



**ST. TAMMANY PARISH, LA**  
CODE OF ORDINANCES  
PART II: UNIFIED DEVELOPMENT CODE  
**Ch. 500 – Nonconformities**

*DRAFT for Public Comment*

March 31, 2023



**DISCLAIMER:** Content herein is not representative of the final Draft UDC deliverable.

## **Chapter 500 – Nonconformities**

### **OUTLINE**

Sec. 500-1 General Provisions.

Sec. 500-1.1 Purpose and responsibility of property owner.

Sec. 500-1.2 Rules of Interpretation.

Sec. 500-2 Types of Nonconformities.

Sec. 500-2.1 Legal Nonconforming Lots.

Sec. 500-2.2 Legal Nonconforming Buildings.

Sec. 500-2.3 Legal Nonconforming Uses.

Sec. 500-3 Damage to Nonconforming Buildings, Structures, and Uses.

Sec. 500-3.1 Restoration After Damage.

Sec. 500-3.2 Removal and Replacement.

Sec. 500-4 Expansions.

Sec. 500-4.1 Expansion of Legal Nonconforming Uses.

Sec. 500-5 Legal Nonconforming Signs.

Sec. 500-5.1 Continuation of Legal Nonconforming Signs.

Sec. 500-5.2 Abandoned Signs.

**SEC. 500-1 GENERAL PROVISIONS.****SEC. 500-1.1 PURPOSE AND RESPONSIBILITY OF PROPERTY OWNER.****A. Purpose.**

The purpose of this chapter is to provide for the regulation of nonconforming structures, uses, lots, buildings, and signs, and to specify those circumstances and conditions under which nonconformities will be regulated within the Code of Ordinances.

**B. Responsibility of Property Owner.**

In all cases, it is the burden of the property owner, through the provision of clear and convincing evidence, to establish the legality of a nonconforming structure, use, lot, or sign under the provisions of this Ordinance.

**SEC. 500-1.2 RULES OF INTERPRETATION.****A. Applicability.**

No land or structure may be used, and no structure, or part thereof, may be erected, reconstructed, converted, moved, or structurally altered unless in conformity with regulations as set forth in this UDC, unless specifically allowed by this chapter.

**B. Existing Conditions.**

1. *Regulations are not retroactive.* The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other changes or alterations of any structure not conforming to the regulations as of the effective date of the ordinance from which this chapter is derived, or otherwise interfere with the continuance of a nonconforming use.
2. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance.

**C. Disaster or Force Majeure.**

In the event of force majeure, such as a hurricane, fire, or storm, or acts of public enemy the Parish Council may, by ordinance, suspend the requirements of this chapter for an established period of time.

**SEC. 500-2 TYPES OF NONCONFORMITIES.****SEC. 500-2.1 LEGAL NONCONFORMING LOTS.****A. Conditions for Remaining.**

Any substandard lot of record lawfully existing at the time of enactment of the ordinance from which these regulations are derived may remain as a legal nonconforming or substandard lot even though said lot does not conform with the provisions of these regulations for the use district in which it is located, with the following exceptions:

1. Buildings constructed on such lots must adhere to the setback requirements applicable to the building type and zoning district.

2. Lots undergoing subdivision will be required to comply with the lot and block standards of this UDC. If a property owner owns adjacent property to a substandard lot(s) sufficient to remediate the lot deficiency, the adjacent property should be part of the request and should provide new parcels that meet the applicable lot and block standards of this UDC.

### **B. Construction of Single-Family Dwellings.**

Notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling may be erected on a single legal nonconforming lot provided that the lot does not abut a lot with the same ownership, and it meets all other zoning district bulk requirements with the exception of lot area, lot width and lot depth.

## **SEC. 500-2.2 LEGAL NONCONFORMING BUILDINGS.**

### **A. Continuation.**

Except as otherwise provided for in this chapter, any building or structure lawfully existing at the time of enactment of the ordinance from which these regulations are derived may be continued as legal nonconforming building or structure even though said building or structure does not conform with the provisions of this UDC for the zoning district in which it is located. Similarly, whenever a use district shall be changed thereafter, then the existing lawful use may be continued. Legal nonconforming buildings shall be subject to the following regulations:

