

Chapter 17.20

NONCONFORMING USES

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17.20.010 Purpose. The purpose of this chapter is to provide for a means by which the use of land or buildings or any building itself which violates current zoning ordinances but which lawfully existed on the effective date of the ordinances can be effectively regulated in the public interest. (Ord. 3234 §1(part), 1982: prior code §9440(a))

17.20.020 Defined. The term "nonconforming use" as referred to in this chapter means the actual use or occupation of any land or structure or any structure itself which was lawful at the time of the adoption of the ordinance codified in this article but which has been made unlawful by the provisions of the ordinances or any amendments thereto. (Ord. 3234 §1(part), 1982: prior code §9440(b))

17.20.030 Continuation. Any nonconforming use may be continued subject to the limitations set forth in Sections 17.20.040 through 17.20.100. (Ord. 3234 §1(part), 1982: prior code §9440(c)(part))

17.20.040 Expansion. A nonconforming use shall not be expanded, enlarged or otherwise extended either on the same or adjoining parcel of land without a special use permit. The permit shall be issued in accordance with Chapter 17.22. (Ord. 3234 §1(part), 1982: prior code §9440(c)(1))

17.20.050 Repairs and alterations. There shall be allowed such repairs or alterations to any nonconforming use as may be necessary to allow the continuation of the use; provided, however, if the repairs or alterations result in an expansion, enlargement or extension of the use, a special use permit shall be required pursuant to the provisions of Section 17.20.040. (Ord. 3234 §1(part), 1982: prior code §9440(c)(2))

17.20.060 Destruction.

- A. Any nonconforming structure which is wholly or partially destroyed may be restored, and the occupancy or use of the structure may be continued; provided, that a building permit is obtained and actual construction begun within a period of one year of the date of the destruction and the construction is diligently pursued to completion; provided, however, if the restoration results in an expansion, enlargement or extension of the use, a special use permit shall be required pursuant to the provisions of Section 17.20.040. Failure to start restoration within such period or failure to diligently pursue completion of the restoration shall result in a termination of the nonconforming use pursuant to the provisions of subsection A of Section 17.20.110.
- B. Notwithstanding the provisions of subsection A of this section, in the event the damage or destruction to the nonconforming structure exceeds fifty percent of its value, no restoration shall be made unless every portion of the structure is made to conform to all regulations for new structures in the zone in which it is located. (Ord. 3234 §1(part), 1982: prior code §9440(c)(3))

17.20.070 Mobile homes. Any nonconforming mobile home as the term mobile home is presently defined in the county mobile home ordinance may be replaced by another mobile home of a greater size upon the issuance of a mobile home permit by the county building department, but only in the event that:

- A. The replacement mobile home complies with the setback requirements of the zone in which it is situated; and
- B. That the total floor area of the replacement mobile home and all other existing structures on the parcel of land involved does not exceed the maximum lot coverage allowable under the requirements of the zone in which the parcel is situated; and
- C. The mobile home replaced shall be removed from the subject property within sixty days of its replacement. (Ord. 3234 §1(part), 1982: prior code §9440(c)(4))

17.20.080 Conversion. Any nonconforming use may be converted into any other use allowed within the zone classification which permits the nonconforming use to operate by right. The converted use shall be governed by the regulations contained in the appropriate zone classification. (Ord. 3234 §1(part), 1982: prior code §9440(c)(5))

17.20.090 Lots created before March 4, 1972. It is the intent and purpose of this section to declare lots created prior to March 4, 1972, to be nonconforming lots. Nonconforming lots are those lots which do not conform to the lot area and lot dimension standards for the zone in which they are located. The uses permitted in the district shall be permitted on such lots subject to all other property development standards of the zone. (Ord. 3234 §1(part), 1982: Ord. 3158 §2(part), 1981: prior code §9440(c)(6))

17.20.095 Lots created by gift deed prior to October 10, 1983, or which were created by instruments conveying parcels of 40 or more acres (or not less than a quarter of a quarter section) which do not meet the minimum parcel size requirements for the zone.

