- C.** The Planning Commission may allow additions to structures that are nonconforming as to height or setbacks if the new building area is no more out of conformance than the existing structure. For example, an addition to a home with a reduced side yard setback may be allowed if the addition has the same reduced side yard setback or is less out of conformance. Approval of a nonconforming structure application under this Chapter is required. This Chapter may not be used to allow additions further out of conformance as to building height or setbacks than existing structures.

- D. The Planning Commission may allow additions to structures that are nonconforming as to coverage requirements. Approval of a nonconforming structure application under this Chapter is required. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(B), 1984; Ord 1237, 2007)

16.52.025 Nonconforming sign.

- A. A nonconforming sign lawfully existed prior to the adoption of applicable zoning requirements with which it does not comply. Except, however, signs shall not be considered to be nonconforming where the sign, by reason of its size, location, construction, or lack of maintenance creates a public hazard or nuisance. In the case of such public hazard or nuisance, the city may begin immediate abatement procedures, as provided in this chapter and other city ordinances.
- B. Relocation, replacement, structural alteration or expansion of a nonconforming sign is subject to the same limitations, application procedures, and requirements set forth in this Chapter for other nonconforming structures. Except approval of a nonconforming structure application is not required for the following:
1. Normal repair and maintenance, where the cost to repair the sign does not exceed 60 percent of the replacement cost of the sign using new materials, as determined by the Building Official.
 2. Change of sign copy.
 3. Structural alteration when the alteration is necessary for structural safety, as determined by the Building Official.
 4. A nonconforming sign may be reconstructed if it is required to be temporarily removed to accommodate construction or repair of public utilities or public works, and the sign reconstruction is completed within 90 days after the completion of the public utilities or public works construction activity. (Ord. 913 section 1[part], 1994; Ord. 830 section 13[part], 1989; Ord. 1299, 2008)

16.52.030 Discontinuance of a nonconforming use.

- A. If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be as a conforming use.
- B. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(C), 1984)

16.52.035 Alteration or expansion of dwelling units in C-1 zone.

The alteration or expansion of dwelling units in the C-1 zone shall be permitted, subject to the specific development standards requirements of that zone. A nonconforming use application is not required. (Ord. 805 section 3 [part], 1987; Ord 1237, 2007; Ord. 1514, 2019)

16.52.040 Expansion of nonconforming structure or change of use – application required.

Application procedures shall be as described in Chapter 16.89. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(D), 1984; Ord. 981 section 6, 1997; Ord. 1080, 2001)

16.52.050 Authorization to grant or deny expansion of nonconforming structure or change of nonconforming use. Authorization does not include expansion of existing nonconforming uses.

An expansion of a nonconforming structure or a change from one nonconforming use to another shall be approved, conditionally approved or denied in accordance with the standards and procedures of this section. In judging whether or not such applications shall be approved or denied, staff and the Planning Commission shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse condition that would result from authorizing the particular development at the location proposed and, to approve such expansion or change shall find that the following criteria are either met, can be met by observation of conditions, or are not applicable:

- A.** The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance, other than those specific zoning standards to which the use or structure is nonconforming.
- B.** The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
- C.** All required public facilities and services exist to adequately meet the needs of the proposed development.
- D.** The proposed use will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.
- E.** In considering whether to approve a change in use, the city shall compare the following characteristics of the historical use of the property with that proposed by the applicant in order to assure that the change will not constitute an expansion or intensification of the nonconforming use:
 - 1.** Traffic, including both volume and type (car, truck, foot, etc.);
 - 2.** Noise;
 - 3.** Days and hours of operation;
 - 4.** Physical appearance;
 - 5.** Other environmental considerations (dust, vibration, glare, etc.);
 - 6.** Type and size of equipment used.

(Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80 (E), 1984; Ord. 1080, 2001; Ord. 1237, 2007; Ord. 1514, 2019)

16.52.060 Destruction of a nonconforming use or structure.

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding eighty percent of the cost of replacement of the structure using new materials, as determined by the Building Official, the property owner may apply to the Planning Commission to restore the nonconforming use or structure. In judging whether or not the restoration of a nonconforming use shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against adverse conditions that would result from authorizing the particular restoration at the location proposed. In order to approve such restorations, the Planning Commission shall find that the criteria as set forth in section 16.52.050 are met, can be met by observance of conditions, or are not applicable. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(F), 1984)

16.52.070 Completion of building.

Nothing contained in this title shall require any change in the plans, alteration, construction or designated use of a building upon which construction work has lawfully commenced prior to the adoption of the ordinance codified in this chapter, except that if the designated use will be nonconforming it shall, for the purpose of section 16.52.030, be a discontinued use if not in operation within one year of the date of issuance of the building permit. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(G), 1984)