1. *Alterations.* Structural alterations to a legal nonconforming building or structure may be permitted only when:
  - a. There is not an increase in the square footage of the building.
  - b. When the alteration will result in eliminating the nonconformity.
  - c. When the alteration is required by law or is necessary to restore the structure to a safe condition upon the order of any official charged with protecting the public safety.
2. *Expansions.* Expansions including structural additions to a legal nonconforming building or structure may be permitted, provided:
  - a. The total expansion shall not exceed 25 percent of the total area of the existing structures or uses.
  - b. The expansion results in greater compliance with these standards for the portion of the building, structure, or site area that is proposed to be renovated or altered, to the greatest extent practicable given the type and extent of the renovation or alteration, and the constraints of the site, as determined by the Planning and Development Director.
  - c. The expansion does not increase the number of dwelling units.
  - d. The proposed expansion shall not infringe on the side, front and rear yard requirements for the particular zoning district in which the legal nonconforming use is located.
  - e. The parking requirements for the use shall be satisfied.
  - f. The proposed expansion will not be detrimental to the public welfare or seriously affect or be injurious to other property or improvements in the neighborhood in which located,

in that it will not impair an adequate supply of light and air, or increase substantially the congestion in the public streets, create a parking hazard, or permit inadequate parking, or increase the danger of fire, or substantially overburden existing drainage or sewerage systems, or endanger the public safety nor cause serious annoyance or injury to occupants of adjoining premises by reason of emission of odors, fumes, gases, dust, smoke, noise or vibration, light or glare or other nuisances.

## **B. Abandonment.**

Any particular use that is established as a legally nonconforming use is deemed abandoned when that particular non-conforming use is discontinued or becomes vacant or unoccupied for a continuous period of six months. In the instance of multi-use or multi-unit sites, the site will be considered vacant when 51% or more of the units are vacant or do not have an active occupational license associated with the units. The petitioner or new occupant of a nonconforming use or structure shall have six months to obtain the appropriate building permits or occupy the legal non-conforming building, otherwise the use or structure shall be considered discontinued, and the legally nonconforming status shall expire.

## **SEC. 500-2.3 LEGAL NONCONFORMING USES.**

### **A. Generally.**

A legal nonconforming use is the use of land or a use within a structure that, as of the effective date of this Ordinance, is used for a purpose not allowed in the zoning district in which it is located. Similarly, whenever a use district shall be changed thereafter, then the existing lawful use may be continued.

### **B. Determination of a Nonconforming Use.**

1. The Director of the Department of Permits and Inspections shall make a determination as to the existence of nonconforming use status in the following instances:
  - a. At the time an application is filed for a building permit.
  - b. At the time an application is filed for a certificate of occupancy, where no building permit is required.
  - c. At the time of a request for an occupational license.
  - d. At the time of a request for a change of use.
  - e. At the request of the property owner or his/her agent.
2. No permit, license, or zoning verification which acknowledges or confirms the existence of nonconforming status may be issued without the written approval of the Planning and Development Director. The reasons and rationale for the decision shall be stated in writing.
3. The property owner, or his/her agent, is required to produce clear and convincing evidence as requested by the Planning and Development Department attesting to legal nonconforming use status. Such evidence includes, but is not limited to, documents such as rent receipts, affidavits, documentation of utility services, documentation of water services, sales tax receipts, property tax information, and any other information as may be deemed to be necessary in a particular case. Providing such documents does not guarantee that the Planning and Development Director shall confirm the existence of legal nonconforming use status.

**C. Regulations for Nonconforming Uses.**

Nonconforming uses shall be subject to the following regulations:

1. *Continuance and alteration.* Continuance and alteration to a nonconforming use shall conform to provisions of the zoning district in which it is located. No nonconforming use shall hereafter be extended or intensified unless such extension complies with “Provisions for expansions of legal nonconforming uses” within this chapter.
2. *Change in use.* A legal nonconforming use may be changed to one of a similar or less intensive use. However, no building, structure, or tract of land in which a legal nonconforming use has been changed shall be used as a more intense use unless a zoning change has been approved.
3. *Sale and Consumption of Alcoholic Beverages.* A building or structure which has a legal nonconforming use that does not involve or permit the sale and consumption of alcoholic beverages on the premises shall not be changed to a use which involves, permits, or authorizes the sale and consumption of alcoholic beverages on the premises.
4. *Expiration of Use.* A building or structure or premises within where a legal nonconforming use has ceased for a period of more than 6 months or has changed to a permitted or conforming use, shall lose its legal nonconforming status, subject to the following considerations:
  - a. The calculation of the period of discontinuance of the use does not include any period of discontinuance by declared state of emergency or acts of public enemy.
  - b. The causal, intermittent, temporary, or illegal use of land or structures is not sufficient to establish and maintain the continuance of any legally nonconforming use, whether the use is a main or accessory use.
  - c. Seasonal shall be deemed expired when discontinued for 1 calendar year.

