

Nonconforming Structures, Uses and Lots

8.01 Intent

As new zoning regulations are adopted or zoning map changes are made, lots, structures, and uses that were previously compliant with zoning regulation are sometimes made noncompliant. *Article 8: Nonconformances* specifies the provisions that apply to these legal nonconforming (informally referred to as “grandfathered”) lots, structures, and uses.

8.02 Distinction Between Conforming, Illegal Nonconforming, and Legal Nonconforming

Each structure, use, and lot is either "conforming" or "nonconforming." Conforming is used to describe a structure, use, or lot as being in full compliance with the current Unified Development Ordinance. Nonconforming is used to describe a structure, use, or lot that is in violation of one or more standards in the current Unified Development Ordinance. Nonconforming structures, uses, or lots are either "illegal nonconforming" or "legal nonconforming." The following sections are used to determine the nonconforming status of a structure, use, or lot:

A. Illegal Nonconforming:

1. *Structure:* A structure constructed in violation of the zoning ordinance that was in effect when the structure was constructed and which remains in violation of the current Unified Development Ordinance is an illegal nonconforming structure.
2. *Use:* A use that was in violation of the zoning ordinance that was in effect when the use was initiated and which remains in violation of the current Unified Development Ordinance is an illegal nonconforming use. In addition, a use that was legally established and is not permitted under the current Unified Development Ordinance, but has been abandoned or discontinued for a period of at least one (1) year, is an illegal nonconforming use.
3. *Lot:* A lot established in violation of the zoning or subdivision control ordinance that was in effect at the time of establishment and which remains in violation of the current Unified Development Ordinance is an illegal nonconforming lot.

B. Legal Nonconforming

1. *Structure:* A structure that does not meet one (1) or more development standards of the Unified Development Ordinance, but was legally established prior to the effective date of the Unified Development Ordinance shall be deemed a legal nonconforming structure. Generally, a structure is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change. However, a legal nonconformity may be a result of government use of eminent domain or right-of-way acquisition.
2. *Use:* The use of a structure or land (or a structure and land in combination) that was legally established and has since been continuously operated, that is no longer permitted by the Unified Development Ordinance in the zoning district in which it is located, shall be deemed a legal nonconforming use. Generally, a use is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change.
3. *Lot:* A lot that does not meet one (1) or more lot standards of the Unified Development Ordinance, but was legally established and recorded prior to the effective date of the Unified Development Ordinance shall be deemed a legal nonconforming lot of record. Generally, a lot is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change. However, a legal nonconformity may be a result of government use of eminent domain or right-of-way acquisition.

8.03 Illegal Nonconforming Structures, Uses, and Lots

An illegal structure, use, or lot is subject to the enforcement procedures and penalties of the Unified Development Ordinance as amended. The enforcement and penalties of the zoning ordinance in place at the time the violation occurred shall no longer be in effect.