

CHAPTER 112
NONCONFORMING USE AND DEVELOPMENT

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112.020. Effect on Other Regulations. The provisions of this chapter relate exclusively to the use and development conditions and regulations imposed directly and not by reference or implication in this zoning code. Nothing in this chapter shall be deemed a waiver, relaxation or abrogation of any provision of any other applicable law, ordinance, or regulation controlling the use or development of buildings, structures or land.

112.030. Termination of Nonconforming Uses and Nonconforming Development.

- (a) The nonconforming use of a building, structure, or land shall be deemed terminated if the building, structure, or land ceases to be occupied for that use, or a use approved under 112.040(b), for any reason for a continuous period of one year.
- (b) A nonconforming development shall be deemed terminated if the building, structure, or land ceases for any reason to be occupied for a continuous period of one year by any use which was lawful when the building, structure or land was occupied.
- (c) Any nonconforming development or nonconforming use dependent upon a building or structure that is substantially damaged or becomes deteriorated to the extent that it is declared a "dangerous building" pursuant to SRC 56.200 to 56.390 shall be deemed terminated upon the date the order declaring the building or structure a dangerous building becomes final.
- (d) Any nonconforming development or nonconforming use dependent upon a building or structure that is substantially damaged or destroyed by any cause to the extent that the cost of repair or restoration of the building or structure would exceed 60 percent of its replacement cost using new materials and conforming to current building codes shall be deemed terminated upon the date of such damage or destruction. Cost of repair or restoration, and replacement cost, shall be determined by the building official. The building official's determination is appealable as provided in SRC 20J.240-20J.430 for contested case proceedings..
- (e) No nonconforming use or nonconforming development which has terminated as provided in this section shall be re-established. (Ord No. 49-09)

112.040. Nonconforming Uses, Generally; Extension, Alteration, Expansion and Change in Use.

- (a) Except as provided in SRC 112.050, any nonconforming use may be continued as a lawful use unless and until terminated as provided in SRC 112.030, and may be extended, altered, enlarged, or changed, as provided in this section.
 - (1) A nonconforming use of a portion of a building may be extended into other portions of that building with conditional use approval pursuant to subsection (b) of this section.
 - (2) A building or structure occupied for a nonconforming use may be structurally altered or enlarged for the benefit of such use with conditional use approval, pursuant to subsection (b) of this section; provided that the alteration or enlargement itself is otherwise lawful under the development standards of this zoning code and the provisions of all other applicable laws, ordinances, and regulations.

(3) A nonconforming use may be changed to another non-conforming use with conditional use approval pursuant to subsection (b) of this section, if the change in use has no greater adverse impact to the neighborhood.

(b) The nonconforming uses specified in this section are conditional uses in all zones, and conditions may be imposed on proposals to extend, alter, enlarge, or change a non-conforming use to minimize likely adverse impacts of the nonconforming use on the immediate neighborhood. Unlike conditional uses generally, nonconforming uses under this section are not deemed allowed uses in the zone. All applications to extend, alter, enlarge, or change a nonconforming use must show that the proposal to extend, alter, enlarge, or change the nonconforming use meets the following criteria:

(1) The proposed extension, alteration, enlargement, or change of use is consistent with the general development character of the surrounding area.

(2) The degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable at the property line will not be increased by the proposed extension, alteration, enlargement, or change of use.

(3) The number and kinds of vehicular trips will not exceed the maximums typical for the zoning district within which the nonconforming use is located.

(4) The amount and nature of outside storage, loading, and parking will not be increased or altered by the proposed extension, alteration, enlargement, or change of use so as to cause further impacts.

(5) The hours of operation for the proposed extension, alteration, enlargement, or change of use will not be altered or increased beyond those of the existing nonconforming use.

(Ord No. 116-94; Ord No. 49-09)

112.045. Nonconforming Mobile Homes. Notwithstanding the provisions of SRC 112.040, any nonconforming mobile home may be repaired, altered, or replaced provided such repair, alteration, or replacement complies with applicable development standards of this zoning code and all other applicable laws, ordinance, and regulations. (Ord No. 107-86)

112.050. Nonconforming Residential Uses in Commercial Zones. Notwithstanding the provisions of SRC 112.040, any nonconforming residential use in any commercial zone may be continued unless and until terminated. Such uses may be expanded and their buildings structurally altered provided such expansion or structural alteration complies with all applicable development standards in this zoning code, and with all applicable provisions of other laws, ordinances and regulations. Changes of use from a nonconforming residential use to a nonconforming non-residential use shall be allowed as provided in SRC 112.040(b) and (c). Changes of use from a nonconforming residential use to another nonconforming residential use may be made without review provided that all applicable development standards of this zoning code are met, and that the new use complies with all other applicable laws, ordinances, and regulations. (Ord No. 127-85)

112.060. Nonconforming Development. Except as provided in SRC 112.040 and 112.050 (for enlargement or structural alterations in connection with nonconforming uses), buildings, structures, and land which do not conform to all applicable development standards in this zoning code may be structurally altered or enlarged provided such new development conforms in all respects, including use, to all applicable provisions of this zoning code and other laws, ordinances and regulations.

112.065 Nonconforming Lots of Record. A lot which does not meet the standards of SRC Chapter 63 or the provisions of SRC Title X may be used for a single-family dwelling in any residential zones in which such use is permitted, provided that the lot:

(a) Is of record (recorded in the County deed records);

(b) Was held in separate ownership on or before January 1, 1968;

- (c) Was created in conformance with all applicable laws and regulations imposed by the city or county having jurisdiction at the time the lot was created; and
- (d) All yard dimensions and all other requirements not involving lot area, depth or width shall conform to the appropriate zoning district development standards. (Ord No. 18-94; Ord No. 13-08)

112.070. Compliance with Former Regulations. Except as provided under SRC 112.040 to 112.060 for expansion, change, or alteration of nonconforming uses and development, every use and premises which is nonconforming shall maintain compliance with all applicable regulations, including conditions on land use actions, by which it was governed at the time it became nonconforming.

112.080. Repairs and Maintenance. Except as otherwise provided in this chapter, nonconforming development, and premises occupied by nonconforming uses may be repaired and maintained without restriction.

