

SECTION 33. NONCONFORMING USES (Ord. No. 315-612)

A nonconforming use of land or buildings may be continued, changed or replaced only as provided by this section.

- A. **DEFINITION: NONCONFORMING.** A nonconformity is a building, structure, or use which, when erected or established, complied with all the applicable provisions of this ordinance or prior planning and zoning regulation, but which presently fails to conform to one or more of the provisions of this ordinance.

- B. **NONCONFORMING USES OF LAND.** A nonconforming use of land may be continued, transferred or sold, provided that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that which it lawfully occupied before becoming a nonconforming use. Any use for which a use permit is required by the terms of this Ordinance shall be considered a nonconforming use unless and until a use permit is obtained as provided in Section 32.

- C. **NONCONFORMING BUILDINGS.** A nonconforming building may continue to be used as follows:
 - 1. **Changes to building.** The enlargement, extension, reconstruction or structural alteration of a building, that is nonconforming only as to height and setback regulations, may be permitted if such additions or improvements conform to all other applicable provisions of this chapter, and the exterior limits of new construction do not encroach any further into the setback than the comparable portions of the existing building.
 - 2. **Maintenance and repair.** A nonconforming building may undergo normal maintenance and repairs, provided no structural alterations are made and the work does not exceed 15 percent of the appraised value thereof as shown in the Assessor's Records in any one year period.

- D. **NONCONFORMING USE OF A CONFORMING BUILDING.** The nonconforming use of a building that otherwise conforms with all applicable provisions of this ordinance may be continued, transferred and sold, as follows:
 - 1. **Expansion of use.** The nonconforming use of a portion of a building may be extended throughout the building provided that a use permit, as provided in Section 32, is first secured in each case.
 - 2. **Substitution of use.** The nonconforming use of a building may be changed to a use of the same or more restricted nature.

- E. **RESTORATION - DAMAGED BUILDINGS.** If a nonconforming building, or a conforming building used for a nonconforming use, is damaged, destroyed, or demolished, the right to continue occupancy on the nonconforming building, or to continue the nonconforming use shall cease; provided, however, that such building or structure may be repaired or rebuilt and reoccupied only as follows:
1. If damage to the building or structure does not exceed fifty (50%) of the total replacement value prior to destruction, it may be restored and the use continued provided that:
 - a. Building permits shall be secured within 12 months after the date of the damage and construction shall be diligently pursued to completion; and,
 - b. The reconstructed building shall have no greater floor area than the one damaged.
 2. If damage to the building or structure exceeds fifty percent (50%) of the total replacement value prior to destruction, a use permit shall be required to authorize the restoration of such building or structure and continue the use, upon a determination by the Planning Commission that the nonconformity has not been a nuisance to surrounding uses, and that re-establishing the use will not be detrimental to the public health, safety, or welfare. The procedural requirements for any hearing to consider restoration of a nonconforming building or structure as provided in this section shall be the same as those for a use permit provided in Section 32. Any building reconstructed subject to this sub-section shall meet the same time and building-area requirements of subsections 33.E.1.a. & b. above, or as determined by the Planning Commission.
- F. **LOSS OF NONCONFORMING STATUS.** If a nonconforming use of land or a nonconforming use of a conforming building is discontinued for a continuous period of one year, it shall be presumed that the use has been abandoned. Without further action by the County, further use of the site or building shall comply with all the regulations of the zone district in which the building is located, and all other applicable provisions of this ordinance.
- G. **EXEMPTION FOR SINGLE FAMILY RESIDENCE.** Only the requirements of Subsection 33.F above shall apply to any legally established, nonconforming, single family residential use.