

CHAPTER 7 NONCONFORMING USES, LOTS AND STRUCTURES

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14.701. Applicability

This Chapter applies to Nonconformities. Nonconformities include several types of situations, as defined below.

A. Continuation Permitted

Any legal nonconformity that existed at the time of adoption of this ordinance may continue, subject to the requirements of this section.

B. Statutory Compliance

This Section shall be applied in a manner consistent with Tennessee Code Annotated (TCA) § 13-7-208. If any provision of this section conflicts with TCA § 13-7-208, then TCA § 13-7-208 applies to the extent that there is an inconsistency.

C. Permits

The Chief Building Official may approve a certification for any nonconformity that is protected by this Section. The Chief Building Official's determination is appealable to the Board of Zoning Appeals as provided in Chapter 8.

The Sign Code Administrator may approve certification for any nonconformity that is protected by this Section. The Sign Code Administrator's determination is appealable to the Board of Zoning Appeals as provided in Chapter 8.

D. Determination of Nonconformity Status

The burden of establishing that a nonconformity lawfully exists is on the owner of the land on which the purported nonconformity is located.

E. Exception Due to Variance or Other Modification

This section does not apply to a development standard or feature that is the subject of an approved variance, or a modification of standards in a Specific Plan District. Where a variance or other modification is granted for a development standard or feature that does not otherwise conform to this ordinance, that development standard or feature is deemed conforming.

14.702. Nonconforming Uses.

Subject to TCA § 13-7-208, a nonconforming use may continue subject to the following:

A. A nonconforming use may not be changed to another nonconforming use category. However, a change in occupancy or ownership does not, by itself, constitute a change of use.

B. A nonconforming use that is changed or converted to a conforming use forfeits all nonconforming protections offered by this ordinance once any Tennessee State protections have run out.

C. Nonconforming uses shall not expand onto additional land lots or parcels.

D. A legal nonconforming use may expand into additional parts of a building in which it is located at the time it becomes nonconforming.

14.703. Nonconforming Lots.

A. Any nonconforming lot that has come into conformity with this Title shall not be changed to a nonconforming lot after any Tennessee State protections have run out.

B. Any nonconforming lot or open space on the lot (yard, setbacks, courts, or area), if already smaller than that required by the zoning district regulations, shall not be further reduced so as to increase the nonconformity.

C. A single-family dwelling and customary accessory buildings may be erected on a nonconforming lot if the zoning district permits single-family dwellings.

D. Subsection (C) applies even if the lot fails to meet the requirements for area or width, or both, that generally apply in the district. However, yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the applicable zoning district regulations. A nonconforming lot of record may be used for building purposes provided that a variance for the nonconformity may be granted by the Board of Zoning Appeals. The variance should be the minimum variance required to provide for the use of the lot.

14.704. Nonconforming Structures.

No structural alterations to a nonconforming structure are permitted unless:

A. the alterations are required or authorized by a non-zoning law or ordinance, or

B. the alteration accommodates a conforming use and does not increase a nonconformity or create a new nonconformity, or

C. The structural alteration is allowed by TCA § 13-7-208 and Section 14.1101.E above.

Examples of non-zoning structural requirements include modifications that are required by new building codes or the federal Americans with Disabilities Act (ADA).

14.705. Inactive, Abandoned or Discontinued Nonconformities

A. After any nonconforming building, structure or land is discontinued for a period of thirty (30) months, it shall conform to the regulations of the district in which it is located.

B. After a nonconforming residential use is discontinued for a period of thirty (30) months, it shall conform to the regulations of the district in which it is located.

C. Discontinuance of an industrial, commercial, or other business establishment is subject to TCA § 13-7-208(g).

D. Unless otherwise required by TCA § 13-7-208, an intent to resume activity does not allow the nonconformity to continue.

14.706. Maintenance, Repairs, Alterations, Enlargement, and Movement of Nonconformities

A. Maintenance, repair, alteration, movement, or enlargement of nonconformity is permitted subject to subsection (b) below.

B. No maintenance, repair, alteration, movement, or enlargement is allowed if it creates an additional nonconformity.

C. A nonconforming business use may expand subject to TCA § 13-7-208(c).

14.707. Damage or Destruction of Nonconformities

A. A nonconforming residential use or any use that is not classified as a nonconforming industrial, commercial, or other business use is subject to the following:

B. For purposes of this subsection, "damaged" means involuntary harm caused by fire, explosion, flooding, collision, act of God or a public enemy.

C. No building or structure that is damaged to the extent of more than 60% of its fair market value shall be rebuilt unless it conforms to the setbacks, height, bulk, or requirements as to the physical location of a structure upon the site.

D. When a building or structure is damaged by 60% or less of its fair market value, the building may be restored to its preexisting condition within one year of the date of the damage.

A nonconforming industrial, commercial, or other business use may be destroyed and reconstructed subject to TCA § 13-7-208(d), or restored subject to TCA § 13-7-208(d).