

Chapter 17.08 NONCONFORMING USES

17.08.010 Purpose and authority.

This chapter establishes uniform provisions for the regulation of legal nonconforming structures, legal land uses and lots. Within the zoning districts established by title, there exist structures, land uses and lots that were lawful prior to the adoption, or amendment of this development code, but which would be prohibited, or regulated or restricted differently under the terms of this development code or future amendments. It is the intent of this development code to discourage the long-term continuance of these nonconformities, but to permit them to exist under limited conditions.

(Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

17.08.020 Applicability.

This Chapter applies to all zone districts and to any parcels or structures in the City Beaumont that are nonconforming.

(Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

17.08.030 Restrictions regarding nonconforming structures and uses.

Nonconformities may be continued subject to the following provisions, except as otherwise provided by this Section 17.08.

- A. *Nonconforming Uses of Land.* A legal nonconforming use of land or within a structure may be continued, transferred or sold, provided that the use shall not be:
 - 1. Enlarged or increased including adding accessory structures and/or improvements; and
 - 2. Be extended to occupy a greater area than it lawfully occupied before becoming a nonconforming use, except when the review authority finds that the modification provides a public safety benefit (e.g., safer traffic flow) and the modification is otherwise consistent with this Chapter; and
 - 3. No additional uses shall be established on the site unless the nonconforming use is first discontinued, and any replacement use shall comply with all applicable provisions of this development code.
- B. *Nonconforming Structures.* A legal nonconforming structure may continue to be used as follows:
 - 1. *Additions to Structures that are 25 percent or Less of the Total Floor Area Excluding Garages.* An enlargement, extension, reconstruction or structural alteration of a structure that is nonconforming and does not exceed 25 percent of the existing total floor area, excluding garages, may be allowed if the additions or improvements conform to all other applicable provisions of the development code, and the exterior limits of the new construction do not exceed the applicable height limit or encroach any further into the setbacks than the comparable portions of the existing building. If the nonconforming structure is in a residential zone, the applicant shall provide a certified notification letter to any applicable homeowner association and all adjacent property owners 14 days in advance of approval of a zoning clearance. This

provision can only be used once ~~per structure every five years~~. Any additional changes to structure which ~~exceeds~~~~exceed~~ a total of 25 percent ~~within five years from the issuance of a building permit~~ may be allowed ~~with subject to approval of a~~ conditional use permit ~~approval~~.

2. *Additions to Structures that are Greater Than 25 Percent of Total Floor Area Excluding Garages.* The enlargement, extension, reconstruction or structural alteration of a structure that is nonconforming and which exceeds 25 percent of the existing total floor area, excluding garages, may be allowed ~~with subject to approval of a~~ conditional use permit ~~approval~~ if the additions or improvements conform to all other applicable provisions of the development code and the exterior limits of the new construction do not exceed the applicable height limit or encroach any further into the setbacks than the comparable portions of the existing building. The applicant must provide a certified notification letter to any applicable homeowner association, ~~the~~ required application, submittal requirements, and fees prior to scheduling a public hearing.
 3. *Maintenance and Repair.* A nonconforming structure may undergo normal maintenance and repairs, provided no structural alterations are made (exception: see subsection 4, following), and the work does not exceed 15 percent of the appraised value of the structure as shown in the Riverside County assessor's records in any one year period, unless the commission allows more extensive work through conditional use permit approval after finding that the additional work will not prolong the duration of the nonconforming use; and
 4. *Seismic Retrofitting.* Reconstruction required to reinforce un-reinforced masonry structures shall be permitted without cost limitations, provided the retrofitting is limited exclusively to compliance with earthquake safety standards.
- C. *Nonconforming Use of a Conforming Structure.* The legal nonconforming use of a building that otherwise conforms with all applicable provisions of this chapter may be continued, transferred and sold, as follows:
1. *Expansion of Use.* The nonconforming use of a portion of a structure may be extended throughout the building ~~with subject to approval of a~~ conditional use permit ~~approval~~.
 2. *Substitution of Use.* The nonconforming use of a structure may be changed to a use of the same or more restricted nature, with conditional use permit approval.
- D. *Destroyed Structure.* The reconstruction of a structure damaged by fire or calamity, which at the time was devoted to a nonconforming use may be authorized ~~by the~~subject to approval of a conditional use permit ~~approval~~, provided that reconstruction shall occur within 12 months after the date of the damage, ~~and~~ the reconstructed building shall have no greater floor area than the one destroyed and if the improvements conform to all other applicable provisions of the development code and the exterior limits of the new construction do not exceed the applicable height limit or encroach into the setbacks.

(Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

17.08.040 Loss of nonconforming status.

If a legal nonconforming use of land or a legal nonconforming use of a conforming structure is discontinued for a continuous period of ~~one year~~six months, it shall be presumed that the use has been abandoned. If a legal nonconforming use of land or a legal nonconforming use of a conforming structure becomes a public nuisance, its use may be abated subject to applicable due process requirements. Without further action by the City, further use of the site or structure shall comply with all the regulations of the applicable zoning district and all other applicable provisions of this Zoning Code.

(Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

17.08.050 Nonconforming lots.

A nonconforming lot of record that does not comply with the access, area or width requirements of this development code for the Zone District in which it is located, shall be considered to be a legal building site if it meets one of the criteria specified by this section. It shall be the responsibility of the applicant to produce sufficient evidence to establish the applicability of one or more of the following.

- A. Approved Subdivision. The lot was created through a subdivision approved by the County of Riverside or the City of Beaumont.
- B. Individual Lot Legally Created by Deed. The lot is under one ownership and of record and was legally created by a recorded deed prior to the effective date of the zoning amendment that made the parcel nonconforming.
- C. Variance or Lot Line Adjustment. The lot was approved through the variance procedure or resulted from a lot line adjustment.
- D. Partial Government Acquisition. The lot was created in conformity with the provisions of this development code, but was made nonconforming when a portion of the lot was acquired by a governmental entity so that the lot size is decreased not more than 20 percent and the yard facing any road was decreased not more than 50 percent.
- E. Where structures have been erected on a nonconforming lot, the area where structures are located shall not be later divided so as to reduce the building site area and/or frontage below the requirements of the applicable zoning district or other applicable provisions of this Zoning Ordinance, or in any way that makes the use of the parcel more nonconforming.

(Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

17.08.060 Reserved.