

CHAPTER 19.38. - NONCONFORMING USES

Sec. 19.38.010. - Purpose.

- (a) A nonconforming use is a use of a structure or land which was lawfully established and maintained prior to the adoption of the ordinance codified in this chapter or any prior nonconforming use ordinances of this city but which, under this title, does not conform with the use regulations for the district in which it is located. This chapter is intended to limit the number and extent of nonconforming uses by prohibiting their enlargement and their re-establishment after alteration of the structure they occupy and their restoration after destruction. Eventually nonconforming uses are to be eliminated.
- (b) A nonconforming structure is a structure which was lawfully erected prior to the adoption of the ordinance codified in this title or any prior nonconforming use ordinance of this city, but which, under this title, does not conform with the standards of coverage, yard spaces, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. While permitting the use and maintenance of nonconforming structures, this chapter is intended to limit the number and extent of nonconforming structures by prohibiting their being moved, altered or enlarged so as to increase any discrepancy between existing conditions and the standards prescribed in this title and by prohibiting their restoration after destruction. Eventually all nonconforming structures of nominal value are to be eliminated or altered to conform.

(Ord. No. 934-2015, § 19.38.010, 7-20-2015)

Sec. 19.38.020. - Continuation and maintenance.

- (a) A use lawfully occupying a structure or a site on the effective date of the ordinance codified in this title or of amendments thereto which does not conform with the use regulations for the district in which the use is located shall be deemed to be a nonconforming use and may be continued, except as otherwise provided in this chapter.
- (b) A structure lawfully occupying a site on the effective date of the ordinance codified in this title or of amendments thereto which does not conform with the standards of coverage, front yard, side yards, rear yards, height of structures or distances between structures and/or other or additional development standards prescribed in the regulations for the district in which the structure is located shall be deemed to be a nonconforming structure and may be used and maintained except as otherwise provided in this chapter. Routine maintenance and repairs may be performed on a structure or site, the use of which is nonconforming, and on a nonconforming structure.

(Ord. No. 934-2015, § 19.38.020, 7-20-2015)

Sec. 19.38.030. - Alterations and additions; uses.

- (a) No structure, the use of which is nonconforming, shall be moved, altered, or enlarged unless required by law, or unless the moving, alteration or enlargement will result in the elimination of the nonconforming use.
- (b) No structure partially occupied by a nonconforming use shall be moved, altered or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use. No nonconforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site or another structure or site which it did not occupy on the effective date of any ordinance codified in this title or of the amendment thereto which caused it to become a nonconforming use, or in such a way as to displace any conforming use occupying a structure or site.

(Ord. No. 934-2015, § 19.38.030, 7-20-2015)

Sec. 19.38.040. - Alterations and additions; structures.

No nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase any discrepancy between existing conditions and the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located.

(Ord. No. 934-2015, § 19.38.040, 7-20-2015)

Sec. 19.38.050. - Changes of use.

If no alterations are made, a nonconforming use of a building or site may be changed to permit a similar or more restrictive type nonconforming use, subject to the provisions of chapter 19.30 (conditional uses).

(Ord. No. 934-2015, § 19.38.050, 7-20-2015)

Sec. 19.38.060. - Abandonment or cessation.

Any cessation of or abandonment of use for a period of six months or more shall require termination of such nonconforming use. Such cessation or abandonment shall be determined by factors, specifically including but not limited to the following:

- (1) Lapse of business license.
- (2) Field observance by inspection personnel regarding any use of the premises.
- (3) The physical condition of the premises.

- (4) Lack of utilities.
- (5) Building official determines the structure unsafe or uninhabitable.
- (6) Any other objective facts evidencing an abandonment or cessation of use.

(Ord. No. 934-2015, § 19.38.060, 7-20-2015)

Sec. 19.38.070. - Restoration of a damaged structure.

The restoration of a nonconforming building that is damaged or partially destroyed by fire, explosion, act of God, or of the public enemy to the extent of 50 percent or less shall be permitted; provided, that such restoration is permitted by the building code of the city and is started within one year and diligently pursued to completion. A nonconforming building that is damaged in excess of 50 percent of the building valuation shall not be restored except in full conformity with all the regulations of this title. The proportion of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the building to its prior condition and to the estimated cost of duplicating the entire structure as it existed prior thereto.

(Ord. No. 934-2015, § 19.38.070, 7-20-2015)

Sec. 19.38.080. - Nonconforming buildings—Changes.

Except as otherwise provided by this title, no nonconforming building shall be enlarged, remodeled or structurally altered unless the entire building is so changed as to be conforming.

(Ord. No. 934-2015, § 19.38.080, 7-20-2015)

Sec. 19.38.090. - Same—Nonresidential alterations.

Any nonresidential use in an appropriate district which is nonconforming only with respect to a deficiency in yard dimensions or in parking spaces may be structurally altered or enlarged; provided, that any addition or enlargement shall itself be fully conforming.

(Ord. No. 934-2015, § 19.38.090, 7-20-2015)

Sec. 19.38.100. - Same—Dwelling alterations.

A dwelling in any residential district which is nonconforming only with respect to a deficiency in yard dimensions or in parking spaces may be structurally altered or enlarged; provided, that any addition or enlargement shall itself be fully conforming and that the number of dwelling units in the structure shall not be increased.

(Ord. No. 934-2015, § 19.38.100, 7-20-2015)

Sec. 19.38.110. - Same—Maintenance.

Ordinary maintenance and minor repair of a nonconforming building (excluding structural remodeling) is permitted.

(Ord. No. 934-2015, § 19.38.110, 7-20-2015)

Sec. 19.38.120. - Annexation of nonconforming uses/structures.

All property which contains nonconforming uses/structures which are annexed to the city after the effective date of the ordinance codified in this chapter shall be subject to all provisions as listed in this chapter. Any additions or alterations to such nonconforming uses or structures shall comply with section 19.38.040.

(Ord. No. 934-2015, § 19.38.120, 7-20-2015)

Sec. 19.38.130. - Nonconforming signs.

- (a) All signs located upon a site which no longer advertise an existing business conducted or product sold on the premises or any signs located upon a site where the business has been discontinued or abandoned for a period of six months shall be considered nonconforming. Said sign copy shall be removed or caused to be removed by the owner of the site within 30 days of discontinuance of the business advertised thereon and/or notification by the city. Any site containing nonconforming signs may not be expanded, altered or enlarged until such time as the nonconforming signs have been removed or reconstructed so as to bring them into conformity.
- (b) Antique, vintage or locally significant signs may remain provided they are structurally sound and pose no safety concerns and are maintained in a good quality condition. Should an antique, vintage or locally significant sign be removed, it is encouraged that the owner to contact a local museum or collector in lieu of destroying and/or disposing of the sign.

(Ord. No. 934-2015, § 19.38.130, 7-20-2015)