

ARTICLE 25  
NONCONFORMING USES

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25-101 Nonconforming Lots of Record:

1. In Residential Districts:

- a. In any residential district, notwithstanding the regulations imposed by any other provision, a single-family detached dwelling which complies with the restrictions in Section 25-101-1.b., below, may be erected on a lot that is not less than 25 feet in width and that consists entirely of a tract of land that:
  - (1) Has less than the prescribed minimum lot area, width or depth, or all three, and,
  - (2) Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and,
  - (3) Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulation or regulations.
- b. Construction permitted by Section 25-101-1.a., above, shall comply with all of the regulations (except lot area, width and depth) applicable to single-family dwellings in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:
  - (1) The dwelling shall be placed on the lot so as to provide a yard on each side of the dwelling.
  - (2) The sum of the widths of the two side yards on each lot shall be not less than the smaller of:
    - (a) Twenty-five percent of the width of the lot, or
    - (b) The minimum total for both side yards prescribed by the bulk regulations for said zoning district, and,

(c) No side yard shall be less than 10 percent of the width of the lot, and in no case less than 3 feet.

- c. In any residential district allowing a two-family dwelling, said two-family dwelling may be erected on a lot that is not less than 25 feet in width when the conditions specified in Section 25-101-1 (a) and (b) above are met.

2. In Districts Other Than Residential Districts:

- a. In any district other than a residential district, notwithstanding the regulations imposed by any other provision of this Ordinance, a building designed for any permitted use may be erected on a lot of the type described in Section 25-101-1.a., previously cited.
- b. Construction permitted by Section 25-101-1.a., previously cited, shall comply with all the regulations (except lot area, width and depth) applicable in the zoning district in which the lot in question is located.

25-102 Nonconforming Use of Land: Where open land is being used as a nonconforming use at the time of the enactment of this Ordinance, and such use is the principal use and not accessory to the main use conducted in a structure, such use may be continued; provided, such nonconforming use shall not be extended or enlarged, either on the same or adjoining property. The protection afforded to nonconforming use of land by this section applies only to such land held under ownership or lease agreement for said activity on or before the effective date of this Ordinance, but shall not apply to new lands purchased or leased after said date. In addition, said protection shall not apply to any activities not legal under the terms of the regulations which this Ordinance replace.

25-103 Nonconforming Use of Structures: Except as otherwise provided herein, the lawful use of a structure existing at the effective date of this Ordinance may be continued although such use does not conform to the provisions hereof. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. The nonconforming use of a structure may be hereafter extended throughout those parts of a structure which were lawfully and manifestly arranged or designed for such use at the time of the enactment of this Ordinance.

25-104 Discontinuance of Nonconforming Uses: No land or structure or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of six months, whether or not the equipment, fixtures, improvements or facilities are removed, shall again be used except in conformity with the regulations of the district in which such land or structure is located.

25-105 Destruction of a Nonconforming Use: No structure which has been damaged by any cause whatsoever to the extent of more than 50 percent of the fair market value of the structure, immediately prior to damage, shall be restored except in conformity with the provisions of this Ordinance, and all rights as a nonconforming use are terminated. If a structure is damaged by less than 50 percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided, that such repairs or reconstruction be substantially completed within 12 months or the date of such damage.

25-106 Intermittent Use: The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on the part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

25-107 Existence of a Nonconforming Use: Whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board.