- A. All parcels created by gift deed which would otherwise be subject to the provisions of the minor land divisions ordinance (Title 16, Article II), but which do not meet the minimum lot area or lot dimension standards for the zone in which they are located, shall be legal nonconforming parcels if the gift deeds by which they were created were recorded after March 4, 1972, but on or before October 10, 1983. Notwithstanding any other provision of Title 17 of this code, development permitted on the aforementioned parcels shall be subject to the uses and development standards prescribed for that zoning district which is closest to the parcel size of the subject parcel at the time the parcel was created. (Ord. 4243, 1992)
- B. All parcels created by instruments which conveyed parcels of 40 or more acres, or not less than a quarter of a quarter section, which would otherwise be subject to the provisions of the Minor Land Divisions Ordinance (Title 16, Art. II), but which do not meet with the minimum lot area or lot dimensions standard for the zone in which they are located, shall be legal nonconforming parcels if the instrument by which title was acquired was recorded in the office of the county recorder on or before January 6, 1992. Notwithstanding any other provision of Chapter 17 (Zoning) of this code, development permitted on the subject to the uses and development standards prescribed for that zoning district which is closest to the parcel size of the subject parcel at the time the parcel was created. (Ord. 4243, 1992)
- It is the express intent of this section that conveyance by gift deed which created five or more parcels, irrespective of the date created, shall be governed by the provisions of Title 16, Article I (major land divisions), and not by this section.
- Prior to approval of any permit for such nonconforming parcel, a certificate of compliance is required. The application process and conditions which may be attached to the approval of the certificate shall be set forth in a resolution or ordinance by the board of supervisors. (Ord. 4183 §1, 1991; Ord. 4243, 1992)

17.20.100 Side yard setbacks. Nonconforming side yards, existing prior to March 4, 1972, shall be permitted to extend the existing nonconforming side yard along the interior side lot line provided the extension shall be no closer than five feet from the side lot line. When any nonconforming building is destroyed or for any reason removed from the land, all future buildings or structures erected on the land shall conform to all property development standards of the zone. (Ord. 3234 §1(part), 1982: Ord. 3158 §2(part), 1981: prior code §9440(c)(7))

17.20.105 Variable front, rear and side yard setbacks for nonconforming parcels. Setbacks for parcels smaller than the minimum allowed by the existing zoning, shall be determined by the zone district which prescribes a minimum parcel size closest to the size of the subject parcel. (Ord. 3234 §1(part), 1982: prior code §9440(c)(8))

17.20.110 Termination—Authorized. Any nonconforming use shall be immediately terminated by the county planning commission if:

- A. The use has been found to have been abandoned for a period in excess of one year; or
- B. The use has been found to be detrimental to the public health and safety or has been found to be a nuisance. The term "nuisance" as used in this section means anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property or unlawfully obstructs free passage or use, in the customary manner, of any navigable lake or river, bay,

stream, canal or basin or any public park, square, street or highway. (Ord. 3234 §1(part), 1982: prior code §9440(d) (1))

17.20.120 Termination—Hearing. Any decision by the planning commission to terminate a nonconforming use pursuant to Sections 17.20.110 through 17.20.130 shall be made at a public hearing. Notice of the time and place of the hearing shall be made in a manner similar to those methods set forth in Sections 65854 and 65854.5 of the Government Code. Additionally, notice of the hearing shall be given to the owner and occupants of the subject property either by certified mail or by such other means which is reasonably calculated to give actual notice. (Ord. 3234 §1(part), 1982: prior code §9440(d)(2))

17.20.130 Termination—Appeal.

- A. A decision of the planning commission to terminate a nonconforming use may be appealed to the board of supervisors by the owner or occupants of the property. The appeal must be filed within ten days following the decision of the planning commission. The appeal shall be filed with the clerk to the board of supervisors and shall be accompanied by a fee of twenty-five dollars.
- B. The board may sustain, modify or overrule the decision of the planning commission. A decision by the board which sustains the planning commission's termination of a nonconforming use shall be supported by those findings set forth in subsections A and B of Section 17.20.110. The decision of the board shall be final. (Ord. 3234 §1(part), 1982: prior code §9440(d)(3))