

CHAPTER 270
NONCONFORMING SITUATIONS

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270.001. Purpose. The purpose of this Chapter is to bring nonconforming uses, development, and lots or parcels into compliance with the UDC, and minimize the impacts of such nonconforming status. (Ord No. 12-12)

270.005. Nonconforming Uses.

(a) Generally. A nonconforming use is any use on real property that was lawfully established under the applicable City or county land use regulations at the time the use was established, but which is no longer allowed due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City. A nonconforming use is a lawful use, and may be continued on the real property until terminated as provided in subsection (e) of this section.

(b) Ordinary Repairs and Maintenance. Except as otherwise provided in this section, buildings and structures occupied by nonconforming uses may be repaired and maintained.

(c) Extension, Alteration, and Expansion or Substitutions of Nonconforming Uses. If approved pursuant to subsection (d) of this section:

- (1) A nonconforming use in a portion of a building may be extended into other portions of that building.
- (2) A building or structure occupied by a nonconforming use may be structurally altered or enlarged for the benefit of such use.
- (3) One nonconforming use may be substituted for another nonconforming use.

(d) Application for Extension, Alteration, and Expansion or Substitution of a Nonconforming Use.

(1) Applicability. Except as provided in subsection (c)(2) of this section, a nonconforming use shall not be extended, altered, expanded, or substituted for another nonconforming use without receiving approval as provided in this section.

(2) Procedure Type. An application for extension, alteration, expansion, or substitution of a nonconforming use is processed as a Type III procedure under SRC Chapter 300.

(3) Submittal Requirements. In addition to the submittal requirements for a Type III application under SRC Chapter 300, an application for extension, alteration, expansion, or substitution of a nonconforming use shall include:

(A) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

- (i)** The total site area, property lines with dimensions, and orientation relative to north;
- (ii)** Street names;
- (iii)** Location and distance to property lines of all existing and proposed buildings, structures, fences, driveways, parking areas, and off-street loading areas;
- (iv)** Location of all existing and proposed landscape areas, with an indication of square footage;
- (v)** The location of all trees and vegetation required to be protected pursuant to

SRC Chapter 808;

(vi) The layout of all existing and proposed parking areas, indicating the total number of spaces and the dimensions of the stalls, aisles, driveways, and turnaround areas;

(vii) Existing and proposed use of main and accessory buildings;

(viii) Buildings or surface features that are to be removed;

(ix) Height of proposed and existing structures; and

(x) Location of any surface features such as vegetation, creeks, drainage fields, topography, railroad tracks, power lines and/or any other information pertinent to the proposal.

(B) A completed Trip Generation Estimate for the proposed development, on forms provided by the City.

(4) **Criteria.** An application for the extension, alteration, expansion, or substitution of a nonconforming use shall be approved if the following criteria are met:

(A) The proposed extension, alteration, enlargement, or substitution of use is consistent with the general development character of the surrounding area;

(B) The degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable at the property line will not be increased by the proposed extension, alteration, enlargement, or substitution of use;

(C) The number and kinds of vehicular trips will not exceed the maximums typical for the zoning district within which the nonconforming use is located;

(D) The amount and nature of outside storage, loading, and parking will not be increased or altered by the proposed extension, alteration, enlargement, or substitution of use so as to cause further impacts;

(E) The hours of operation for the proposed extension, alteration, enlargement, or substitution of use will not be altered or increased beyond those of the existing nonconforming use; and

(F) If the proposal includes the alteration or enlargement of a building or structure, the alteration or enlargement complies with the applicable development standards of the UDC and all other applicable laws, ordinances, and regulations.

(e) **Termination of Nonconforming Use.**

(1) A nonconforming use shall terminate if the building, structure, or land ceases to be occupied for the nonconforming use, or a use approved under SRC 270.005(d), for any reason for a continuous period of one year.

(2) A nonconforming use dependent upon a building or structure that is declared a "dangerous building" pursuant to SRC 56.200 to 56.390 shall be deemed terminated upon the date the order declaring the building or structure a dangerous building becomes final.

