
Section 8.02 Administration

A. *Nonconforming Uses and Structures.*

1. *Intent of Provisions.*

- a. Within the districts established by this Code or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Code was enacted, amended, or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this Code to permit such nonconforming uses to continue, as long as the conditions within this Section and other applicable sections are met.
- b. It is further the intent of this Code that nonconforming uses shall not be enlarged upon, expanded or extended, and not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.
- c. Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

2. *Nonconforming Status.* Any use, platted lot, or structure which does not conform with the regulations of the zoning district in which it is located shall be deemed a nonconforming use or structure when:

- a. Such use, platted lot, or structure was in existence and lawfully operating at the time of the passage of the previous Code or this Code, and has since been in regular and continuous use; or
- b. Such use, platted lot, or structure is a lawful use at the time of the adoption of any amendment to this Code but by such amendment is placed in a district wherein such use, platted lot, or structure is not otherwise permitted and has since been in regular and continuous use; or
- c. Such use, platted lot, or structure was in existence and lawfully operating at the time of annexation to the City and has since been in regular and continuous use.

3. *Continuing Lawful Use of Property and Existence of Structures.*

- a. The lawful use of land or lawful existence of structures at the time of the passage of this Code, although such do not conform to the provisions hereof, may be continued; but if said nonconforming use or structure is discontinued or abandoned, any future use of said premises shall be in conformity with the provisions of this Code.
- b. Discontinuance of a nonconforming use shall consist of the actual act or date of discontinuance of a use previously operational in a building. Abandonment of a nonconforming structure shall consist of the act or date of abandonment.
- c. When a nonconforming use or structure which does not meet the development standards in this Code ceases to be used for a period of six (6) months, such use shall not be resumed and proof of such event shall constitute prima facie evidence of an act of abandonment. Any nonconforming use which does not involve a permanent type of structure or operation and which is moved from the premises shall be considered to have been abandoned.
- d. No nonconforming use or structure may be expanded, reoccupied with another nonconforming use, or increased as of the effective date of this Code except as provided herein.
- e. Conforming single-family residential uses on platted lots or unplatted tracts approved prior to this Code, which may now be nonconforming due to stricter standards or right- of-way dedications/takings, shall be deemed in conformance with this Code as long as the use of the lot is allowed in the respective district. Only the lot size, depth, width, and setbacks shall be allowed

to be less than the regulations prescribed in the zoning district in which it is located. All other regulations of this Code shall be met or the lot shall be considered nonconforming.

4. *Changing Nonconforming Uses.*

- a. Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not be changed back to a nonconforming use.
- b. Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by the process outlined herein.
- c. A nonconforming use may not be changed to another nonconforming use.

5. *Expansion of Nonconforming Uses and Buildings.* An expansion of a nonconforming use or structure is allowed in accordance with the following:

- a. A non-conforming use located within a building may be extended throughout the existing building, provided;
 - 1) No structural alteration may be made on or in the building except those required by law to preserve such building in a structurally sound condition.
 - 2) The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.
- b. No nonconforming use within a building may be extended to occupy any land outside the building.
- c. No nonconforming use of land or building shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space, if required by City ordinances; and except where adaptive re-use is proposed, in which case the proposal shall be presented to both the Planning and Zoning Commission and the City Council for consideration.
- d. The minimum residential lot areas for the various zoning districts shall be in accordance with their respective districts except that a lot having less area than herein required which was an official "lot of record" prior to the adoption of this Code, may be used for a single-family dwelling. A residential lot that is not a legal lot of record and does not meet the depth or width requirements of this Code at the time of platting may be approved by the Zoning Board of Adjustment with a variance.
- e. Buildings or structures which do not conform to the area regulations or development standards in this Code shall not increase their gross floor area except when such expansion brings nonconformity into conformance; and except where adaptive re-use is proposed, in which case the proposal shall be presented to both the Planning and Zoning Commission and the City Council for consideration.
- f. A non-residential building or structure that does not meet current area regulations or development standards may be reoccupied with a conforming use and without any expansion upon approval of a modified site plan meeting the requirements of Section 8.02 (A.5.g) below and issuance of a Certificate of Occupancy. The Development Review Committee (DRC) shall review this plan for compliance and, once approved by the DRC, a Certificate of Occupancy may be issued.
- g. A conforming non-single family residential use in a building which does not meet the area regulations or development standards in this Code may be reoccupied with another conforming use upon approval of a modified site plan to determine compliance with the following:

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- 1) Off-street parking, driveways, and circulation requirements.
 - 2) Dumpster location and screening; sidewalk and landscaping requirements.
 - 3) Sign requirements.
 - 4) Building codes.
 - 5) Screening requirements.
 - 6) Drainage requirements.

Each of the above will be reviewed for compliance by the Development Review Committee (DRC) and may be approved by the Planning Manager if total compliance is met. The Planning and Zoning Commission shall make final approval or disapproval of a site plan if substantial compliance is met and there is concurrence with the City Staff's recommendations. If the Planning and Zoning Commission does not concur with City Staff's recommendations, the site plan shall automatically be sent to the City Council for approval or denial.

6. *Restoration of Nonconforming Uses or Structures.*

- a. If a structure occupied by a nonconforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this Code. In the case of partial destruction of a nonconforming use structure not exceeding sixty percent (60%) of its total appraised value as determined by the Tarrant County Central Appraisal District, reconstruction will be permitted, in accordance with Section 9.01, but the existing square footage or function of the nonconforming use cannot be expanded, and the above procedures in 8.02 (A.5.g) shall be met.
- b. A nonconforming use or structure can be remodeled, maintained, or improved as long as the size (square footage) of the structure is not increased.
- c. When a nonconforming sign, or a substantial part of the sign is damaged, destroyed, taken down, or removed, it may not be re-erected, reconstructed, or rebuilt except in full compliance and conformance with this Code. For purposes of this section, substantial shall mean if the cost of repair exceeds fifty percent (50%) of the cost of a new sign of the same construction and size. A nonconforming, on-premise, detached sign which is required to be relocated due to expansion of public right-of-way may be relocated on the same lot or tract, provided there is no more than one (1) detached sign per lot or tract. The relocation shall occur within six (6) months following completion of the road.

7. *Completion of Structures.*

- a. Nothing herein contained shall require any change in the plans, construction, or designated use of:
 - 1) A building or structure for which a building permit has been issued or a site plan approved prior to the effective date of these zoning regulations, and the permits have not expired in accordance with this Code; or
 - 2) A building or structure for which a substantially complete application for a building permit was accepted by the Building Official on or before the effective date of these regulations, provided however that such building permit shall comply with all applicable ordinances of the City of Keller in effect on the date such application was filed and the building permit is issued within thirty (30) days of the effective date of these regulations.

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- b. All structures that have received a permit and have started construction shall complete construction within twelve (12) months or a proposed timeframe accepted and authorized by the Building Official. In the event that construction is delayed, the owner may request a one-time extension to the construction period of up to six (6) months or a proposed timeframe accepted and authorized by the Building Official. If a building is left unfinished and the City determines that construction activity has ceased, the City shall require the owner/developer to submit a proposal for timing to finish the building. Otherwise, the City shall cause the unfinished structure to be demolished at the owner's expense.