

**CHAPTER 19.62**  
**NONCONFORMING STRUCTURES AND USES**

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**19.62.010 PURPOSE**

These provisions provide for the orderly termination of nonconforming structures and uses to promote the public health, safety, and general welfare, and to bring these structures and uses into conformity with the goals and policies of the General Plan. This Chapter is intended to prevent the expansion of nonconforming structures and uses to the maximum extent feasible, to establish the criteria under which they may be continued or possibly expanded, and to provide for the correction or removal of these land use nonconformities in an equitable, reasonable and timely manner.

It is hereby declared that nonconforming structures and uses within the City are detrimental to both orderly and creative development, and the general welfare of citizens and property. It is further declared that nonconforming structures and uses shall be eliminated as rapidly as possible without infringing upon the constitutional rights of property owners.

**19.62.020 NONCONFORMING STRUCTURES**

A structure which lawfully existed prior to the effective date of this Development Code is a legal nonconforming structure, and may continue even though the structure fails to conform to the present requirements of the zone in which it is located. A legal nonconforming structure may be maintained as follows: MC 1393 12/2/1/3

1. A legal nonconforming structure which is damaged to an extent of 1/2 or more of its replacement cost immediately prior to such damage may be restored only if made to conform to all provisions of this Development Code. However, any residential structure(s), including multi-family, in a residential zone destroyed by a catastrophe, including fire, may be reconstructed up to the original size, placement, and density. However, reconstruction shall commence within 2 years after the catastrophe.
2. Necessary repairs and desired alterations may be made to a legal nonconforming residential structure(s), including multi-family.
3. Reasonable repairs and alterations may be made to legal nonconforming commercial, institutional, or industrial structures, provided that where the cost does not exceed the replacement cost of the legal nonconforming structure. However, improvements required to reinforce non-reinforced masonry structures shall be permitted without replacement cost limitations.

4. Changes to interior partitions or other nonstructural improvements and repairs may be made to a legal nonconforming commercial, institutional, or industrial structure, provided that the cost of the desired improvement or repair shall not exceed 1/2 of the replacement cost of the nonconforming structure over any consecutive 5-year period.
5. The replacement cost shall be determined by the Director.
6. Any additional development of a parcel with a legal nonconforming structure will require that all new structures be in conformance with this Development Code.
7. If the use of a nonconforming structure is discontinued for a period of 36 or more consecutive calendar months, the structure shall lose its legal nonconforming status, and shall be removed or altered to conform to the provisions of this Development Code. A use of a legal nonconforming structure shall be considered discontinued when any of the following apply:
  - A. Where characteristic furnishings and equipment associated with the use have been removed and not replaced and where normal occupancy and/or use has been discontinued for a period of 36 or more consecutive calendar months.
  - B. Where there are no business receipts available for the 36 month period.
8. The following provisions shall apply to the reuse of existing nonconforming commercial/industrial structures and/or sites.
  - A. Landscaping shall be upgraded and maintained in a viable growth condition and irrigated in compliance with Section 19.28.030(10).
  - B. The parking lot landscaping shall be a minimum of 15% of the required parking lot area. However, if it is physically impossible to meet the minimum requirement, the Director may approve a reduction in the amount of landscaping required. No landscape improvements are required in areas not visible and/or accessible to the public.
  - C. Existing, required parking spaces shall not be removed to provide additional landscaping.
  - D. New uses in existing structures may be entitled to a reduction of up to 25% in the number of required parking spaces as determined by the Director.
  - E. Existing wheel stops may remain. If repaving of the parking lot is necessary, existing wheel stops may be removed and reinstalled following the repaving, provided stall dimensional requirements are met. However, no installation of new or additional wheel stops shall occur.
  - F. Installation of new concrete curbing may be required 3 feet from any walls, fences, property lines, walkways or structures adjacent to parking areas and drive aisles.

- G. Screening compatible with the existing structure shall be required for mechanical equipment pursuant to Section 19.20.030(21).
- H. A refuse enclosure shall be provided in compliance with adopted Public Works standards.
- I. Chain link fencing not in conformance with Code requirements shall be removed by the owner/applicant prior to the establishment of the commercial use pursuant to Section 19.20.030(8).
- J. A nonconforming structure may be reoccupied without complying with the building dimensional requirements pertaining to height, setbacks and/or lot coverage. All other requirements in the Municipal Code, including but not limited to the provisions of this Chapter, shall apply to the reoccupancy of the structure. MC 810 10/3/91 (amended).
- K. A nonconforming structure that has historic significance may be reused for its original intended use regardless of the zoning designation if a Historic Resource Evaluation Report has been prepared that confirms the historic significance subject to the Director's determination that is compatible with surrounding land uses. MC 957 2/7/96

### **19.62.030 NONCONFORMING USES**

A nonconforming use is one which lawfully existed prior to the effective date of this Development Code, but which is no longer permitted in the zone in which it is located. The continuance of a legal nonconforming use is subject to the following:

1. Change of ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status, provided that the use and intensity of use does not change.
2. If a nonconforming use is discontinued for a period of 36 or more consecutive calendar months, it shall lose its legal nonconforming status, and the continued use of the property shall be required to conform with the provisions of this Development Code.
3. Additional development of any property on which a legal nonconforming use exists shall require that all new uses conform to the provisions of this Development Code.
4. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed.
5. No nonconforming use may be established or replaced by another nonconforming use, nor may any nonconforming use be expanded or changed, except as provided in 19.62.030(6) and 19.62.030(7).

6. A nonconforming use of a portion of a nonconforming commercial or industrial center or complex may be established or replaced by another similar nonconforming use pursuant to Section 19.02.070(3), if all of the following findings are made:
  - a. That the nonconforming use is similar to the uses originally allowed in the center or complex;
  - b. That the nonconforming use will not adversely affect or be materially detrimental to adjoining properties; and
  - c. That the use of the entire center or complex has not been vacant or discontinued for a period of 36 or more calendar months. MC 957 2/7/96
  
7. An existing legal nonconforming use or legal nonconforming building may be minimally expanded or changed subject to the granting of a Development Permit if all of the following findings are made:
  - a. That such expansion or change is minimal;
  - b. That such expansion or change will not adversely affect or be materially detrimental to adjoining properties;
  - c. That there is a need for relief of overcrowded conditions or for modernization in order to properly operate the use; and
  - d. That the use is existing and has not been discontinued for a period of 36 or more calendar months. MC 888 1/6/94, MC 957 2/5/96

**19.62.050 STRUCTURE PERMITS OR CERTIFICATES OF OCCUPANCY PROHIBITED**

When any nonconforming structure or use is no longer permitted pursuant to the provisions of this Chapter, no permit for a structure shall thereafter be issued for further continuance, alteration, or expansion. Any permit issued in error shall not be construed as allowing the continuation of the nonconforming structure or use.

**19.62.060 REMOVAL OF ILLEGAL NONCONFORMING STRUCTURES AND USES**

Nothing contained in this Chapter shall be construed or implied so as to allow for the continuation of illegal nonconforming structures and uses. Said structures and uses shall be removed immediately subject to the provisions of Chapter 19.46 (Enforcement of Provisions) and State law.