

2.9 LEGAL NONCONFORMING USES AND LOTS

Uses and structures that were lawful at the time they were established, but would now be prohibited are legal nonconforming uses. Such legal nonconforming uses shall be permitted to continue, but any enlargement, expansion, or extension of the nonconforming use or structure shall be permitted only if the nonconforming use or structure complies with the requirements of this Chapter, except as herein stated. Refer to Table 5.1 Land Use Classification Matrix: Zoning Districts.

2.9.1 Continuance of Legal Nonconforming Uses

- a. Unless otherwise specifically provided for in this Chapter, legal nonconforming uses that were otherwise lawful on the effective date of this Chapter may be continued regardless of ownership until the current use changes.
- b. Upon written request, a letter of legal nonconforming use will be issued by the Zoning Administrator and shall be required for all nonconforming uses of land, buildings or mobile homes created by the adoption of this Chapter. It is the responsibility of the property owner(s) to furnish 3 documents, such as affidavits or other legal documents to the Zoning Administrator, establishing the legal nonconforming use status of the land, buildings, or mobile homes.

What this section refers to, particularly submitting the 3 documents, is specific to a letter of legal nonconforming use. Traditionally, we have used this section for commercial uses, to prove that they were in operation prior to the adoption of a previous ordinance. Or, if there were setback issues, encroachments or other issues that are required by a title company or lending institution to prove this issue existed under a different code. (Janine Divyak)

2.9.2 Maintenance Permitted

A legal nonconforming use, building or structure may be maintained and the occupancy of such building or structure may be continued; however, the nonconforming use shall not be changed or expanded, except as provided for in Section 2.9.

2.9.3 Expansions, Repairs and Alterations

Repairs and structural alterations may be made to a nonconforming mobile home, building or to a building housing a nonconforming use; however, the nonconforming use shall not be expanded or intensified. The modification of existing buildings is permitted by right if such changes result in greater conformance with the specifications of this Chapter.

2.9.4 Restoration of Damaged Buildings

Structures housing a legal nonconforming use damaged or destroyed by fire, flood or other disaster or act of nature may resume the legal nonconforming use, provided that restoration pursuant to current adopted Building Code is commenced within a period of 1 year from the date of destruction and is diligently pursued, without abandonment of the project, to completion. Such restoration shall not increase the floor area devoted to the nonconforming use over that which existed at the time the

structure came into nonconforming status, unless required by the current adopted building codes. Any increase of the floor area shall not exceed the minimum required by such Building Code. A building permit or mobile home installation permit shall be obtained and countersigned by the Zoning Administrator noting any restrictions and requirements to enable the nonconforming use to continue without violation of this Chapter.

2.9.5 Discontinuance or Abandonment

A legal nonconforming use, building, mobile home or structure or portion thereof or a lot occupied by a nonconforming use that is, or hereafter becomes abandoned or is discontinued for a continuous period of 1 year, shall not thereafter be occupied except by a use that conforms to the regulations of the zone in which it is located and the standards set forth in this Chapter.

2.9.6 Transfer of Use

If a legal nonconforming use is sold, leased or otherwise transferred, the use may continue with no change or expansion of use, unless the change is to a conforming use under this Chapter.

2.9.7 Change of Use

The legal nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

2.9.8 Expansion of Use Permitted

A legal nonconforming use may be extended throughout any portion of a completed building when the use was made nonconforming by this Chapter and when it was clearly designed or arranged to accommodate such use.

2.9.9 Nonconforming Use of Land

The legal nonconforming use of land, existing at the time this Chapter became effective, may be continued, provided that no such nonconforming land use shall in any way be expanded, extended or increased in intensity of use, either on the same or adjoining property, and provided that if such nonconforming use of land or any portion thereof, is abandoned for a period of 1 year or more, any future use of such land shall be in conformity with the provisions of this Chapter.

2.9.10 Nonconforming Lots

When a legal nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum set forth in this Chapter, the lot may be used as zoned as if it were conforming.

2.9.11 Permits Granted Prior to Passage of Code

Authorization granted by the County to construct a building or structure shall not be denied or abridged in the event that a building permit has been issued and such permit is still valid. In the case of a special use permit issued prior to the effective date of this Chapter, the use may be continued as a nonconforming use and shall not be expanded or changed in use. Any permit approved prior to adoption of this Chapter and that has not begun or does not comply with the approved conditions may not be extended beyond the 180 day period from issuance of the permit.