

Chapter 3: Nonconforming Uses, Lots, and Structures

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3.1 Nonconforming Uses and Structures

3.1 NONCONFORMING USES AND STRUCTURES

- A. INTENT.** Within the districts established by this ordinance or by amendments that may later be adopted, there may exist certain structures or uses of land that were lawful before this ordinance was passed or amended, but which are prohibited, regulated or restricted under the terms of this ordinance or may be by future amendments hereto. All previously existing uses, lots and structures which do not comply with the regulations in this ordinance and its amendments, shall be deemed legal nonconforming (“Grandfathered”) uses, lots, and structures.
- B. ILLEGAL NONCONFORMING USES.** A structure, lot or use that is nonconforming and that was established or constructed without an approved Improvement Location Permit or approval from the Board of Zoning Appeals or Plan Commission is considered illegal nonconforming. An illegal nonconforming property shall be subject to actions and penalties allowed by this ordinance ([Chapter 10: Enforcement and Penalties](#)) and all other applicable city ordinances, and shall be altered to conform with all applicable standards and regulations of this ordinance. Illegal uses existing at the time this ordinance is enacted shall not be validated by virtue of its enactment.
- C. LEGAL NONCONFORMING STATUS.** Legal nonconforming status results from the enactment of a Unified Development Ordinance (UDO) or a change to the UDO, including the Official Zoning Map. The structure, lot or use has not changed but due to the UDO enactment or change, the property no longer conforms to the standards of the zoning district in which it is located. Legal nonconforming lots, structures, uses, etc., may continue in the manner and to the extent that they existed or were used at the time the change in the UDO was enacted provided that it does not, subsequent to the adoption of this ordinance, become more nonconforming.
- D. CHANGE IN OWNERSHIP.** A change in ownership shall not affect the legal nonconforming status.
- E. HONORING PREVIOUS PERMITS.** Nothing herein contained shall require any change in the plans for the construction or designated use of a building for which a Building Permit or Improvement Location Permit has been issued, and the actual construction begun within ninety (90) days of the date of such permit, and which entire building shall be completed according to such plans filed or on file before the effective date of this ordinance. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

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F. REGULATIONS CONCERNING NONCONFORMING USES

1. Change In Existing Use. A legal nonconforming use may be changed to another legal nonconforming use of the same or greater restrictions, provided the size of the structure is not increased.
2. Conditional Uses And Conforming Uses. An existing use which is listed herein as a conditional use, and which is located in a district in which such conditional use may be permitted, is a conforming use; provided such use meets the minimum lot area requirement set forth in this ordinance. Any expansion of such conditional use involving the enlargement of buildings, structures, and land area devoted to such use, shall be subject to the requirements and procedure described in this ordinance.

G. REQUIREMENTS FOR NONCONFORMING USES AND USES PERMITTED BY CONDITIONAL USE OR VARIANCE.

Any use which is nonconforming in the zoning district in which it is located or is permitted by conditional use or variance shall be consistent with the standards for the zoning district in which the use is permitted by this ordinance. The Board of Zoning Appeals may specify the appropriate standards for all uses permitted by conditional use or variance.

H. DISCONTINUANCE OF USE.

If a nonconforming use of land or a building discontinues active continuous operations for a period of one (1) year or more, the building or land where such nonconforming use existed shall be occupied and used only for a conforming use.

I. DAMAGE TO NONCONFORMING USE.

Any nonconforming use which, by fire, flood, explosion, earthquake, war, riot, or act of God or man, is damaged to an extent of more than fifty percent (50%) of its then fair market replacement value above the foundations at the time of the damage, shall not be reconstructed and used as before such calamity; but if less than fifty percent (50%) is damaged, it may be reconstructed or used, provided that such reconstruction or use be accomplished within twelve months of such calamity.

J. REGULATIONS CONCERNING NONCONFORMING STRUCTURES / LOTS

1. Enforcement Affect Of Other Ordinances. The legal nonconforming status shall not affect the uniform enforcement of all other ordinances designed for the protection of the health, welfare and safety of the citizens of the City including but not limited to the fire, building and housing codes. No permits shall be issued for other work or to expand the floor area or add residential units to said legal nonconforming uses.

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3.1 Nonconforming Uses and Structures

2. Structural Alteration Or Enlargement. No nonconforming structure shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
3. Repairs And Maintenance
 - a. Ordinary Repairs And Maintenance. On any nonconforming structure or portion of a structure, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure and market value of real estate, or nonconforming portion of the structure, whichever the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
 - b. Buildings May Be Made Safe. Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building, either conforming or nonconforming, declared unsafe by proper authority.
 - c. Damage To Nonconforming Structure. Any nonconforming structure which, by fire, flood, explosion, earthquake, war, riot, or act of God or man, is damaged to an extent of more fifty percent (50%) of its replacement value above the foundations, shall not be reconstructed and used as before such calamity; but if less fifty percent (50%) is damaged, it may be reconstructed or used provided that such reconstruction or use be accomplished within twelve months of such calamity.

