

CHAPTER 87 LAND DEVELOPMENT CODE

SECTION 8. NONCONFORMITIES: USES, STRUCTURES, AND EXISTING DEVELOPMENT

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8.1. Purpose and Intent

A. Purpose and Intent. The purpose and intent of this section is:

1. To establish the criteria for defining nonconforming uses and structures, the standards that apply, and to what extent changes to the nonconforming use or structure may be subject to the regulations within this LDC.
2. To establish the criteria for defining when the standards of this LDC apply to modifications, alterations, or changes to existing developed properties (not specific to the use or structure as identified above).

8.2. Applicability

A. Applicability. Nonconformities are defined as any use, structure, or nonconformity related to any other standards of this LDC that can be verified to have lawfully existed prior to the adoption date of this LDC. Any existing lawful nonconforming use, structures or other nonconformance with other standards of this LDC may continue to exist provided they are not altered or changed except as otherwise permitted in this section.

8.3. General Standards

- A.** Casual, temporary, or illegal uses, development, structures or other nonconformance of standards shall not be sufficient to establish the existence of a nonconforming use, structure or other standard or to create rights to allow the continuance of such use, structure or other standard.
- B.** There may be a change in tenancy, ownership or management of a nonconforming use, structure, or other nonconformity. Such change in tenancy, ownership or management shall have no impact on the nonconforming status unless there is a discontinuation of the nonconformity.

8.4. Nonconforming Uses

- A.** Nonconforming uses may be altered provided such alteration is restricted to the same lot where the nonconforming use was created, and such alteration does not create a new nonconforming use or increase the density or intensity of the nonconforming use.
- B.** If any nonconforming use of land ceases for a period of more than 12 consecutive months, for any reason, except where eminent domain proceedings have caused the nonconformity, any subsequent use shall conform to the regulations for the zoning district in which the use is located. However, at the written request of the property owner prior to the expiration of the

12-month period, the City Council may extend the 12-month period for an additional 12 months, provided that the property owner can demonstrate by competent and substantial evidence that financial or legal constraints prevented the continuation of the nonconforming use.

- C. Where an extension of a use is to be made in a building occupied by a nonconforming use, no such extension shall be permitted unless and until the off-street parking requirements for a new use of the type involved are applied to the existing use and full provision for off-street parking facilities for the entire use is made.

8.5 Nonconforming Structures

- A. **Maintenance and Repair of Nonconforming Structures.** Nonconforming structures may be maintained or repaired so long as there is no increase in floor area. All maintenance and repair related to life-safety issues or changes to the Florida Building Code, as confirmed by the building official, are not subject to the limitation on square footage.
- B. **Replacement and Restoration of Nonconforming Structures.**
 - 1. Nonconforming structures destroyed or rendered unusable by an act of government, fire, natural disaster or other such loss that is not a direct result of the action or intent of the owner, lessee, tenant, or other interest in the property, may be replaced or restored to a safe pre-disaster condition, including but not limited to density, intensity, building setbacks, building height, architectural design and uses, provided there is compliance with current FEMA and Florida Building Code regulations. Residential property may be replaced or restored with the same number of units at the same square footage per unit. Otherwise, nonconforming structures may only be replaced or restored in compliance with the provisions of this LDC.
 - 2. If replacement, restoration or alteration of a nonconforming structure beyond its original configuration requires a modification of code standards, then the appropriate height exception, design alternative, or variance must be sought.
 - 3. Reconstruction or improvements to nonconforming structures within the special flood hazard area shall be performed in accordance with the regulations of the National Flood Insurance Program.
- C. **Alteration of Nonconforming Structures.** A nonconforming structure may be altered provided:
 - 1. Such alteration is restricted to the same lot on which the structure existed when the nonconforming situation was created.
 - 2. Such alteration does not result in increased or new nonconformities.

3. When structures are nonconforming in setbacks due to the provisions of this LDC alterations may be made to such structures provided there is no increase to the structure resulting in additional linear feet of the building that is nonconforming, and all other setbacks meet the requirements of this section. However, this does not preclude the ability to obtain a variance, through the appropriate procedure provided for in this LDC, to address the nonconforming setbacks or generally allow reduced setbacks.

8.6. Other Nonconformities

- A. **Generally.** For the purpose of this section, other nonconformities shall be defined as any nonconforming development, improvement or other nonconforming standard of this LDC that is not identified in Section 8.4: Nonconforming Uses and 8.5: Nonconforming Structures.
- B. **Continuance of Other Valid Nonconformities.** Existing valid nonconforming development may continue in accordance with prior City approvals for such development without further compliance with this LDC.
- C. **Permitted Changes to Valid Nonconformities.** Any alteration or modification to valid nonconformities shall require such alteration or modification be in compliance with the requirements of this Chapter. The Director may determine that alterations or modifications that have a significant impact to the site shall require a design alternative.

8.7. Nonconforming Lots

- A. In any district, any permitted or permissible structure may be erected or altered on any lot of record legally established prior to the effective date of this LDC, notwithstanding limitations imposed by other provisions of this Chapter.

8.8. City Approvals Allowing Nonconformities

- A. City approval through a design alternative, height exception, or variance under the terms of the LDC, shall be deemed a conforming use or structure.