

§ 14-16-3-4 NONCONFORMANCE REGULATIONS.

- (A) ***Nonconforming Structure.*** Except as otherwise provided for herein or pursuant to an applicable sector development plan a nonconforming structure is not required to be made to conform.
- (1) A nonconforming structure may be maintained, repaired, or altered unless such maintenance, repair or alteration would increase the extent of nonconformance.
 - (2) A structure nonconforming as to height regulations cannot be added to or enlarged unless the addition or enlargement conforms to all the regulations of the zone in which it is located.
 - (3) A structure nonconforming as to setback regulations cannot be added to or enlarged unless the addition conforms to all the regulations of the zone in which the structure is located.
 - (4) A nonconforming structure may be moved in whole or in part to another location on the lot, provided that the moving will make it nonconforming to a lesser extent.
 - (5) A nonconforming structure which is damaged may be restored, provided the restoration is started within six months of the damage and is prosecuted diligently to completion.
 - (6) A wall or fence nonconforming by virtue of being in the clear sight triangle may remain only if the Traffic Engineer gives and does not withdraw a written opinion that the wall or fence is not a traffic hazard. A wall or fence which is legally nonconforming to this Zoning Code because it is partially or wholly constructed of barbed tape, razor wire, barbed wire or similar materials in a zone where such materials are prohibited shall be removed by June 3, 2013. Other nonconforming walls and fences may remain for the life of the structure.
- (B) ***Nonconforming Use of a Structure or Land.***
- (1) Except as otherwise provided in this section or in an applicable sector development plan a structure which did not violate applicable zoning as to use when that use was initiated and which use violates subsequently adopted zoning shall be allowed to continue to exist as a nonconforming use for the life of the use.
 - (2) Any adult amusement establishment or adult store that was in conformance with the Zoning Code on March 1, 2004, that becomes a nonconforming use as a result of the 2004 adult use amendments to the Zoning Code shall be allowed to continue to exist as a nonconforming use for the life of the use.
 - (3) Helipads, law enforcement helipads and medical helipads, which constitute a nonconforming use, must be removed from the premises they are located on within twelve months after they become nonconforming. A helipad, law enforcement helipad or medical helipad which is located in an SU-1 zone and has a site development plan depicting such a helipad approved by the Environmental Planning Commission prior to March 5, 2000 shall be deemed conforming.
 - (4) That portion of a structure or land containing a nonconforming use shall not be increased; provided, however, that the portion of a structure or land containing a nonconforming use may be expanded by up to 25% if approved by the Zoning Hearing Examiner pursuant to the special exception procedures of § 14-16-4-2.
 - (5) A structure or portion thereof which has been nonconforming as to use, including a status established building, and which hereafter becomes vacant and remains vacant or is not used

for a continuous period of one year or more is not to be occupied thereafter except by a conforming use as specified in the regulations of the zone in which such structure is located. Neither the intention of the owner nor that of anybody else to use such a structure or part thereof for any nonconforming use, nor the fact that said structure or part thereof may have been used by a makeshift or pretended nonconforming use shall be taken into consideration in interpreting and construing the word "vacant" as used in this division (9).

- (6) A nonconforming use may be changed to another use equally or more restrictive than the immediately preceding nonconforming use.
 - (7) Except as otherwise provided for herein or pursuant to an applicable sector development plan a non-conforming use of land shall be made to conform within one year of the use becoming nonconforming.
 - (a) A nonconforming use of land consisting of a mobile home shall be made to conform within five years of becoming nonconforming.
 - (b) A nonconforming use of land and incidental structures consisting of a mobile home development may remain for the life of the fixtures, which shall never be more than 50 years but only if:
 1. The mobile home development does not cease operation for a continuous period of one year or more;
 2. Any private street system servicing the mobile homes is paved at least to a standard approved by the Planning Director and the Traffic Engineer according to the standards of § 14-14-4-6, Subdivision Regulations (even though there may be no new subdivision); and
 3. Mobile homes within the development are skirted with materials compatible with the siding of the mobile home or the unit is situated at ground level within two years of the mobile home development becoming non-conforming.
 4. Additions to nonconforming mobile home developments shall conform to current zoning.
 - (c) Land with a nonconforming use which thereafter becomes and remains vacant for a continuous period of six months or more shall not again be used except in conformity with the applicable zoning. Neither the intention of the owner nor that of anybody else to use a lot or part thereof for any nonconforming use, nor the fact that said lot or part thereof may have been used by a makeshift or pretended nonconforming use shall be taken into consideration in interpreting and construing the word "vacant" as used in this subdivision (c).
- (C) **Nonconforming Lot Size.** A lot which does not meet minimum lot size requirements may be used without a variance as a separate lot occupied by a structure and use permitted in that zone if:
- (1) The lot was legally created and placed on the records of the County, complying with any zoning and subdivision standards and procedures then applicable; and
 - (2) The use and structure are permitted or are legally nonconforming, or

- (3) It is a new use or new construction and there is no use allowed under applicable zoning because of the size of the lot and the proposed use is the use which most nearly meets lot size requirements.
 - (4) Animal keeping which requires special lot size is not permitted on lots smaller than the size specified.
- (D) **Nonconforming signs.** A nonconforming sign shall be made to conform within five years of becoming nonconforming, except:
- (1) Any sign which violates the brightness regulations of this Zoning Code shall be made to conform as to brightness within one year of becoming nonconforming.
 - (2) Signs erected contrary to zoning regulations in force at the time of erection and signs identified in § 14-16-3-5(B)(1) of this Zoning Code are subject to immediate removal under the terms of § 14-16-4-11 of this Zoning Code.
 - (3) Nonconforming signs may remain for the life of the sign if the sign's degree of nonconformance does not exceed 10% nonconformance for each of setback or overhang, size, or separation and does not exceed 20% nonconformance of height.
 - (4) Signs nonconforming as to size or number shall not be enlarged.
 - (5) Signs installed under variances from former zoning regulations which were less strict than those subsequently adopted shall be made to conform within five years of the effective date of the subsequently adopted zoning.
- (E) **Nonconforming Landscaping.** Premises which, when they were developed, were not required to be developed according to a landscaping plan approved by the city shall be made to conform to such a plan within two years of the time they were required to so conform due to amendment of the map or text of this Zoning Code.
- (F) **Property Acquisition by Government Entities.** A property that becomes nonconforming to any regulation of the Zoning Code that results from an acquisition of real property by a government entity with the power of eminent domain may remain nonconforming in perpetuity but only as to the affected regulation or regulations caused by the acquisition; however, the nonconforming status will cease when the property owner applies for and obtains a change of zoning designation. The City will be responsible for recording a Certificate of Legally Nonconforming Status with the County Clerk.

('74 Code, § 7-14-40D) (Am. Ord. 26-1999; Am. Ord. 8-2000; Am. Ord. 15-2000; Am. Ord. 44-2000; Am. Ord. 11-2001; Am. Ord. 11-2002; Am. Ord. 15-2002; Am. Ord. 44-2002; Am. Ord. 42-2004; Am. Ord. 16-2005; Am. Ord. 68-2005; Am. Ord. 37-2007; **2013**)

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