

Part II
Article V

NON-CONFORMING BUILDING AND LAND USE

Any lawful use of land or building existing at the date of passage of this Ordinance and located in a district in which it would not be permitted as a new use under the regulations of this Ordinance, is hereby declared to be a "nonconforming use" and not in violation of this Ordinance at the date of adoption of the Ordinance; provided, however, that a nonconforming use shall be subject to, and the owner shall comply with the following regulations:

Section 500 Change

A nonconforming use in a building or structure may be changed to another nonconforming use of the same or greater restriction provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a nonconforming use. For this purpose the OS District shall be considered the district of greatest restriction, each district following thereafter in the text of this Ordinance shall be considered of successively lesser restriction.

Section 505 Nonconforming Use of Land - Continuation of Use

The nonconforming use of land, where no buildings or structure is involved, which exists when this Ordinance becomes effective, may be allowed to continue provided that:

1. No such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property.
2. If such nonconforming use of land or any portion thereof is discontinued or changes, any future use of such land shall be in conformity with the provisions of this Ordinance.

Section 515 Extension Prohibited

A nonconforming use may not be expanded or extended throughout other portions of the building. If such nonconforming use or portion thereof is discontinued or changed to a nonconforming use, any future use of such building or portion thereof, shall be in conformity to the regulations of the district in which such building is located.

Section 520 Moving

No nonconforming use of a building may be moved to any other part of a parcel of land on which a nonconforming use was conducted at the time of the adoption of this Ordinance.

Section 525 Alterations

No nonconforming building shall be enlarged or structurally altered except to make it a conforming building or except with requirements of health and safety laws or ordinances; provided further that the cost of such work shall not exceed thirty (30) percent of the assessed valuation of such building or structure at the time such work is done.

Section 530 Restoration

Any nonconforming building which has been destroyed or damaged by fire, explosion; act of God, or by public enemy to the extent of fifty (50) percent or more of its fair market value at the time such damage occurred shall thereafter be made to conform with the provisions of this Ordinance. Where more than fifty (50) percent of the fair market value of the building remains after such damage, the nonconforming building may be restored, provided that such restoration shall be subject to the approval of the Board of Zoning Appeals. Said restoration shall be commenced within one (1) year of the date of such partial destruction and shall be diligently carried on to completion.

Section 535 Discontinuance or Abandonment

When any nonconforming use of land or a structure thereon has discontinued or ceased for a period in excess of 180 days or if a structure remains unused or unoccupied for a continuous period in excess of 180 days the nonconforming use shall be considered abandoned and the building or land shall therefore be used only for a conforming use. A nonconforming use shall be presumed to be abandoned when the intent of the owner or occupant to discontinue the nonconforming use is apparent to the reasonable person.

Section 545 Certificate of Occupancy

1. At any time after adoption of this Ordinance or amendments thereto, should the Building Commissioner become aware of a nonconforming use, the owner of a nonconforming use shall be notified by the Building Commissioner of the provisions of this section, and that his property constitutes a nonconforming use. Within thirty (30) days after receipt of the foregoing notice, the use shall be deemed to be and is hereby declared to be in violation of this Ordinance. The Building Commissioner and the City Attorney shall take appropriate action to enjoin such violation.
2. If the Building Commissioner shall find, upon reviewing the application for a Certificate of Occupancy, the existing use illegal or in violation of any other ordinance or law; and find that the building for which the Certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the Building Code or the Zoning Ordinance in effect at the time of construction or alteration, the Building Commissioner shall not issue the Certificate of Occupancy but shall declare such use to be in violation of this Ordinance.
3. The Certification of Occupancy issued by the Building Commission for nonconforming use shall state that the use may be continued or that the use must be discontinued.

Section 560 Change of Tenancy or Ownership

There may be a change in tenancy, ownership, or management of an existing nonconforming use, provided all regulations applicable to nonconforming uses are observed.

Section 565 Removal of Nonconforming Use, Building or Structure

The Commission may, from time to time, recommend to the City Council the acquisition of such private property that does not conform in use or structure to the regulations and restrictions of the various districts defined in this Ordinance and the subsequent removal of such use or structure.

Whenever the City Council has under advisement the acquisition, purchase, condemnation or other action as provided by law concerning any nonconforming building, structure or use, a preliminary public hearing thereon shall be held before that body, provided that no less than fifteen (15) days notice of time, place, end purpose of such public hearing shall first be published in a paper circulating in the City of Valparaiso, and that the City Clerk shall send by mail addresses to the respective owners of any such properties at the addresses given in the last assessment roll, a written notice of the time, place and purpose of such hearing; and provided further that, if the cost and expense or any portion thereof is to be assessed to a special district, the Township Assessor shall be directed to furnish the names of the respective owners of the property in such district, and addresses thereof in the last assessment roll; and the City Clerk shall also send the said notice to the said respective owners in the tentative assessment district.