

ARTICLE XXVIII
Nonconformities

§ 150-288. Continuation.

- A. Except as otherwise provided in this Article, the lawful use of land or building existing at the date of the adoption of this chapter may be continued, although such use of land or building does not conform to the use regulations specified by this chapter for the zone in which such land or building is located.
- B. Except as otherwise provided in this Article, any dimensional nonconformities existing at the date of the adoption of this chapter may be continued.

§ 150-289. Expansion or alteration.

- A. Any nonconforming use may be expanded or altered through the obtainment of a special exception and subject to the following criteria and those contained in § 150-302D:
 - (1) Expansion of the nonconformity shall be confined to the lot on which it was located on the effective date of this chapter or any amendment thereto creating the nonconformity.
 - (2) The total of all such expansions or alterations of use shall not exceed an additional twenty-five percent (25%) of the area of those buildings or structures devoted to the nonconforming use as they existed on the date on which such buildings or structures first became nonconformities. The applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created.
 - (3) Provision for access drive, off-street parking and off-street loading shall be consistent with standards required by this chapter.
 - (4) Provision for yards, building height and building area shall be consistent with the standards required for permitted uses in the zone in which the nonconformity in question is located.
 - (5) Appearance should be harmonious with surrounding properties; this feature includes but is not limited to landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance of all improvements and open spaces.
 - (6) Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, planting and open spaces.

- (7) The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.
- (8) The expansion shall not result in the addition of a second nonconforming use on the property, nor shall the proposed expansion be owned by someone other than the owner of the original nonconforming use proposed to be expanded.
[Added 9-1-1990 by Ord. No. 90-12]

B. Any dimensional nonconformity may be reduced by permitted use. The extension or enlargement of a dimensional nonconformity may also be permitted by right; however, such extension or enlargement shall be limited to a total of a ten-percent increase of the dimensional nonconformity when it was originally created.

§ 150-290. Substitution or replacement.

Any nonconforming use may be replaced or substituted by another nonconforming use by special exception if the Zoning Hearing Board determines that the proposed use is more compatible with the surrounding area than the original nonconforming use. In addition, the proposed nonconforming use shall not increase any dimensional nonconformities.

§ 150-291. Restoration.

If any nonconformity is destroyed by reason of windstorm, fire, explosion or other act of God or a public enemy to an extent of more than seventy-five percent (75%) of the market value as appraised for the tax assessment purposes, then such destruction shall be deemed complete destruction and the nonconformity may not be rebuilt, restored or repaired except upon the demonstration of a hardship leading to the issuance of a variance in accordance with § 150-301 of this chapter. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe.

§ 150-292. Abandonment.

A nonconforming use shall be adjudged as abandoned when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within a period of one (1) year from the date of cessation or discontinuance. Such use shall not thereafter be reinstated, and the structure shall not be reoccupied except in conformance with this chapter.

§ 150-293. Reversion.

No conformity shall, if once changed to conform to the regulations of this chapter, be changed back again to a nonconformity.

§ 150-294. Zone changes.

Whenever the boundaries of a zone shall be changed so as to transfer an area from one zone to another zone of a different classification, the foregoing provisions shall also apply to any nonconforming uses or dimensional nonconformities existing therein or created thereby.

§ 150-295. (Reserved) ¹

¹ Editor's Note: Former § 150-295, Identification and registration, was repealed 2-13-1992 by Ord. No. 92-01.