

## CHAPTER 176

# ZONING CODE — NONCONFORMING LOTS, USES, AND STRUCTURES

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**176.01 INTENT.** Within the districts established by the Zoning Code or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the Zoning Code was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of the Zoning Code or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in this chapter shall be deemed to require 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 the Zoning 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 such work shall be diligently carried on until completion of the building involved.

**176.02 NONCONFORMING LOTS OF RECORD.** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of the Zoning Code, 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 the Zoning Code. 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. All other bulk regulations and standards within the district shall apply.

**176.03 NONCONFORMING USE OF LAND.** Where, at the effective date of adoption or amendment of the Zoning Code, lawful use of land exists that is made no longer permissible under the terms of the Zoning Code as enacted or amended, such use may be continued subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of the Zoning Code.
2. 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 the adoption or amendment of the Zoning Code.
3. If any such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by the Zoning Code for the district in which such land is located.

**176.04 NONCONFORMING USE OF STRUCTURES.** If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of the Zoning Code that would not be allowed in the district under the terms of the Zoning Code, the lawful use may be continued subject to the following provisions:

1. No existing structure devoted to a use not permitted by the Zoning Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any of the parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the Zoning Code, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to a more restricted classification.
4. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
5. Any structure devoted to a use made nonconforming by this Ordinance, that is destroyed by any means to an extent of sixty percent (60%) or more of its replacement cost at the time of destruction, exclusive of the foundation(s), shall not be reconstructed and used as before such happening. If the structure be less than sixty percent (60%) destroyed above the foundation(s), it may be

reconstructed and used as before provided reconstruction be started within six (6) months of such happening and be completed within one (1) year, and be built of like or similar materials.

6. Where nonconforming use status applied to a structure and premises in combination, removal of the structure shall eliminate the nonconforming status of the land.

**176.05 REPAIRS AND MAINTENANCE.** On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content of the building as it existed at the time of passage or amendment of the Zoning Code shall not be increased. 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.

**176.06 SPECIAL EXCEPTIONS.** Any use for which a special exception is permitted as provided in Section 177.07 of this Zoning Code shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

**176.07 REGISTRATION OF NONCONFORMING USES.** No nonconforming structure or use shall be maintained, renewed, changed or extended until a certificate of zoning compliance shall have been issued.