

## Chapter 5.2 — Non-Conforming Uses and Developments

### Sections:

- 5.2.100 Purpose
- 5.2.200 Non-Conforming Uses
- 5.2.300 Non-Conforming Development

**5.2.100 Purpose.** This Chapter provides standards and procedures for non-conforming situations (i.e., existing uses or development that do not comply with the Code). The standards for non-conforming uses and development are intended to provide some relief from code requirements for uses and developments that were established prior to the effective date of this Code and do not comply with current standards.

**5.2.200 Non-Conforming Uses.** Where at the time of adoption of this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. Expansion Prohibited.** No such non-conforming use is enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code, except as may be specifically provided for in Article 2 – Land Use Zones. No additional structure, building or sign shall be constructed on the lot in connection with such non-conforming use of land;
- B. Location.** No such non-conforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code;
- C. Discontinuation or Abandonment.** The non-conforming use of land is not discontinued for any reason for a period of 24 months or longer. For purposes of calculating the 24-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
  - 1. On the date when the use of land is physically vacated;
  - 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
  - 3. On the date that a non-conforming use has been changed to a conforming use;
  - 4. On the date of termination of any lease or contract under which the non-conforming use has occupied the land; or
  - 5. On the date a request for final reading of water and power meters is made to the applicable

utility zones.

- D. Application of Code Criteria and Standards.** If the use is discontinued or abandoned for any reason for a period of 24 months or longer, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use zone in which such land is located except as follows:
1. Buildings that were specifically constructed to serve as residential buildings that have retained their residential floor plan and character that are now non-conforming uses within the land use zone in which they are located, may be used for residential applications even if the use has been discontinued for 24 months, except that once such a use is discontinued for a period of 12 months any new residential use within the building shall be subject to the obtainment of a Conditional Use Permit. Such a use shall not be utilized for a non-conforming residential application if the structure has been previously remodeled and utilized for commercial applications to such an extent that the building no longer retains its fundamental residential characteristics and floor plan.
  2. Buildings that were specifically constructed to serve as industrial or commercial applications that by their design and nature cannot be reasonably converted to residential applications, and that are non-conforming uses within the land use zone in which they are located, may be used for industrial or commercial applications even if the use has been discontinued for 24 months, except that once such a use is discontinued for a period of 12 months any new commercial or industrial use within the building shall be subject to the obtainment of a Conditional Use Permit.
  3. No non-conforming commercial or industrial building may be expanded in a way that increases the non-conformity of the structure.

**5.2.300 Non-Conforming Development.** Where a development exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. Alterations.** No such non-conforming development may be enlarged or altered in a way that increases its non-conformity, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its non-conformity;
- B. Destruction.** Should such non-conforming development or non-conforming portion of development be destroyed by any means to an extent more than 60 percent of its current value as assessed by either the Baker County Building Official or Baker County Assessor, it shall be reconstructed only in conformity with this Code;

- C. Roadway Access.** The owner of a non-conforming access connection (i.e., street or highway access) may be required to bring the non-conforming access into conformance with this Code and other applicable standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use.
- D. Relocation or Removal.** Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of this Code.