

TITLE 10

CHAPTER 19

NONCONFORMITES

SECTION:

- 10-19-1: Intent
- 10-19-2: Continuation of Use
- 10-19-3: Nonconforming Buildings and Uses
- 10-19-4: Nonconforming Lots of Record

10-19-1: INTENT

The intent of this chapter is to accumulate provisions applying to all buildings, uses or lots within the incorporated area of the city into one section rather than to repeat them several times. (Ord., 1-22-2002)

10-19-2: CONTINUATION OF USE

- A. The occupancy of a building or structure by a nonconforming use, existing at the time the ordinance codified herein became effective, may be continued.
- B. The nonconforming use of land, existing at the time the ordinance codified herein became effective, may be continued; provided, that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property; and provided, that if such nonconforming use of land or any portion thereof, is abandoned or changed for a period of one year or more, then any future use shall be in conformity with the provisions of this title. (Ord., 1-22-2002)

10-19-3: NONCONFORMING BUILDINGS AND USES

In view of the fact that no further development or change in use can be undertaken contrary to the provisions of this title, it is the intent of this chapter that nonconforming uses shall not be increased nor expanded except where a health or safety official, acting in his official capacity, requires such increase or expansion. Such expansion shall be no greater than that which is required to comply with the minimum requirements as set forth by the health or safety official. Nevertheless, a nonconforming building or structure or use of land may be continued to the same extent and character as that which legally existed on the effective day of the applicable regulations. Repairs may also be made to a nonconforming building or to a building housing a nonconforming use.

- A. **Damaged Building may be Restored:** A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind earthquake, or other calamity or act of God or public enemy, may be restored; and the occupancy or use of such buildings, structure or part thereof which legally existed at the time of such damage or destruction may

be continued or resumed; provided, that such restoration is started within a period of one year from the date of destruction and is diligently pursued to completion; and provided, that such restoration does not increase the floor space devoted to the nonconforming use over that which existed at the time the building became nonconforming.

- B. Continuance or Abandonment: A nonconforming building or structure or portion thereof, or a lot occupied by a nonconforming use which is or hereafter becomes abandoned or is discontinued for a continuous period of one year or more, shall not thereafter be occupied, except by a use which conforms to the use regulations of the zone in which it is located.
- C. Change to a Conforming Use: A nonconforming use or building may be changed to a conforming use or building. Any nonconforming use or building which has been changed to a conforming use or building shall not thereafter be changed back to a nonconforming use.
- D. Change to Another Nonconforming Use Prohibited: A nonconforming use of a building or lot shall not be changed to another nonconforming use whatsoever. Changes in use shall be made only to a conforming use.
- E. Reclassification of Territory: The provisions pertaining to nonconforming uses of land and buildings shall also apply to land and buildings which hereafter become nonconforming due to an amendment in this title. (Ord., 1-22-2002)
- F. Permits Granted Prior to Passage of the Ordinance or Amendment Thereto: Notwithstanding the prior issuance of a permit, no building which becomes nonconforming upon the passage of the ordinance codified herein, or which becomes nonconforming due to an amendment to this title, shall be built unless construction has taken place thereon to the extent of at least five hundred dollars (\$500.00) in replaceable value by the date on which the ordinance codified herein or said amendment becomes effective. "Replaceable value" shall be construed to mean the expenditure necessary to duplicate the materials and labor at market prices. (Ord., 1-22-2002; amd. Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)

10-19-4: NONCONFORMING LOTS OF RECORD

Notwithstanding any other provision of this title, a single-family dwelling may be permitted on a lot of record that fails to meet the area or width requirements for single-family dwellings within a zone; provided, that the owner of the nonconforming lot also owns one or more neighboring, contiguous lots of record. For the purposes of this section, the neighboring, contiguous lots of the owner shall be measured together with the nonconforming lot as an undivided parcel that conforms with the applicable zoning requirements. (Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)