

CHAPTER 17 NONCONFORMING BUILDINGS OR STRUCTURES, USES, AND LOTS

SECTION 17.01 GENERAL CONDITIONS

- A. Except where specifically provided to the contrary, and subject to the provisions of this Chapter, any building or structure, the use of any land or premises, or any lot that exists lawfully on the effective date of this Ordinance, or amendment, may be continued even though the building or structure, use, or lot does not conform with the provisions of this Ordinance or any amendment.

- B. Any building or structure shall be considered existing and lawful and for purposes of this Ordinance to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained therefore, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

- C. Any structures or uses which did not comply with the previous Big Prairie Township Zoning Ordinance, were not nonconforming uses or structures, and which violate this Ordinance shall not be considered nonconforming under this Ordinance and shall be subject to enforcement of this Ordinance.

SECTION 17.02 NONCONFORMING BUILDINGS OR STRUCTURES

- A. Nonconforming building or structures may be extended, enlarged, altered, remodeled or modernized only when the Zoning Board of Appeals determines that the following conditions are met:
 - 1. The building or structure shall comply with all height, area, setback, and/or parking and loading provisions with respect to the extension, enlargement, alteration, remodeling or modernization.
 - 2. The alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure.
 - 3. The enlargement or extension is on the same lot on which the nonconforming building or structure was located at the time of the adoption of this Ordinance.
 - 4. The enlargement or extension will not interfere with the use of other properties in the vicinity.
 - 5. The enlargement or extension shall not exceed fifty percent (50%) of the gross floor area of the original building or structure when it became nonconforming.

- B. Any building or structure which is nonconforming by reason of parking or loading provisions and which thereafter provides additional parking and/or loading spaces shall not thereafter be permitted to use the additional spaces to meet requirements for any extension, enlargement, or change of use which requires additional parking and/or loading spaces.

C. Where a building or structure is nonconforming for setback by a distance equal to or less than one-half (½) of the distance required by this Ordinance, the nonconforming setback may be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced, approved by the Zoning Board of Appeals, occurs under subsection A and all other required setbacks are met.

D. Restoration and Repair

1. Subject to the provisions of this Section, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

2. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made but it shall not be structurally altered to permit the use of the building or structure beyond its natural life except for repairs necessary to maintain public safety.

3. The following applies to nonresidential nonconforming buildings or structures or residential dwellings, except single family detached dwellings, damaged by fire, wind, Act of God or public enemy:

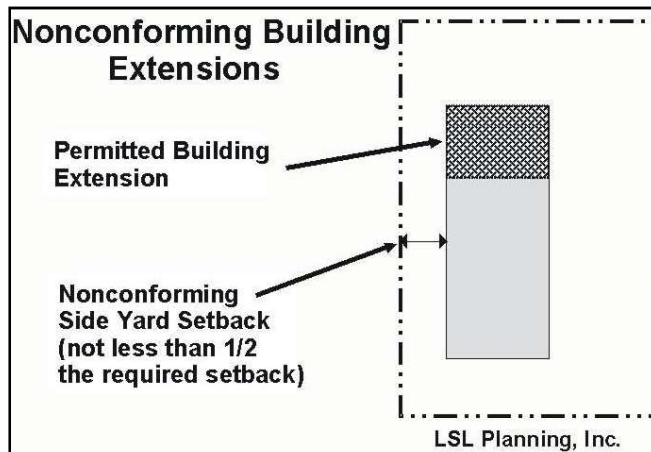
a. These buildings or structures may be rebuilt or restored if the cost thereof does not exceed sixty percent (60%) of the true cash value of the nonconforming building or structure prior to its damage or destruction.

b. If the cost of restoration or repair would exceed sixty percent (60%) of the true cash value of the nonconforming building or structure prior to its damage or destruction, replacement or rebuilding shall only be allowed if first authorized by the Zoning Board of Appeals. In considering this authorization, the Board shall consider the following standards:

(A) Whether the rebuilding or replacement will significantly extend the probable duration of the nonconforming building or structure.

(B) Whether or not the land previously occupied by the nonconforming structure can be otherwise reasonably developed according to the area, height and dimensional standards in the applicable District.

4. Reconstruction of nonconforming buildings shall begin within one (1) year of the date on which the structure was damaged. If construction is not commenced and proceeding diligently at the end of one (1) year, the building may be rebuilt or restored provided that all yard and requirements of the District in which it is



located are met, or the necessary variances obtained from the Zoning Board of Appeals.

5. Nonconforming single-family residential dwellings damaged by fire, wind, explosion, Act of God, or public enemy to any degree may be rebuilt or restored provided that the reconstruction takes place within the original nonconforming footprint.
6. Nonconforming structures or buildings which are voluntarily or intentionally replaced, destroyed or removed shall not be rebuilt or replaced, and any rebuilding or replacement shall fully comply with this Ordinance.
7. This subsection D shall not apply to nonconforming signs, which are governed by Section 16.08.

SECTION 17.03 NONCONFORMING USES

- A. Except as noted below, the nonconforming use of a building, structure, land or premises shall not be:
 1. Re-established after it has been changed to a conforming use.
 2. Re-established after abandoned and discontinued for a continuous period of twelve (12) months. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use as determined by the Zoning Administrator:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - b. The property, buildings, and grounds, have fallen into disrepair/
 - c. Signs or other indications of the existence of the nonconforming use have been removed/
 - d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use.
 - e. Other actions, which in the opinion of the Zoning Administrator constitute intent on the part of the property owner or lessee to abandon the nonconforming use.
- B. A nonconforming use may be changed to another nonconforming use if approved by the Zoning Board of Appeals and provided that all of the following determinations are made by the Zoning Board of Appeals:
 1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.

2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise permitted by this Section.
3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.

SECTION 17.04 EXISTING LOT OF RECORD

A lot which is platted or otherwise lawfully of record as of the effective date of this ordinance, may be used as specified in the District, provided the lot can meet Health Department requirements. The main building shall be located on the lot to assure maximum compliance with all yard and setback requirements for the District in which the lot is located, except that the main building shall maintain at least the following minimum required yards:

Front yard	25 feet
Rear yard	25 feet
Side yards	10 feet total, at least 5 feet on either side yard

(WR) Waterfront Residential properties are excluded from the above chart and must request a Special Land Use.