

CHAPTER 22.38

NON-CONFORMING USES, STRUCTURES AND LOTS

22.38.010 Purpose--Nonconforming Use and Structure Defined.

- A. A “nonconforming use” is a use of a structure or land which was lawfully established and maintained prior to the adoption of this Title, but which, under this Title, does not conform with the use regulations for the district in which it is located. While permitting the continuation of nonconforming uses, subject to certain exceptions, this Title is intended to limit the number and extent of nonconforming uses by prohibiting their enlargement and their reestablishment after abandonment and by prohibiting the alteration of the structures they occupy and their restoration after destruction.
- B. A “nonconforming structure” is a structure which was lawfully erected prior to the adoption of this Title, 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 the discrepancy between existing conditions and the standards prescribed in this Title and by prohibiting their restoration after destruction.
- C. A “non-conforming lot” is a site or lot having an area, frontage, width or depth less than the minimum prescribed for the district in which the site is located, which is shown on a duly approved and recorded subdivision map, or for which a deed or valid contract of sale was of record prior to the adoption of the provision of this Title which made the lot non-conforming, which had a legal area, frontage, width and depth at the time that the subdivision map, deed, or contract of sale was recorded, and which has not been changed since its creation in any way which would increase the degree of non-conformity or decrease the usable site area (such as granting an access easement across the lot). The provisions of this Chapter are intended to allow the reasonable use of these lots while protecting the public health, safety, and welfare by reasonable restrictions. (Ord. 1106 C.S. § 4, 1987; Ord. 822 C.S. § 2 (part), 1975; prior code § 10,116.0.)

22.38.020 Use and Structure Deemed Nonconforming When.

- A. A use lawfully occupying a structure or a site on the effective date of 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 herein.
- B. A structure lawfully occupying a site on the effective date of this Title or of amendments thereto which does not conform with the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures 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 herein.
- C. Routine maintenance and repairs may be performed on a structure or site, the use of which is nonconforming, and on a nonconforming structure. (Ord. 822 C.S. § 2 (part), 1975; prior code § 10,116.1.)

22.38.030 Alterations and Additions to Nonconforming 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, except that a structure housing a nonconforming residential use located in a R or a PA District may be moved, altered or enlarged, provided that the number of dwelling units is not increased.
- B. The Board of Adjustments is empowered to impose conditions requiring exterior painting, repair, landscaping and other improvements as may be necessary or appropriate to the building or property as a condition of approval of a new nonconforming use of an existing structure. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.6.)

22.38.040 Alterations and Additions to Nonconforming Structures.

No nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between existing conditions and the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.3.)

22.38.050 Change of Use.

The nonconforming use of a structure or site shall not be changed to another nonconforming use, without prior approval of the Planning Commission. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.4.)

22.38.060 Abandonment of Nonconforming Use.

Whenever a nonconforming use has been abandoned, discontinued or changed to a conforming use for a continuous period of 1 year, the nonconforming use shall not be reestablished without prior approval of the Planning Commission. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.5.)

22.38.070 Institution of New Nonconforming Uses.

- A. The Board of Adjustments is empowered to approve by conditional use permit, the institution of new nonconforming uses in existing structures when it is found that:
 - 1. The existing structure has a useful remaining life;
 - 2. The new use would not require exterior alterations or major interior alterations;
 - 3. The new use will be compatible with and not a burden to the neighborhood in which it is located.
- B. The Board of Adjustments is empowered to impose conditions requiring exterior painting, repair, landscaping and other improvements as may be necessary or appropriate to the building or property as a condition of approval of a new nonconforming use of an existing structure. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.6.)

22.38.080 Restoration of a Damaged Structure.

- A. Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the

regulations for the district in which the structure is located, shall be destroyed by fire or other calamity or by act of God or by the public enemy to the extent of fifty percent (50%) or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion.

- B. Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which it is located, shall be destroyed by fire or other calamity or by act of God or by the public enemy to a greater extent than fifty percent (50%), or shall be voluntarily razed or shall be required by law to be razed, the structure shall not be restored except in full conformity with the regulations for the district in which it is located and the nonconforming use shall not be resumed.
- C. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Inspector. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.7.)

22.38.090 Elimination of Nonconforming Uses.

The following nonconforming uses and structures shall be discontinued and removed from their sites within three years from the effective date of this Title:

- A. A nonconforming use which does not occupy a structure;
- B. A nonconforming use occupying a structure having an assessed valuation of less than \$500.00. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.5.)

22.38.100 Elimination of Nonconforming Structures.

A structure having an assessed valuation of less than \$500.00 which does not comply with the standards of coverage, front yard, side yard, rear yard, height of structure or distances between structures prescribed in the regulations for the district in which the structure is located shall be removed from its site within three years from the effective date of this Title, except that if the structure is altered to comply with such standards, the provision shall not apply. (Ord. 822 C.S. § 2 (part), 1975: prior code § 10,116.9.)

22.38.110 Time When Use of Structure Becomes Nonconforming.

Whenever a use or a structure becomes nonconforming because of a change in zoning district boundaries or a change of regulations for the district in which the site is located, the period of time prescribed in Section 22.38.090 and 22.38.100 for the elimination of the use or the removal of the structure shall be computed from the effective date for the change of district or regulations. (Ord. 822 C.S. 2 (part), 1975: prior code § 10,116.10.)

22.38.120 Keeping of Animals.

The keeping of livestock or other animals shall not be considered a nonconforming use except that in RR (Rural Residential) Districts the keeping of up to five horses or split hooved animals shall be considered a nonconforming use. (Ord. 1207 C.S. § I, 1993; Ord. 1096 C.S. § I, 1987.)

22.38.130 Use of Non-conforming Lots.

Non-conforming lots shall be governed by the following regulations:

- A. A non-conforming lot may be used for any permitted use but shall be subject to all other regulations of the district in which the site is located and all other development requirements specified by law.
- B. A non-conforming lot to be used for residential purposes shall be subject to the density requirements of the zoning district and General Plan designation in which it is located. However, one single-family dwelling and customary accessory building may be permitted on any non-conforming lot in any zone district in which a single-family dwelling is permitted, provided the single-family dwelling shall conform to the design standards and regulations of the zoning district in which it is located, the provisions of this Chapter, and all other development requirements specified by law
- C. Lots or sites which do not meet the requirements of this Title for non-conforming lots, such as lots which did not meet legal requirements when created, or lots which have been changed since they were created, may not be used unless consolidated with other lots to meet the current requirements of this Title. (Ord. 1106 C.S. § 5, 1987.)

22.38.140 Enlargement of Non-conforming Lots.

A non-conforming lot may be enlarged by lot line adjustment or subdivision, even though the requirements of Section 22.12.120 et seq. (Slope Density) are not met, provided that the Planning Commission grants a use permit for the proposal under Chapter 22.40. (Ord. 1106 C.S. § 6, 1987.)