

Chapter 17.5817.54
NONCONFORMING BUILDINGS, STRUCTURES, LOTS, AND USES

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17.5817.54.010 Introduction.

This chapter provides for the regulation of buildings, structures, lots, and uses that do not comply with the provisions of this title and specifies the circumstances, conditions, and/or procedures under which these nonconformities may be permitted to continue and expand. (Ord. 3889 § 3 (Exh. A), 2017)

17.5817.54.020 Illegal buildings, structures, lots, and uses not permitted.

Structures, lots, site improvements, uses, and/or development activities which were not legally established or conducted, as determined by the city, must fully conform and comply with the procedural and substantive provisions of this title or be abated; provided, that:

- A. The burden of documenting that any nonconformity is a legal nonconformity shall, in all cases, be upon the owner of such nonconformity and not upon the city.
- B. If the city manager or his/her designee cannot conclusively determine that the nonconformity was lawfully established and in continuous use or operation, then the matter may be referred to the hearing examiner for review. The hearing examiner shall be authorized to render a decision as to whether the nonconforming use or structure was lawfully established and in continuous operation, and review it for compliance with this chapter. (Ord. 3889 § 3 (Exh. A), 2017)

17.5817.54.030 Nonconforming buildings and structures.

Buildings and structures that were legally established but do not comply with current regulations may be continued subject to the following provisions:

- A. Nothing in this chapter shall be construed to restrict normal structural repair and maintenance of a nonconforming structure, including the replacement of walls, fixtures and plumbing; provided, that the degree of nonconformity is not increased.

- B. Legal nonconforming structures may be remodeled, improved, and/or expanded; provided, that the proposed activities do not increase the degree of nonconformity.
- C. Nonconforming buildings or structures shall not be relocated on the same site unless the move results in bringing the building or structure into closer conformance with the provisions of this chapter.

~~D.—In the event a nonconforming building or structure in square footage or valuation is less than fifty percent is destroyed by any cause, nothing in this chapter shall prevent the securing of a building permit within one year from the date of destruction for the restoration of the building or structure provided that the building is reconstructed within the same footprint and does not exceed the approved square footage.—The determination of the percentage of destruction shall rest with the city. The determination shall be based upon the actual cost of repairing the portion of the building or structure destroyed in relation to the estimated replacement cost of the entire building or structure.~~

~~1.—Any nonconforming building or structure destroyed more than fifty percent in square footage or valuation may be reconstructed, provided it meets all of the regulations of this title. (Ord. 3889 § 3 (Exh. A), 2017)~~

17.5817.54.040 Nonconforming uses.

- A. A nonconforming use of a building, structure, or land shall not be extended or enlarged, unless otherwise provided in this title.
- B. A nonconforming use shall be discontinued and may not be reinstated if use has been vacated or discontinued and not reestablished within twelve months as determined by the city. When a nonconforming use becomes discontinued or succeeded by a conforming use, it shall be deemed that such use has ceased to exist and thus loses its status as a legal nonconforming use. Any subsequent use shall conform to the provisions of the zoning district in which it is located.
 - 1. The city shall have the discretion to extend the time limitation due to special circumstances beyond the control of the owner or occupant of the nonconforming use or nonconforming structure. Examples of special circumstances include but are not limited to disputes over insurance settlements in the case of fire or other casualty, delay in transferring title due to probate proceedings, litigation that impacts continuation of a nonconforming use or nonconforming structure, labor strikes, war, and acts of God. (Ord. 3889 § 3 (Exh. A), 2017)

17.5817.54.050 Nonconforming lots.

- A. A legal nonconforming lot which does not meet the minimum lot size requirements for the zoning district in which it is located may be developed; provided, that:

1. It meets all other requirements of this title and/or has obtained a variance; or
 2. A reasonable use exception has been obtained in accordance with the provisions of this title.
- B. If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record prior to the date of adoption of the ordinance codified in this title, and if all or part of the lots do not meet the requirements established for lot width and area, the lots involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title. (Ord. 3889 § 3 (Exh. A), 2017)

17.5817.54.060 Sale of a nonconforming building, structure, lot, or use.

Property classified as nonconforming may be transferred or sold without that fact alone affecting the right to continue the nonconforming use or use of a nonconforming structure. (Ord. 3889 § 3 (Exh. A), 2017)