

## Chapter 5.2 — Non-Conforming Uses and Developments

### Sections:

**5.2.100 - Non-conforming Uses**

**5.2.200 - Non-conforming Development**

### **5.2.100 Nonconforming Uses.**

Where at the time of adoption of this Code a use of land exists that would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. Creation of Nonconforming Situations.** Within the districts established by this title or amendments that may later be adopted, there may exist lots, uses of land, and structures which were lawful before the effective date of the ordinance codified in this title, but which would be prohibited, regulated, or restricted under the terms of the ordinance codified in this title or future amendment.
- B. Expansion Prohibited.** No such nonconforming use may be enlarged, increased, or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building, or sign shall be constructed on the lot in connection with such nonconforming use of land.
- C. Location.** A nonconforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.
- D. Discontinuation or Abandonment.** A nonconforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than 12 months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the 12 month period, a use is discontinued when:
  - 1. The use of land is physically vacated;
  - 2. The use ceases to be actively involved in the sale of merchandise or the provision of services;
  - 3. Any lease or contract under which the nonconforming use has occupied the land is terminated; or
  - 4. A request for final reading of water and power meters is made to the applicable utility districts;
  - 5. The owner's utility bill or property tax bill account became delinquent; or
  - 6. An event occurs similar to those listed in 1-5 above, as determined by the Planning Commission.
- E. Application of Code Criteria and Standards.** If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

#### **5.2.200 Non-Conforming Developments.**

Where a development exists at the effective date of adoption or amendment of this title that could not be built under the terms of this Ordinance by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure, and the structure was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A.** No such nonconforming development may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be enlarged or altered in a way that satisfies the current requirements of the Development Code or will decrease its nonconformity;
- B.** Should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than 50 percent of its current value as assessed by the Umatilla County assessor, it shall be reconstructed only in conformity with the Development Code; and
- C.** Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of the Development Code.
- D.** Nonconforming street access connections that existed prior to May 2001 that do not conform to the standards in Chapter 3.1 shall be brought into compliance when the following conditions exist:
  - 1. When a new access connection permit is requested for the subject property; or
  - 2. When a building permit or land use application is submitted that results in an increase of trip generation by 20% and 100 average daily trips (ADT).