

## **CHAPTER 1109**

### **Nonconforming Lots, Improvements and Uses**

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#### **1109.01 CONFORMANCE REQUIRED.**

Except as hereinafter specified, no land, building, structure, facility, sign or premises shall hereafter be used, and no building or part thereof, or other structure, facility or sign, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with this chapter herein specified for the zoning district in which it is located, including any applicable supplementary and specific regulations within this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.02 EFFECT OF CODE ON EXISTING IMPROVEMENTS.**

Nothing contained in this Zoning Code shall require any change in the plans, construction, alteration or intended use of a building, structure, facility, or sign, the construction of which was actually begun and diligently prosecuted and had progressed to the point where the foundation was in and completed at the time of the passage of Ordinance A-83, passed June 22, 1953, and which entire improvement was completed within one year of the passage of such ordinance.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.03 LOT REQUIREMENTS FOR SINGLE-FAMILY DWELLINGS.**

A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted, if the lot was a single parcel in single ownership or a single parcel included in a subdivision of record at the time of passage of this Zoning Code (Ordinance A-2248, passed April 9, 2001), even though the lot does not have the minimum lot area or minimum lot width specified for the district in which it is located, provided that yard spaces satisfy requirements stipulated for such district or as may be modified under Section 1107.05.

(Ord. A-2248. Passed 4-9-01.)

**1109.04 EXISTING NONCONFORMING BUILDINGS AND USES.**

- (a) Any building or use existing at the time of the enactment of Ordinance A-83, passed June 22, 1953, may be continued even though such building or use does not conform with the provisions of this Zoning Code for the district in which it is located.
- (b) It is the intent of this section to permit these nonconformities to continue until they are removed, but not to encourage their continuance or survival. Such uses are declared by this section to be incompatible with permitted uses in the district involved. It is further the intent of this chapter that nonconformities shall not be enlarged, expanded or extended, or changed to any other nonconforming use, except as approved by the Zoning Board of Appeals in accordance with the provisions specified in appropriate sections of this chapter.

(Ord. A-2248. Passed 4-9-01.)

**1109.05 EXTENSION OF NONCONFORMING BUILDINGS AND USES.**

- (a) An existing nonconforming use may be hereafter extended throughout those parts of the building which were manifestly arranged or designed for such use at the time of the enactment of Ordinance A-83, passed June 22, 1953.
- (b) No building or premises containing a nonconforming use shall hereafter be extended unless such extension shall conform to the provisions of Ordinance A-83, passed June 22, 1953, for the district in which it is located, except as otherwise provided in Ordinance A-83, and except as provided in subsection (c) hereof.
- (c) After due notice and a public hearing, the Board may permit the extension of a nonconforming building or use upon the lot occupied by such use of building at the time of enactment of Ordinance -83, passed June 22, 1953, or on a lot adjoining or directly across an alley, provided such lot was under the same ownership as the lot in question at the time of the enactment of Ordinance A-83, and where such extension is a necessary incident to the existing use, and provided, further, that such extension shall not exceed in all seventy-five percent of the reproduction value of the existing buildings at the time of the first extension, and shall in any case be undertaken within ten years after the enactment of Ordinance A-83. However, such extension may be made on lots purchased after the enactment of Ordinance A-83, but in such case such extension shall not exceed fifty percent of the reproduction value of such buildings at the time of the first extension and shall in any case be undertaken within ten years after the enactment of Ordinance A-83.

(Ord. A-2248. Passed 4-9-01.)

**1109.06 DISCONTINUANCE; USE CEASED.**

- (a) No building or lot where a nonconforming use has ceased for more than two years or has been replaced by a use permitted in the district in which such building or lot is located shall again be devoted to any use not permitted in such district.
- (b) If no structural alterations are made other than those necessary for maintenance, A nonconforming use of the building may be changed to another nonconforming use of an equal or more appropriate use for the district in which it is located. Such determinations shall be made by the City Manager via the Planning Coordinator and may be referred to the Board of Appeals for interpretation. In addition:

- (1) Any substitution approved shall only be permitted in parts of the building, structure or premises where the previous nonconforming use had occurred.
- (2) Whenever a nonconforming use is changed to a more appropriate use, such use shall not thereafter be reverted to a less appropriate use.
- (3) Any findings made by the Board of Appeals shall be made in a public hearing using procedures and requirements which parallel those found in Section 1151.05(a) through (e).

(Ord. A-2248. Passed 4-9-01.)

#### **1109.07 MOVING NONCONFORMING IMPROVEMENTS AND USES.**

No nonconforming building, structure, facility or sign shall be moved to another location on the same lot or any other lot unless the entire building, structure, facility or sign shall thereafter conform to the regulations of the zoning district in which it will be located after being so moved. Moreover, no nonconforming land use shall be relocated, in whole or in part, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.08 NONCONFORMING USES CREATED BY AMENDMENT.**

The provisions of this chapter apply in the same manner to a use which may become a nonconforming use due to a later amendment to this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.09 RECONSTRUCTION OF DAMAGED IMPROVEMENTS.**

Any nonconforming building, structure, facility or sign damaged more than seventy-five percent of its then fair market value above the foundations at the time of the damage by fire, flood, explosion, earthquake, war, riot or act of God or man shall not be reconstructed and used as before such calamity. If it is less than seventy-five percent damaged, it may be reconstructed or used, provided that such reconstruction or use is accomplished within twelve months of such calamity.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.10 SIGNS.**

Signs shall conform to the provisions of Section 1149.17 of the Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.11 STRENGTHENING AND RESTORING SAFETY PERMITTED.**

Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any part of any building, structure, facility, or sign declared unsafe.

(Ord. A-2248. Passed 4-9-01.)

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