

Sec. 531. Nonconforming uses.

*531.1 Permitted continuation.* A nonconforming use may continue, be bought or sold, altered, restored, or extended subject to the provisions of this Code even though such use does not conform to the regulations established for that zoning district in which it is located.

*531.2 Nonconforming structures.* A nonconforming structure is a structure lawfully existing prior to the enactment of this Code or any subsequent amendment or created by government action that could not be built under the terms of article 500 by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot.

*531.3 Alterations.*

A. A nonconforming building or structure may be altered, expanded, or improved.

1. Any structural change to the structure shall not increase the degree of nonconformity. Structural changes which decrease or do not affect the degree of nonconformity shall be permitted.

B. A nonconforming building or structure may be altered to the extent necessary if such alteration is intended and will result in the building or structure's conversion to a conforming structure.

*531.4 Nonconforming uses.*

A. A nonconforming use is a use which legally exists prior to the enactment of this Code or any subsequent amendment thereto, and which does not comply with the regulations of the district in which it is located.

Such nonconforming use may consist of a nonconforming use of land, a nonconforming use of structure, or a nonconforming use of land and structure. Nonconforming uses are incompatible with permitted uses in the same district and will not be modified or enlarged, except by special exception.

*531.5 Extension or expansion.* A nonconforming use may be extended upon approval as a special exception by the planning commission subject to and provided the following:

A. The extension becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel.

B. The extension does not encroach upon the lot area requirements and the maximum building height requirements of the district in which the nonconforming use is presently located.

C. The extension is for the purpose of expanding the nonconforming use in existence at the time of the adoption of this Code.

D. Such extension does not result in an increase in total floor area or lot use area of more than 50 percent of the original floor area or lot area.

E. Adequate parking can be provided in conformance with this Code to serve both the original plus expanded use.

F. Such expansion does not present a threat to the health or safety of the community or its residents.

*531.6 Changes.*

A. The planning commission may grant a special exception to:

1. Change a nonconforming use to another nonconforming use if:

a. No structural alterations are made;

- b. The planning commission, by a specific finding in the case, finds that the proposed use is more appropriate to the district; and
- c. The planning commission may impose conditions within the scope of this Code on the granting of such a special exception.

*531.7 Restorations.*

A. A building which is damaged by fire, explosion, flood, or other casualty to the extent of 75 percent or more of its value (exclusive of walls below grade) as of the date of the damage and as determined by fair market value of the building, and which does not comply with the use, area height regulations of this article, shall not be restored except in conformity with the regulations for the use district in which such building is located.

B. A lawful nonconforming building destroyed to the extent of less than 75 percent by fire, explosion, flood, or other casualty, or legally condemned may be reconstructed and used for the same nonconforming use, provided that (a) the reconstructed building shall not exceed in height, area, or volume as the building destroyed or condemned and (b) building reconstruction shall be commenced within one year from the date the building was destroyed or condemned and shall be carried on without interruption.

*531.8 Abandonment.*

A. The nonconforming use of a building or land, except a residential building being used as a residence, which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when one or more of the following conditions exists:

1. When a nonconforming use has been discontinued for a period of six months. For the purposes of this section, the intent of the owner of the nonconforming use shall not be controlling in determining whether the nonconforming use has been abandoned.

Discontinuance of the nonconforming use for a period of six months, regardless of the intent of the owner, shall constitute abandonment.

2. When it has been replaced by a conforming use.

3. When it has been changed to a use permitted as a special exception by the planning commission.

*531.9 Unsafe structure.* Nothing in this article shall prevent the strengthening or restoring to a safe condition of any portion of a building declared unsafe by a proper authority subject to the provisions of this Code.

*531.10 Unlawful use not authorized.* Nothing in this article shall be interpreted as authorization for or approval of the continuance of the illegal use of a structure or premises in violation of county or state codes or ordinances in existence at the time of enactment of this Code.

The casual, temporary, or illegal use of land or structure does not establish the existence of a nonconforming use.

*531.11 District changes.* Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any nonconforming uses existing therein.

*531.12 Construction approved prior to legal enactment of this article.* Nothing herein contained shall require any change in plans, construction, or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit, and the ground story framework of which shall have been completed within six months of the

date of the permit, and which entire building shall be completed according to such plans as filed within one year from the date of the permit, except where the planning commission grants an extension due to hardship.

*531.13 Registration.* The zoning officer shall prepare a list registering nonconforming uses found after December 1, 1975. The said list shall include a general description of the nature and extent of the nonconformity and may include photographs as documentation. Further, the said list shall be maintained for public use and information.

*531.14 Grandfather of special exception uses.* Any use which is permissible as a special exception in a district under the terms of this Code and was in existence at the time the property was zoned or rezoned shall not be deemed a nonconforming use in such district, but shall without further action be considered a permitted use.

*531.15 Replacement of nonconforming mobile homes.* Nonconforming mobile homes may be replaced with a larger or same size mobile home provided that the replacement is accomplished within six months from the removal.