

CHAPTER 9

NONCONFORMING SITUATIONS

9.1 Applicability

The regulations of this Chapter govern nonconformities, which are lots, uses, buildings, structures, or signs there were lawfully established but because of the adoption of new or amended regulations no longer comply with one or more requirements of this ordinance. The burden of proving that a lawfully nonconformity exists (as opposed to a violation of this ordinance) rests with the subject landowner. Nonconforming status runs with the land and is not affected by changes of tenancy, ownership, or management.

9.2 Continuation

Legal nonconforming uses, buildings, structures, and signs may be continued until they are removed, discontinued, dilapidated, or destroyed. If a legal nonconforming use is discontinued, as evidence by the disconnection of electrical or utility service for a period of one year (365 days), any future use of the building, structure, or land shall comply with the provisions of this ordinance.

9.3 Repairs and Maintenance

Incidental repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless otherwise expressly prohibited by this ordinance.

9.4 Expansion

Expansions to nonconforming buildings or structures shall meet the requirements of this ordinance; however the built upon area of existing development built prior to December 31, 1993 is not required to be included in the density / built-upon area calculations. Nonconforming uses of buildings may be extended throughout the building provided no structural alterations (except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building) are made therein but no such use shall be extended to occupy any land outside the building. Nonconforming uses of land shall not be extended to occupy a greater area of land. Nonconforming signs cannot be physically expanded, enlarged, or extended in any manner.

9.5 Replacement

Nonconforming buildings or structures which are damaged by fire, explosion, flood, or other calamity may be reconstructed provided that the nature and degree of the nonconformity will not be changed or increased from that which existed prior to the damage or destruction. If a nonconforming manufactured home is removed it may be replaced provided that the new

manufactured home does not increase the degree of the nonconformity. A nonconforming sign shall not be replaced or changed; provided, however, the copy, content, or message of the sign may be changed so long as the shape or size of the sign is not altered.

9.6 Movement

Should a building, structure, or sign be moved for any reason for any distance it shall hereafter conform to the regulations for the district in which it is located after it is moved.

9.7 Non-Conforming Lots of Record

Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance. Any lot of record, that does not conform to the current minimum lot size and minimum lot width, may be used as a building site with related accessory buildings, provided that setbacks for such lot of record are not reduced more than 30%, as determined necessary by an Administrative Variance. Additional or other forms of yard modification may be permitted with a variance granted by the Board of Adjustments in accordance with Chapter 13. Whenever 2 or more contiguous vacant lots are in single ownership, and the lots individually or together have less area than minimum requirement for the zoning district, such lots may be combined to create 1 lot in order to reduce the nonconformity.