(3) A nonconforming use dependent upon a building or structure that is substantially damaged or destroyed by any cause, to the extent that the cost of repair or restoration would exceed 60 percent of the building or structure replacement cost using new materials and conforming to current building codes, shall be deemed terminated upon the date of such damage or destruction. Cost of repair or restoration, and replacement cost, shall be determined by the Building Official. The Building Official's determination is appealable as provided in SRC 20J.240-20J.430 for contested case proceedings.

(4) A nonconforming use dependent upon a building or structure that is redeveloped or renovated to the extent that the cost of redevelopment or renovation exceeds 60 percent of the building or structure replacement cost using new materials and conforming to current building codes shall be deemed terminated upon the date such redevelopment or renovation commences. Cost of redevelopment or renovation shall be determined by the Building

Official. The Building Official's determination is appealable as provided in SRC 20J.240-20J.430 for contested case proceedings.

(5) A nonconforming use which has terminated shall not be re-established. (Ord No. 12-12; Ord No. 31-13)

270.010. Nonconforming Development.

(a) **Generally.** Nonconforming development is any development which met the applicable City or county development standards imposed at the time the development was constructed, but which no longer complies with development standards due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City. A nonconforming development may be continued until the development's nonconforming status is terminated as provided in subsection (d) of this section.

(b) **Ordinary Repairs and Maintenance.** Nonconforming development may be repaired and maintained.

(c) **Alteration and Enlargement.** Unless the alteration or enlargement is undertaken in connection with a nonconforming use under 270.005(a) nonconforming development may be altered or enlarged provided such new development complies with all applicable development standards of the UDC and all other applicable laws, ordinances, and regulations.

(d) **Termination of Nonconforming Development.**

(1) Nonconforming development that is declared a "dangerous building" pursuant to SRC 56.200 to 56.390 shall be deemed terminated upon the date the order declaring the building or structure a dangerous building becomes final.

(2) Nonconforming development that is redeveloped or renovated to the extent that the cost of redevelopment or renovation exceeds sixty percent of its replacement cost using new materials and conforming to current building codes shall be deemed terminated upon the date that such redevelopment or renovation commences. Cost of redevelopment or renovation shall be determined by the Building Official. The Building Official's determination is appealable as provided in SRC 20J.240-20J.430 for contested case proceedings.

(3) Nonconforming development that is substantially damaged or destroyed by any cause to the extent that the cost of repair or restoration of the development would exceed sixty percent of its replacement cost using new materials and conforming to current building codes shall be deemed terminated upon the date of such damage or destruction. Cost of repair or restoration, and replacement cost, shall be determined by the Building Official. The Building Official's determination is appealable as provided in SRC 20J.240-20J.430 for contested case proceedings.

(4) Nonconforming development which has terminated shall be brought into conformity with the applicable development standards or removed. (Ord No. 12-12)

270.015. Nonconforming Lots or Parcels of Record.

(a) Nonconforming lot or parcel of record means any unit of land which met the applicable legal requirements for a land division at the time it was created, but which no longer meets the standards due to the adoption of, or amendment to, the UDC or the annexation of the property into the City.

(b) A nonconforming lot or parcel of record in any residential zone may be used for the construction of a single-family dwelling, provided that the development complies with all applicable standards or criteria of the UDC, other than lot standards. (Ord No. 12-12; Ord No. 31-13)

270.020. Nonconforming Manufactured Dwellings in Manufactured Dwelling Parks.

Notwithstanding the provisions of SRC 270.005, any nonconforming manufactured dwelling, including associated accessory buildings or structures, in a manufactured dwelling park may be repaired, altered, or replaced provided such repair, alteration, or replacement complies with applicable development standards of the Oregon Manufactured Dwelling and Park Specialty Code, the Oregon Manufactured Dwelling Installation Specialty Code, and all other applicable laws, ordinances, and regulations. (Ord No. 12-12; Ord No. 31-13)