



CHAPTER 10 | NONCONFORMITIES

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ARTICLE 10.1 GENERAL

Sec. 10.1.1 Purpose

It is the general policy of the County to allow uses, **S**tructures, **L**ots, **S**igns, and other situations that came into existence legally— in conformance with then-applicable requirements—to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with existing regulations as is reasonably possible. This Chapter establishes regulations governing uses, **S**tructures, **L**ots, and **S**igns that were lawfully established but that do not comply with one or more existing requirements of this Ordinance. The regulations of this Chapter are intended to:

- A. Recognize the interests of **P**roperty **O**wners in continuing to use their property;
- B. Promote reuse and rehabilitation of existing **B**uildings; and
- C. Place reasonable limits on the expansion of nonconformities that have the potential to adversely affect surrounding properties and the county as a whole.

Effective on: 11/20/2001, as amended

Sec. 10.1.2 Authority to Continue

Any nonconformity that legally existed on April 21, 1999, or that becomes nonconforming upon the adoption of any amendment to this Ordinance may be continued in accordance with the provisions of this Chapter.

Effective on: 11/20/2001, as amended

Sec. 10.1.3 Determination of Nonconformity Status

The burden of establishing that a nonconformity is a legal nonconformity shall, in all cases, be solely upon the owner of such nonconformity.

Effective on: 11/20/2001, as amended

Sec. 10.1.4 Repairs and Maintenance

Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs are otherwise expressly prohibited by this Ordinance. Nothing in this Chapter shall be construed to prevent **S**tructures from being structurally strengthened or restored to a safe condition, in accordance with an official order of the Director of Building Services or their designee.

Effective on: 11/20/2001, as amended



Sec. 10.1.5 Change of Tenancy or Ownership

The status of a nonconformity is not affected by changes of tenancy, ownership, or management.

Effective on: 11/20/2001, as amended

Sec. 10.1.6 Nonconformities Created by Public Action

When **L**ot **A**rea or **S**etbacks are reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 50 percent of the otherwise applicable minimum standard, then that **L**ot shall be deemed to be in compliance with the minimum **L**ot **A**rea and **S**etback standards of this Ordinance.

Effective on: 11/20/2001, as amended

ARTICLE 10.2 NONCONFORMING USES

Sec. 10.2.1 Definition

A "Nonconforming Use" is a use that was legally established but which is no longer allowed by the use regulations of the **Z**oning **D**istrict in which it is located.

Effective on: 11/20/2001, as amended

Sec. 10.2.2 Expansion

A nonconforming commercial or industrial use shall not be enlarged or expanded unless one of the following conditions exists:

- A. Such expansion eliminates or reduces the nonconforming aspects of the situation; or
- B. The expansion is into a part of the **B**uilding or **S**tructure that was lawfully and manifestly designed or arranged for such use, provided that no such expansion shall be allowed if it displaces a conforming use.

Effective on: 11/20/2001, as amended

Sec. 10.2.3 Change of Use

- A. A Nonconforming Use may not be changed to any use other than a use allowed in the **Z**oning **D**istrict in which it is located, provided that the Board of Zoning Appeals shall be authorized to approve a change to another Nonconforming Use in accordance with the Special Exception procedures of this Ordinance. In acting upon such requests, the Board of Zoning Appeals shall not be guided by the Special Exception approval criteria of this Ordinance, but rather shall approve the change of use only upon a finding that the new use will be less detrimental to adjacent property and general area than the existing Nonconforming Use.
- B. When a conforming use becomes nonconforming as a result of a Zoning Map Amendment initiated by the **A**pplicant, the Nonconforming Use shall then be removed prior to the issuance of a Certificate of Occupancy for the conforming use.

Effective on: 11/20/2001, as amended

Sec. 10.2.4 Loss of Legal Nonconformity Status

- A. **Abandonment.** If a Nonconforming Use is replaced with another use or is discontinued for any reason for a period of more than ~~12-36~~ consecutive months or ~~18 months in cumulative total within any three-year period~~, the use shall be considered abandoned. Once abandoned, the use's legal nonconforming status shall be lost and re-establishment of a Nonconforming Use shall be prohibited. Any subsequent use of the property shall comply with the regulations of the **Z**oning **D**istrict in which it is located.



B. Damage or Destruction.

1. No nonconforming **c**ommercial or **i**ndustrial **u**se that is damaged by fire or any other cause shall be restored if the cost of the repair work equals 50 percent or more of the use's total physical replacement cost (which shall consist solely of labor and materials). Determination of physical replacement costs shall be made by the Director of Building Services. When such repairs are allowed to be made, they shall be in full compliance with the regulations of this Ordinance.
2. A nonconforming Residential Use that is damaged by fire or any other cause may be restored. In such cases, the use may be re-established to the extent that existed before the time of damage (within the pre-existing **S**tructure boundaries [footprint and height]), provided that the repairs or rebuilding do not increase the degree of nonconformity and provided that such repairs, restoration or reconstruction begin within 12 months of the date of such damage.

Effective on: 11/20/2001, as amended

Sec. 10.2.5 Accessory Uses and Structures

No use or **S**tructure that is accessory to a principal Nonconforming Use or **S**tructure shall continue after such **P**principal **U**se or **S**tructure shall have ceased or terminated, unless it complies with all regulations of this Ordinance.

