

7.04 NONCONFORMITIES

- (1) **Applicability and Intent.** Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed nonconforming. It is the intent of this ordinance to permit such nonconformities to continue, subject to certain restrictions.

- (2) **Nonconforming Uses of Land (or Land with Minor Structures Only).** Where at the effective date of adoption or amendment of this ordinance a use of land exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure or structures with a fair market value of less than \$10,000, such use may be continued subject to the following restrictions:

 - (a) Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this ordinance.
 - (b) Such use shall not be moved in whole or part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption or amendment of this ordinance.
 - (c) When such use is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
 - (d) No additional structure in connection with such use shall be erected.

- (3) **Nonconforming Uses of Structures.** Where at the effective date of adoption or amendment of this ordinance the use of a structure exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure with a fair market value exceeding \$10,000, such use may be continued subject to the following restrictions:

- (a) No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted or permissible in the district in which it is located.
 - (b) Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the effective date of adoption or amendment of this ordinance. Any nonconforming use that occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy any land outside the building, nor any other building not used for such nonconforming use.
 - (c) There may be a change in tenancy, ownership, or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use.
 - (d) When such use of a structure is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
 - (e) If a structure occupied by a nonconforming use is removed or destroyed or damaged to an extent of more than 50 percent of its fair market value at the time of destruction, the nonconforming use shall not be resumed.
- (4) **Nonconforming Structures.** Where at the effective date of adoption or amendment of this ordinance a structure exists which could not be erected in the district in which it is located by reason of restriction on area or coverage, height, yards, its location on the lot or other *Non-design 6-08* requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

- (a) Such structure shall not be altered in any manner that would increase the degree of nonconformity. The total structural repairs or alterations in such nonconforming structure shall not during its life exceed 50 percent of the fair market value of the structure.
 - (b) If such structure is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided reconstruction shall substantially reflect the prior structural arrangement and shall not increase the degree of nonconformity. If such structure is destroyed or damaged to an extent of more than 50 percent of its fair market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the district in which it is located.
 - (c) When a structure becomes a nonconforming use as to setback from a highway because the highway was widened or relocated, such structure shall not be considered a nonconforming use under this section. However, no such structure shall thereafter be added to or rebuilt in such a manner that it will be closer to the right of way of the highway.
- (5) **Nonconforming Characteristics of Use.** If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.

(a) **Nonconforming Design of Structures.**

If characteristics of the design of a structure such as walls, roofs, equipment, entrances, facades or building materials are made nonconforming by the provisions of this ordinance as adopted or amended, the structure may be altered or enlarged, provided, however, that to the maximum extent practicable, the alteration or enlargement complies with such requirements and does not increase the nonconformity.

(6) **Nonconforming Lots of Record.**

In any district, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both for the district in which it is located, and provided all other requirements for the district are met.

- (7) **Nonconforming Signs.** No nonconforming sign shall be altered in any manner that would increase the degree of nonconformity. If such sign is destroyed or damaged to an extent of more than 50 percent of its replacement cost at the time of destruction, such sign shall be replaced as a conforming sign. If a nonconforming sign is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided any reconstruction does not increase the degree of nonconformity that previously existed.

- (8) **Casual, Temporary, or Illegal Use.** The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

- (9) **Repairs and Maintenance.** Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structures declared to be unsafe.

- (10) **Existing Special Exceptions.** Any use or structure existing on the effective date of adoption or amendment of this ordinance which is classified as a special exception in the district in which it is located shall be deemed to have been granted approval, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval according to the terms of this ordinance.

