

**155.180 Article 9 Nonconforming Uses and Structures**

**155.181 Intent**

This Zoning Code intends to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival. The City recognizes that existing lots, structures and uses of land and structures, which were lawful before this Zoning Code was passed or amended, would be prohibited, regulated or restricted under the terms of this code or future amendments. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

This code further intends that nonconformities shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after adoption of this Zoning Code by attachment of a building or premises, of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district involved. Alleged non-conformities, which cannot be conclusively proven to have existed prior to the enactment or amendment of this Code, shall be declared illegal and shall be discontinued.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

**155.182 Nonconforming Lots**

Where a lawful lot of record exists in any district where single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Code. Such single-family property may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area, width, or both of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Board of Zoning Appeals.
- (B) If two or more lots including portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, the lands involved shall be considered to be an undivided parcel. No portion of same parcel shall be used or occupied in any manner which does not meet lot width and area requirements as established by this chapter, no division of

the parcel shall be made which creates any remaining lot width or area below the requirements stated in this chapter.

**155.183 Nonconforming Uses of Land**

Where a lawful use of land exists at the effective date of adoption or amendment of this Code that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful. Such land use shall be subject to the following provisions:

- (A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;
- (B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter; and
- (C) If such nonconforming use of land ceases for any reason for a period of more than 6 consecutive months or 18 nonconsecutive months in any 3 year period, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

**155.184 Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this code that could not be built under the terms of this code by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful. Such structures shall be subject to the following provisions:

- (A) No such structure may be enlarged or altered in a way that increases its nonconformity. However, upon approval of the Board of Zoning Appeals, a building in residential use in an R-1 District may be extended along one side of the structure even though the side of the existing structure to be extended may not comply with Section 155.060 Article 4 Schedule of Regulations side yard setback requirements.
- (B) Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Code.
- (C) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**155.185 Nonconforming Uses of Structures**

Where a lawful use of a structure or of structure and land in combination exists at the effective date of adoption or amendment of this Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (B) Any nonconforming use may be extended throughout any parts of a building

which were manifestly arranged or designed for such use and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

- (C) Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter no longer be considered a nonconforming use. Such structure or structure and land in combination shall henceforth conform to the regulations for the district in which such structure is located. The nonconforming use shall not thereafter be resumed.
- (D) If such nonconforming use of a structure, or structure and land in combination ceases for any reason for a period of more than 6 consecutive months or 18 nonconsecutive months within a 3 year period, any subsequent use of such structure or land in combination shall conform to the regulations specified by this chapter for the district in which such land is located. Structures occupied by seasonal uses shall be excepted from this provision.
- (E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**155.186 Repairs and Maintenance**

- (A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 50% of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.
- (B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**155.187 Change Of Tenancy Or Ownership**

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses.

**155-188 – 155.199 Reserved**