

Chapter 151-13 Nonconformities

151-13.1 General

A. Purpose

The regulations of this chapter govern uses, structures, lots and other situations that came into existence legally but that do not conform to one or more requirements of this Land Development Code. It is the general policy of the county to allow uses, structures or lots that came into existence legally and in conformance with then-applicable requirements but that do not conform to all of the applicable requirements of this Land Development Code to continue to exist and be put to productive use, but to bring as many aspects of such use into compliance with the current Land Development Code as is reasonably possible, all subject to the regulations of this chapter. The regulations of this chapter are intended to recognize the interests of the property owner in continuing to use nonconforming property but to control the expansion of nonconformities, prohibit re-establishment of abandoned nonconformities and limit re-establishment of nonconforming structures that have been substantially destroyed.

B. Authority to Continue

Any nonconformity that legally existed on June 23, 2003 or that becomes nonconforming upon the adoption of any amendment to this Land Development Code may be continued in accordance with the provisions of this chapter.

C. 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.

D. Repairs and Maintenance

Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs are otherwise expressly prohibited by this Land Development Code. Nothing in this chapter shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

E. Change of Tenancy or Ownership

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

151-13.2 Nonconforming Uses

A. Definition

A nonconforming use is a use that was legally established but which is no longer allowed by the use regulations of the zoning district in which it is located.

B. Expansion

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

1. such expansion eliminates or reduces the nonconforming aspects of the situation
2. the expansion is into a part of a building or other structure that was lawfully and manifestly designed or arranged for such use; or
3. the expansion is for a living space addition to a house.
4. Expansion for the sole purpose of providing off-street parking shall not be considered expansion of a nonconforming use.

C. Change of Use

A nonconforming use may not be changed to any use other than a use allowed in the zoning district in which it is located.

D. Loss of Legal Nonconformity Status

1. Abandonment

If a nonconforming use ceases for any reason for a period of more than 180 days, the use shall be considered abandoned. Once abandoned, the use's legal nonconforming status shall be lost and re-establishment of the use shall be prohibited. Any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

2. Damage or Destruction

If a nonconforming use or a structure containing a nonconforming use is destroyed by any means to the extent of more than 50 percent of its value immediately prior to damage, the nonconforming use shall not be restored unless in full compliance with the provisions of this Land Development Code.

If a nonconforming use or structure containing a nonconforming use is damaged by less than 50 percent of its value immediately prior to damage, the use may be re-established to the extent that existed before the time of damage, provided that such repairs, restoration or reconstruction are substantially completed within 12 months of the date of such damage.

3. Accessory Uses and Structures

No use or structure that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it complies with all regulations of this Land Development Code.

151-13.3 Nonconforming Structures

A. Definition

A nonconforming structure is any building or structure that was legally established but which no longer complies with the Density, Intensity and Dimensional Standards of Sec. 151-7.

B. Use

A nonconforming structure may be used for any use allowed in the underlying zoning district.

C. Expansion

A nonconforming structure may be enlarged or expanded if the expansion does not increase the extent of nonconformity, e.g. setbacks, lot coverage, use.

D. 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.

E. Loss of Legal Nonconforming Status; Damage or Destruction

If a nonconforming structure is damaged or destroyed to the extent of more than 50 percent of its value immediately prior to damage, the nonconforming structure shall not be restored unless in compliance with the provisions of this Land Development Code. If a nonconforming structure is damaged by less than 50 percent of its value immediately prior to damage, the structure may be re-established to the extent that existed before the time of damage, provided that such repairs, restoration or reconstruction are substantially completed within 12 months of the date of such damage.

151-13.4 Nonconforming Lots

A. Definition

A nonconforming lot is a tract of land, designated on a duly recorded subdivision plat, or by a duly recorded deed, or by other lawful means, that complied with the lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

B. Use

1. Vacant Lots

- a. In the AG district, nonconforming lots may be used for detached houses and residential accessory structures and uses allowed in the AG District, subject to the applicable setback and lot coverage requirements of Sec. 151-7. Detached houses may be constructed, and may be reconstructed if damaged or destroyed.
- b. In Residential districts nonconforming lots may be developed with detached houses. Construction of such houses shall comply with all of the regulations (except lot area, width and depth) applicable to detached houses in the zoning district in which the lot is located; provided however, that the following side setback requirements shall apply in place of the side setback requirements otherwise applicable:
 - (1) The house shall be placed on the lot so as to provide a side setback on each side of the dwelling.
 - (2) The sum of the widths of the 2 side setbacks on each lot shall not be less than the smaller of:
 - (i) 25 percent of the width of the lot,
 - (ii) The minimum total for both side setbacks prescribed by the dimensional standards of the subject zoning district.
 - (3) No side setback shall be less than 10 percent of the width of the lot, and in no case less than 5 feet.
- c. In all nonresidential and nonagricultural base zoning districts, nonconforming lots may be developed with uses allowed in the underlying zoning district, provided that they comply with the minimum setback standards the underlying zoning district. If the underlying zoning district allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable lot area, lot width or other dimensional standards, while others would not, then only the uses or intensities that comply with applicable dimensional standards shall be permitted.

2. Developed Lots

If a nonconforming lot is occupied by a building or structure, then the owner may continue the use of that building or structure and may expand the structure in any way that does not increase the extent of nonconformity, provided that the expansion complies with the building code. An increase in building size shall not be deemed to increase the extent of nonconformity unless it encroaches into a required minimum setback, exceeds the maximum allowed height or otherwise violates a required zoning district dimensional standard.

151-13.5 Nonconforming Signs

A. Definition

A nonconforming sign is a sign that was legally established but which no longer complies with the sign regulations of this Land Development Code.

B. Expansion

A nonconforming sign shall not be enlarged or expanded.

C. Moving

A nonconforming sign shall not be moved in whole or in part to any other location unless the move results in the entire sign being brought into compliance with all applicable regulations of this Land Development Code.

D. Loss of Legal Nonconforming Status

If a sign is destroyed by any means to the extent of more than 50 percent of its replacement value, it may not be reestablished except in compliance with all applicable regulations of this Land Development Code.

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