

CHAPTER 02-07 NONCONFORMING USES – NON COMPLYING STRUCTURES

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02-07-001 DEFINITION

02-07-001 NONCOMPLYING STRUCTURE

- a. A structure that legally existed before its current land use designation; and
- b. because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations excluding those regulations which govern the use of land.

02-07-002 DETERMINATION OF NONCONFORMING USE AND NON COMPLYING STRUCTURE

All matters regarding the Nonconforming use and Noncomplying Structures shall be determined by the Planning Commission. Upon application, the Commission shall determine if the use or structure is nonconforming or noncomplying as defined in this Chapter. The Land Use Administrator may determine routine and uncontested requests to verify Nonconforming uses and Non-complying structures as provided in the Naples City Land Use Ordinance.

02-07-003 ALTERATION OF MODIFICATIONS TO NONCOMPLYING STRUCTURES

Noncomplying structures with respect to setbacks or height may be continued. Additions, enlargements or structural alterations may be made to the extent that they comply with all requirements of the current Naples City Code. In addition, the commission may allow an enlargement or structural alteration provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity.

Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility. If any such noncomplying structure is removed, every future use of the land on which the building was located shall conform to the provisions of the Naples City Land Use Ordinances and Codes.

02-07-004 NONCONFORMING USE OF LAND

A nonconforming use lawfully existing on the effective date of this Land Use Ordinance may be continued provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in the Naples City Land Use Ordinance. If the nonconforming use is discontinued for continuous period of more than one year it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the zone in which it is located.

02-07-005 NONCOMPLYING STRUCTURES

The noncomplying structure lawfully existing on the effective date of this ordinance may be continued, provided no structural alterations, except those permitted by law, are made. If such noncomplying structure is discontinued for a continuous period of more than one year it shall constitute an abandonment of the use and any future use of the structure shall conform to the provisions of the zone in which it is located.

02-07-006 CHANGE IN STATUS OF NONCONFORMING USE AND NONCOMPLYING STRUCTURES.

A nonconforming use and noncomplying structure may be succeeded, upon approval of the Land Use Administrator, as provided in the Naples City Land Use Ordinance, by an equally restrictive or more restrictive nonconforming use and/or noncomplying structure. Provided such change is effected prior to amendment of the prior nonconforming use and noncomplying structure. After a change to a less intensive use occurs, the use may not change back to a more intensive use.

02-07-007 ALTERATIONS OF MODIFICATIONS TO NONCONFORMING USE AND NONCOMPLYING STRUCTURES

A use or structure which has been declared nonconforming or noncomplying shall not be enlarged or moved except as provided in the Land Use Ordinance. The commission may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

02-07-008 RECONSTRUCTION OF NONCOMPLYING BUILDING OR STRUCTURE PARTIALLY DESTROYED

A Noncomplying structure destroyed to the extent of not more than 50 percent (50%) of its reasonable replacement value at the time of its destruction by fire, explosion, other casualty, act of God or action of a public enemy, may be restored to the use of such building, structure, or part thereof which existed at the time of such partial destruction may be continued subject to all of the provisions of the Title. If the building or structure is torn down or destroyed to an extent of more than 50%, any future use must follow the current Land Use ordinance.

**02-07-009 AMORTIZATION OF NONCONFORMING USES AND
NONCOMPLYING STRUCTURES**

The Commission, under authorization of State statute, may provide for the timely modification or removal of a Nonconforming Use and Noncomplying Structure or open storage or signage deemed to be incompatible with the surrounding neighborhood. A maximum of a five year period may be granted in which the nonconforming use and noncomplying structure shall be modified or removed in order to comply with the General Plan and the Land Use Ordinance.