

Chapter 20.52 - NONCONFORMING PARCELS, USES, AND STRUCTURES

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20.52.010 Purpose

This chapter establishes regulations for nonconforming parcels, uses and structures. These regulations are intended to:

- A. Allow for the development and use of legal nonconforming parcels;
- B. Ensure that nonconforming uses and structures do not adversely impact neighboring properties;
- C. Allow for the limited enlargement or intensification of nonconforming uses and structures;
- D. Allow for limited repairs and maintenance to nonconforming structures; and,
- E. Provide for the elimination of nonconforming uses as appropriate due to abandonment, obsolescence, and destruction.

20.52.020 Applicability

This chapter applies to existing parcels, uses, and structures that do not conform to the regulations of the zoning district in which they are located at the time of the effective date of the adoption of the Zoning Ordinance.

20.52.030 General

- A. Continuation.** A nonconforming parcel, use, or structure may be continued if it was legally established in compliance with all applicable regulations in effect at the time it was established.
- B. Legally Established Defined.** To be considered legally established, a legal nonconforming parcel, use, or structure shall have been physically constructed or in existence, not merely contemplated. Conditional Use Permits, Variances, Building Permits, or other permits not exercised within the required time do not establish the right to a legal nonconformity unless the parcel, use or structure was under construction (with a valid building permit) at the time of adoption of this ordinance.
- C. Burden of Proof.** Any person asserting a right to a nonconforming use or structure has the burden of proof to demonstrate that the nonconformity was legally established.

20.52.040 Nonconforming Parcels

- A. Development Permitted.** Legally established parcels with nonconforming dimensions (e.g., parcel width and depth) shall be permitted all development rights of the zoning district in which it is located.
- B. Conformance with Standards.** Development on legal nonconforming parcels shall comply with all setback, building coverage, parking, and other standards of the applicable zoning district.
- C. Adjacent Narrow Parcels.** Two or more adjacent parcels in single ownership that are each 25 feet or less in width shall be considered a single parcel and may be developed as such. Development on such parcels shall comply with all setback, building coverage, parking, and other applicable standards of the applicable zoning district.



- D. 50-foot Frontages.** All other provisions of this Title notwithstanding, lots with a minimum frontage of fifty (50) feet may be created if they meet the following criteria:
1. The lot is in an "R" district and in a block where at least one-half of the existing lots in the same block are fifty (50) feet wide or less.
 2. All other applicable lot area and yard requirements shall apply after the lot creation takes place.

3. Use of the resulting parcel(s) shall be limited to a maximum of one residential unit on each interior lot or a maximum of two residential units on a corner lot where permitted provided that each unit's driveway is accessed from different sides of the lot.
4. Vehicle access to the resulting lots shall be through a shared or alley accessed drive when fronting on a collector or higher order street.

20.52.050 Nonconforming Use of Land

- A. Continuation Permitted.** A nonconforming use of land not conducted within a structure may continue so long as:
1. The nonconforming use is not enlarged, increased, or extended to occupy a greater area of land; and,
 2. The nonconforming use is not moved in whole or in part to any other portion of the lot or parcel.
- B. Cessation of Use.** If any such nonconforming use of land ceases for a period of more than 30 days, any subsequent use of such land shall conform to the regulations of the zoning district in which the land is located.

20.52.060 Nonconforming Use of Structures

- A. Change in Ownership, Tenancy, or Management.** A change in ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status.
- B. Resuming a Nonconforming Use.** A nonconforming use changed to a conforming use shall not return to a nonconforming use.
- C. Replacement of a Nonconforming Use.** A nonconforming use may not be replaced by another nonconforming use.
- D. Intensification of Use.**
1. The enlargement of a structure or site occupied by a nonconforming use, or the intensification in any way of the operation of a nonconforming use, shall require the approval of a Minor Use Permit.
 2. To approve a proposed intensification to a nonconforming use, the Director of Development Services shall make all Minor Use Permit findings (Chapter 20.68) in addition to the findings in Section 20.52.090 (Findings).