K. NONCONFORMITY BY PUBLIC ACQUISITION. Any property, lot or structure which is rendered nonconforming by the action of a governmental agency in opening, closing, widening, paving or improvement of any street, shall absent any other reason for nonconformity, be exempt from the nonconformance provisions of this Article.

L. EXCEPTION.

1. Expansions of Existing Structure. A legal nonconforming single-family or two-family residence and/or its accessory structures which are located in a multifamily zoning district, but within an area that has developed primarily as a residential neighborhood, may be expanded and the expansion shall comply with the infill development requirements of Section 7.22 (E) Compatibility Standards.
2. New Construction. Any legal established lot, as defined by this Ordinance, which exists in a residential neighborhood, located in a district in which single

and/or two family dwellings are no longer permitted by this Ordinance, shall be permitted to erect a single-or two family dwelling with permitted accessory buildings in compliance with the infill developments requirements of Section 7.22 Infill Development Standards.

See Also:

[Section 7.7 Sign Regulations for abandoned sign requirements](#)

3.2 NONCONFORMING LOTS

A. AREAS AND WIDTHS FOR SINGLE-FAMILY DWELLINGS. A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted if the lot was a single parcel in single ownership, or a single parcel included in a subdivision of record at the time of passage of this ordinance even though the lot does not have the minimum lot width or the minimum lot area specified for the district.

3.3 NONCONFORMING SIGNS

A. LEGALLY NONCONFORMING. Any sign lawfully existing on the effective date of the Unified Development Ordinance, or amendment thereto, that does not conform to all the standards and regulations of the Unified Development Ordinance is considered a legal nonconforming sign. The following apply to legal nonconforming signs:

1. Pre-existing Signs. Signs that existed prior to the time the Unified Development Ordinance was adopted and were in conformance with previous ordinances shall be legally nonconforming until such time a major change is made to the sign. Major changes include changing the size, changing the height, adding lights, altering light intensity, and/or relocation.
2. Sign Condition. All legal nonconforming signs shall be kept in good repair, safe, neat, clean and attractive condition. In the event nonconforming signs are not kept in said condition or are demolished by any force whatsoever to the extent of fifty percent (50%) or more of the fair market value of the sign structure, said signs shall then be made to conform to the Unified Development Ordinance.
3. Sign Removal. A nonconforming sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Plan Commission or Planning and Zoning Administrator shall give the owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Plan Commission or Administrator may remove the sign at cost to the property owner or lessee.

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4. Major Changes/Replacement. Legal nonconforming signs that are structurally altered by a major change, or replaced shall comply immediately with all provisions of the Unified Development Ordinance.
5. Right-of-way Acquisition.
 - a. Existing Conforming Signs. In the case of a legally established sign that would become a legal nonconformity due to its setback from the new right-of-way line or its position within a redefined sight visibility triangle by virtue of the right-of-way acquisition by any government entity, the sign shall be required to be relocated to a position that would bring it into compliance with the regulations of [Section 7.2 Sight Visibility Triangle](#). The cost of such relocation should be factored into the price paid for the additional right-of-way during the condemnation proceedings, and the property owner or lessee shall be responsible for accomplishing the relocation within ninety (90) days of receiving payment for the right-of-way.
 - b. Existing Legal Nonconforming Signs. In the case of a legal nonconforming sign for which the nonconformity is increased due to its setback from the new right-of-way line or its position within a redefined sight visibility triangle by virtue of right-of-way acquisition by any government entity, the sign shall be required to be relocated to a position that would bring it into compliance with the regulations of [Section 7.7 Sign Regulations](#) and [Section 7.2 Sight Visibility Triangle](#). The cost of such relocation should be factored into the price paid for the additional right-of-way during the condemnation proceedings, and the property owner or lessee shall be responsible for accomplishing the relocation within ninety (90) days of receiving payment for the right-of-way.
 - c. Existing Illegal Nonconforming Signs. In the case of illegal nonconforming signs that may be discovered during right-of-way acquisition by any government entity the sign shall be removed at the cost of the property owner or lessee.
6. Annexation. If land is annexed to the City of Lebanon, any sign upon such annexation that does not conform to the sign standards at such time shall have legal nonconforming status if:
 - a. Under applicable federal, state, county, and local regulations, the sign was legal in all respects immediately prior to annexation; and
 - b. The annexation was not conditioned upon the removal or modification of the sign. Any sign not meeting such requirements is an illegal nonconforming sign.