

Chapter 16 Nonconforming Buildings and Uses

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Section 10:16:1 MAINTENANCE PERMITTED:

A nonconforming building or structure may be maintained subject to the requirements of this chapter.

Section 10:16:2 REPAIRS AND ALTERATIONS:

Repairs or structural alterations may be made to a nonconforming building or to a building housing a nonconforming use, subject to the limitation of section 10:16:3 of this chapter.

Section 10:16:3 ADDITIONS, ENLARGEMENTS AND MOVING

- A. Approval Required: A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area, yard or zoning regulations shall not be added to, remodeled or enlarged in any manner or moved to another location on the lot unless first approved by the planning commission. In approving such request, it must be determined that the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.
- B. Purpose Considered: A building or structure may be enlarged and/or added to if the enlargement or addition is being done for the purpose of causing such building or

structure to be conforming with all regulations of the zone in which it is located. Said improvements may be done following the obtaining of a building permit without planning commission approval.

Section 10:16:4 ALTERATIONS WHERE PARKING INSUFFICIENT:

A building or structure lacking sufficient automobile parking area or space in connection therewith as required by this title may be altered or enlarged, provided additional automobile parking spaces are supplied to meet the requirements of this title for such alteration or enlargement.

Section 10:16:5 RESTORATION OF DAMAGED BUILDINGS;

A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently prosecuted to completion.

Section 10:16:6 ONE YEAR VACANCY:

A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

Section 10:16:7 OCCUPATION WITHIN ONE YEAR:

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became nonconforming.

Section 10:16:8 CONTINUATION OF USE:

The occupancy of a building or structure by a nonconforming use, existing at the time this ordinance became effective, may be continued.

Section 10:16:9 CHANGE OF USE:

The 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.

Section 10:16:10 NONCONFORMING USE OF LAND:

The nonconforming use of land, existing at the time this ordinance became effective, may be continued; provided, that no such nonconforming use of land shall in any way be expanded or extended either on the same or on an adjacent property without planning commission approval. If such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provisions of this title.

Section 10:16:11 TEMPORARY BUILDINGS:

- A. Authorized: A building nonconforming as to type or location may be approved by the building department for use as a temporary residence, sales office or commercial or industrial building during the construction of permanent facilities. Such temporary approval shall not be made for a period exceeding six (6) months. Extensions may be granted, for cause, by the planning commission for additional six (6) months extensions up to a maximum of twenty four (24) months or four (4) such extensions.
- B. Permanent Office: A temporary building may be approved as a permanent office for a mobile home or recreational vehicle sales lot or an automobile sales lot, subject to approval of the planning commission.

Section 10:16:12 LEGAL NONCONFORMING LOTS:

Lots that were in existence and shown on the records of the county recorder as separate parcels prior to July 1, 2005, are classified as legal nonconforming lots and permits may be issued for residential construction subject to the following conditions:

- A. Residential development must be an approved or a conditional use in the zone.
- B. The lot shall have the lot area required by the zone in which it is located.
- C. The lot shall have access to a public street, a private street or shall have access across a recorded access easement.
- D. A septic tank permit shall have been issued by the southwest public health department.

E. A water supply shall be available and approved for culinary use by the department of environmental quality, or the southwest public health department, depending upon the number of parcels being served by the proposed source.

F. All requirements of title 27 and all applicable provisions shall be met.