- E. Discontinuation of Use.** A nonconforming use discontinued for six consecutive months or for 18 months during any three-year period shall not be reestablished and may be replaced only by a conforming use.
- F. Nonconforming Use of Land and Structure in Combination.** Where a property contains a nonconforming use of land and a nonconforming use within a structure, the removal or destruction of the structure shall require the elimination of the nonconforming use of land.
- G. Grocery Stores in Residential Zoning Districts.**
1. A grocery store located in a residential zoning district may be enlarged, constructed, or reopened after discontinuance or abandonment with the approval of a Conditional Use Permit.



2. In considering such an application, the Planning Commission shall determine whether such approval would adversely impact the established pattern of area development. The Planning Commission shall consider the traffic generated by the use, the nature of outside storage, loading and parking, and the visual appearance of the use, in addition to considering the location, size, design, and operating characteristics of the use.

- H. Reconstruction of a Residential Structure.** An applicant may reconstruct a single-family home or duplex upon the approval of a Minor Use Permit. Reconstruction shall not deviate from the original development standards, including total floor area, degree of nonconformity of yards, and off-street parking standards.

20.52.070 Nonconforming Structures

A. Voluntary Alterations.

1. **Alterations Permitted By Right.** Alterations to a nonconforming structure that do not increase or exacerbate the nonconforming aspect of the structure are permitted by right, provided the project complies with all other applicable standards and regulations. The proposed project may also require permits and approvals for other reasons not related to its nonconforming status.
2. **Alterations Requiring a Minor Use Permit.**
 - a. Alterations to a nonconforming structure that increase or exacerbate the nonconforming aspect of the structure require the approval of a Minor Use Permit. For example, a project that further increases the floor area of a

structure when a floor area ratio that is already greater than allowed in the applicable zoning district would require a Minor Use Permit.

- b. Alteration to a nonconforming structure shall comply with setback requirement of the applicable zoning district.
- c. To approve such an alteration, the Director of Development Services shall make all Minor Use Permit findings (Chapter 20.68) in addition to the findings in Section 20.52.090 (Findings).

3. Substantial Demolition.



a. If a nonconforming structure is “substantially demolished” as part of an alteration or addition, the structure shall be brought into full compliance with the requirements of the Zoning Ordinance (i.e., legal nonconforming status shall be lost).

- b. A substantial demolition shall mean the removal or replacement of:
 - (1) 50 percent or more of the lineal footage of existing interior and exterior walls; or,
 - (2) 50 percent or more of the area of existing floor, ceilings, and roof structures.
- c. Determination of a substantial demolition shall include all repairs, alterations, and additions cumulatively made to the property over the preceding five years.

B. Involuntary Damage or Destruction.

1. Nonconforming structures damaged or destroyed by earthquake, fire, flood, or other calamity may be repaired or reconstructed provided that the nonconforming aspects of the structure are not increased or exacerbated.
2. The repair or reconstruction of a nonconforming structure shall begin within 1 year and shall be completed within 3 years. The Director of Development Services may approve an extension of two additional years to complete reconstruction of the demolished structure if the delay was caused by circumstances over which the applicant has no fault or control.



- C. **Moved Structures.** A nonconforming structure that is moved to a new location shall conform to all standards that apply in its new location.

20.52.080 Maintenance and Repair

- A. Public Safety.** Nothing in this chapter shall be deemed to prevent compliance with the orders of any City official to strengthen or restore a structure to safe condition.
- B. Rehabilitation.** Nothing in this chapter shall be deemed to prevent the rehabilitation of single-family or duplex units in connection with official City Housing Division activities.

20.52.090 Findings

The Director of Development Services may approve a Minor Use Permit for a nonconforming use or structure if all of the following findings can be made in addition to the findings in Chapter 20.68 (Conditional Use and Minor Use Permits):

- A.** Available evidence indicates that the nonconforming use was legally established;
- B.** The nonconforming use has not resulted in a notable negative impact or nuisance to the surrounding area;
- C.** The nonconforming use is compatible with the general character of the surrounding area; and,
- D.** The proposed action is consistent with the purpose and intent of the applicable zoning district.