**SEC. 500-3 DAMAGE TO NONCONFORMING BUILDINGS, STRUCTURES AND USES.****SEC. 500-3.1 RESTORATION AFTER DAMAGE.**

Nonconforming buildings, structures, or a building/structure that contains a nonconforming use must comply with the following regarding their restoration after a damage event:

1. Any legal nonconforming building or structure which has been damaged by reason of fires, flood, explosion, earthquake, riot, war or natural disaster, may be re-constructed and re-used as before if done within 6 months from the time such damage occurred, provided that there is no increase in square footage of the building or structure.
2. Except as provided in **Sec. 500-3.2 (B)** of this chapter, if such damage is greater than 50 percent of the replacement valuation, such building or structure may only be reconstructed to conform to the provisions of the zoning district in which it is situated.
3. A manufactured home damaged by an event set forth in this section may be removed from the site and replaced if done within 1 year from the time such damage occurred.

4. The provisions of **Sec. 500-3.1** shall not apply in those cases where the damage was occasioned by the intentional act of the owner.

## **SEC. 500-3.2 REMOVAL AND REPLACEMENT.**

### **A. In General.**

If any structure or building is removed from the site, other than a manufactured home, such structure or building shall only be replaced if it conforms to current land use regulations or meet all criteria within the current zoning district in which it is located.

### **B. Exception for Manufactured Homes.**

In order to provide for improvements in the standard of living and built environment, manufactured housing may be removed and replaced, while maintaining nonconforming use status, if and only if all of the following conditions are met:

1. The replacement mobile home is manufactured or constructed under authority of 42 U.S.C. Sec. 5403-Construction and Safety Standards.
2. The replacement manufactured home is a newer make or model than the existing manufactured home on site.
3. Removal and replacement activities are complete within no more than 6 months from the point of permit.

## **SEC. 500-4 EXPANSIONS.**

### **SEC. 500-4.1 EXPANSION OF LEGAL NONCONFORMING USES.**

#### **A. In General.**

Expansions of legal nonconforming uses, including structural additions to a legal nonconforming building or structure may be permitted by the Permits and Inspections Department if they comply with the standards and criteria listed in this section.

#### **B. Standards and Criteria that Must Be Met for Expansion.**

1. The total expansion shall not exceed 25 percent of the total area of the existing structures or uses or permit an increase in the number of dwelling units.
2. The proposed expansion shall not infringe on the side, front and rear yard requirements for the zoning district in which the legal nonconforming use is located.
3. The parking requirements for the use must be met.
4. The proposed expansion will not create a parking hazard, or permit inadequate parking, or substantially overburden existing drainage or sewerage systems, or endanger the public safety nor cause serious annoyance or injury to occupants of adjoining premises by reason of emission of odors, fumes, gases, dust, smoke, noise or vibration, light or glare or other nuisances.

**C. Appeal.**

A decision by Planning and Development Director on nonconformities may be appealed to the St. Tammany Board of Adjustment Board of Adjustment under the provisions and process found in **Chapter 100** – Administration and **200** - Procedures of this Ordinance.

**D. Expiration.**

1. The petitioner shall have 6 months to obtain the appropriate building permits or occupy the expansion from the date of approval of the Planning and Development Department.
2. In the case of an appeal, the 6-month provision shall commence at such time as a determination has been made by the Board of Adjustments.

**SEC. 500-5 LEGAL NONCONFORMING SIGNS.****SEC. 500-5.1 CONTINUATION OF LEGAL NONCONFORMING SIGNS.**

Signs that at one time conformed to the sign regulations of this Ordinance, but because of subsequent amendments to this Ordinance no longer conform to the sign regulations of this Ordinance, are considered legal nonconforming signs. Legal nonconforming signs may continue with the following conditions:

1. The sign shall be properly maintained in a safe condition. An existing nonconforming sign may change the sign face, so long as the area of the sign face is not expanded, or the sign or structure is not modified in any way that increases the nonconformity. Repainting, cleaning, or other normal maintenance or repair of a nonconforming sign is permitted but shall not modify the sign in any way that increases the nonconformity.
2. Changes are permitted that will bring the nonconforming sign into conformance with the provisions of this Ordinance.
3. If a nonconforming sign is damaged in such a manner that the estimated expense of repairs exceeds 50 percent of its replacement value, the sign shall be removed.

**SEC. 500-5.2 ABANDONED SIGNS.**

Any nonconforming sign determined to be an abandoned sign shall lose its legal nonconforming status and the nonconforming sign shall be removed. A sign shall be considered to be abandoned if it has fallen into a state of disrepair or is otherwise deteriorated as a result of a lack of maintenance, repair or upkeep. Evidence of abandonment may include, but is not limited to, peeling paint or finish material; warped, bent or otherwise disfigured sign components; or a punctured or otherwise damaged sign face.