Effective on: 11/20/2001, as amended

ARTICLE 10.3 NONCONFORMING STRUCTURES

Sec. 10.3.1 Definition

A "Nonconforming Structure" is any **B**uilding or **S**tructure that was legally established but which no longer complies with the **D**ensity, **I**ntensity and Dimensional Standards of the **base** underlying **Z**oning **D**istrict.

Effective on: 11/20/2001, as amended

Sec. 10.3.2 Use

A Nonconforming Structure may be used for any use allowed in the **base** underlying **Z**oning **D**istrict.

Effective on: 11/20/2001, as amended

Sec. 10.3.3 Expansion

A nonconforming residential **S**tructure may be enlarged or expanded if such residential expansion follows the outside wall at ground level, other than porches, decks or canopies. The outside wall (other than porches, decks or canopies) of a nonconforming residential **S**tructure that does not meet current dimensional standards (**S**etbacks), shall only be allowed to expand vertically from ground level provided that such expansion does not exceed the maximum height requirements for that **Z**oning **D**istrict or encroach into any **S**etback. All other expansion shall meet all other applicable portions of the Ordinance including **D**ensity, **I**ntensity and **D**imensional **S**tandards.

Effective on: 5/4/2010, as amended

Sec. 10.3.4 Moving

A Nonconforming Structure may be moved in whole or in part to another location if the movement or relocation does not increase the extent of nonconformity.

Effective on: 11/20/2001, as amended



Sec. 10.3.5 Subdivision

If a **L**ot is occupied by a Nonconforming Structure, it may be subdivided provided that subdividing does not create a new nonconformity or increase the degree of nonconformance of the **S**tructure.

Effective on: 11/20/2001, as amended

Sec. 10.3.6 Loss of Legal Nonconforming Status; Damage or Destruction

- A. No Nonconforming Commercial or Industrial Structure that is damaged by fire or any other cause shall be restored if the cost of the repair work equals 50 percent or more of the **S**tructure's total physical replacement cost. Determination of physical replacement costs shall be made by the Director of Building Services. When such repairs are allowed to be made, they shall be in full compliance with the regulations of this Ordinance.
- B. A Nonconforming Residential Structure that is damaged by fire or any other cause may be restored. In such cases, the **S**tructure may be re-established to the extent that existed before the time of damage (within the pre-existing **S**tructure boundaries [footprint and height]), provided that the repairs or rebuilding do not increase the degree of nonconformity and provided that such repairs, restoration or reconstruction begin within 12 months of the date of such damage.
- C. Nothing in this Section shall conflict with the requirements of the Federal Emergency Management Agency's (**FEMA**) Flood Plain Management Regulations.

Effective on: 11/20/2001, as amended

ARTICLE 10.4 NONCONFORMING LOTS

Sec. 10.4.1 Definition

A "Nonconforming Lot" is a tract of land, designated on a duly recorded **S**ubdivision **P**lat, or by a duly recorded deed, or by other lawful means, that complied with the **L**ot **A**rea, **L**ot **W**idth, and **L**ot depth standards of the **Z**oning **D**istrict in which it was located at the time of its creation, but which does not comply with the minimum **L**ot **A**rea, **L**ot **W**idth or **L**ot depth requirements of the **Z**oning **D**istrict in which it is now located.

Effective on: 11/20/2001, as amended

Sec. 10.4.2 Vacant Lots

If a Nonconforming Lot or parcel was vacant on the date on which this Ordinance became applicable to it, then the owner may use the property for uses allowed by the **base underlying Zoning D**istrict, provided that the use shall comply with applicable **S**etback to the maximum extent possible. If the **base underlying Zoning D**istrict permits a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with **S**etback standards, while others would not, then only the uses or intensities that would comply with the applicable **S**etback standards shall be permitted.

Effective on: 11/20/2001, as amended

Sec. 10.4.3 Lot with Building or Structure

If a Nonconforming Lot or parcel contains a **B**uilding or **S**tructure on the date on which this Ordinance become applicable to it, then the owner may continue the use of that **B**uilding or **S**tructure and may reasonably expand the **S**tructure in any way that does not increase the degree of nonconformity; an increase in **B**uilding size shall not be deemed to increase the degree of nonconformity unless it increases the encroachment on a required **S**etback.

Effective on: 11/20/2001, as amended



ARTICLE 10.5 NONCONFORMING SIGNS

Sec. 10.5.1 Definition

A "Nonconforming Sign" is any ~~Sign~~ sign that was legally established but which no longer complies with the Sign Regulations contained in ~~Chapter~~ **HAPTER 9, *Development Standards***, of this Ordinance.

Effective on: 11/20/2001, as amended

Sec. 10.5.2 On-Premises Signs

All legal nonconforming permanent On-Premises Signs in place prior to April 21, 1999, shall be removed or replaced by April 20, 2001. All other On-Premises Signs not in conformance with the standards of this Ordinance shall be removed or otherwise brought into compliance with the standards of this Ordinance.

Effective on: 11/20/2001, as amended

Sec. 10.5.3 Off-Premises Signs

- A. All legally existing nonconforming Off-Premises Signs shall be removed, altered or otherwise made to conform to the provisions of this Ordinance.
- B. All other Off-Premises Signs shall be removed, altered, or brought into compliance with the provisions of this Ordinance.

Effective on: 11/20/2001, as amended