

Chapter 5.2 — Nonconforming Uses and Developments

Sections:

5.2.100 Nonconforming Uses and Developments - Purpose

5.2.200 Nonconforming Uses

5.2.300 Nonconforming Development

5.2.400 Nonconforming Use or Development Determination

5.2.100 Nonconforming Uses and Developments - Purpose

This Chapter provides standards and procedures for nonconforming situations (i.e., existing uses or development that do not comply with the Code). The standards for nonconforming uses and development are intended to provide some relief from code requirements for uses and developments that were established prior to the effective date of this Code and do not comply with current standards.

5.2.200 Nonconforming Uses

Where at the time of adoption of this Code or any amendment to this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. Expansion Prohibited.** No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;
- B. Location.** No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code;
- C. Discontinuation or Abandonment.** The nonconforming use of land is not discontinued for any reason for a period of more than 6 months. For purposes of calculating the 6-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
 1. On the date when the use of land is physically vacated;
 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
 3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
 4. On the date a request for final reading of water and power meters is made to the

applicable utility districts.

- D. Application of Code Criteria and Standards.** If the use is discontinued or abandoned for any reason for a period of more than 6 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

5.2.300 Nonconforming Development

Where a development exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. Alterations.** No such nonconforming development may be enlarged or altered in a way that increases its nonconformity, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity;
- B. Destruction.** Should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than 60 percent of its current value as assessed by the Lane County Assessor, it shall be reconstructed only in conformity with this Code. If the damage or destruction causes damages equal to less than 60 percent of the replacement value of the building or structure, the structure or use which existed at the time of such partial destruction may be restored and continued; provided, however, that a building permit for such restoration is issued within a period of 6 months from the date of the damage or destruction and diligently prosecuted to completion;
- C. Roadway Access.** The owner of a non-conforming access connection (i.e., street or highway access) may be required to bring the non-conforming access into conformance with this Code and other applicable standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use;
- D. Relocation or Removal.** If nonconforming development is moved for any reason and/or by any distance, it shall thereafter conform to the regulations of this Code.

5.2.400 Nonconforming Use or Development Determination

The Community Development Director or designee shall determine if a use or development meets the definition of a “nonconforming use or development” as described by this Chapter through a Type II application (See Chapter 4.1.300). It shall be the property owner’s responsibility to demonstrate that his or her use or development meets the nonconforming criteria in Chapter 5.2.

5.2 – Nonconforming Uses and Developments

Chapter 5.3 - Lots of Record

Sections:

5.3.100 Lots of Record - Purpose

5.3.200 Lots of Record - Applicability

5.3.300 Lots of Record - Procedure

5.3.100 Lots of Record - Purpose

The purpose of Chapter 5.3 is to establish criteria and a process for determining when a lot of record exists.

5.3.200 Lots Record - Criteria

A lot of record is a plot of land that was not created through an approved subdivision or partition, was created and recorded before *[effective date of City's first subdivision ordinance]*, and for which the deed, or other instrument dividing the land, is recorded with Lane County. A lot of record shall be entitled to development of no less than one single family dwelling and, provided all applicable Code standards are met, additional land use or development may be approved.

5.3.300 Lots of Record - Procedure

A lot of record determination shall be made by the Community Development Department through a Type I procedure (Chapter 4.1.200). It shall be the property owner's responsibility to demonstrate that his or her plot of land is meets the lot of record criteria in Section 5.3.200.