



Part I: Code Amendments at a Glance – Nonconformities (Chapter 19.38):

A. What is it?

This chapter establishes regulations for how the city treats uses and structures that do not meet today's zoning requirements, also known informally as "grandfather rights." The Nonconformities chapter replaces the current chapter in the Zoning Code, Chapter 38, "Nonconforming Structures, Uses and Lots." This chapter is mainly an update and does not substantially change policies currently in place.

B. Type of revision proposed:

- Minor revision to an existing chapter
- Major rewrite of existing chapter
- New chapter

C. Key changes from existing code:

1. Expands and clarifies the purpose and intent section.
2. Nonconforming uses:
 - a. Adds new criteria for discontinuation
 - b. Replaces criteria for change of nonconforming uses
 - c. Simplifies and relocates criteria for expansions.
3. Nonconforming structures:
 - a. Clarifies criteria for expansions.
4. Nonconforming lots/substandard parcels.
 - a. Clarifies definitions
 - b. Simplifies and clarifies criteria for mergers
 - c. Clarifies process for certifications.

Part II: Analysis of Code Amendments:

Code Provision: 19.38.010 Purpose and intent.

- A. The purpose of this chapter is to regulate nonconforming structures, uses and lots. This chapter includes regulations for determining the legal status of nonconforming uses, structures and other site improvements by creating provisions through which they may be established, maintained, altered, reconstructed, expanded or abated.

Discussion:

- A. What it does: Clarifies and strengthens the purpose statement.
- B. Effect of code provision: Provides better context for regulations that restrict nonconforming structures, uses and lots. This will facilitate application of the requirements and make them easier to support and implement.

Code Provision: 19.38.020 Nonconforming uses.

- B. Discontinuation. Any use which is nonconforming and has ceased for a period of one or more years shall lose such nonconforming status. All subsequent use of the property or building shall be a use which conforms with the requirements of the zoning code.
 - 1. A nonconforming use shall be considered discontinued if it meets any of the following criteria:
 - a. A permitted use has been established within the building containing the nonconforming use;
 - b. No product or inventory is displayed, stored or sold directly related to the nonconforming use; or
 - c. Buildings and/or portions of the site engaged in the nonconforming use have been vacant.
 - 2. For the purpose of this section a nonconforming residential use shall not be considered discontinued if the unit or units are vacant, provided the property is maintained consistent with the adopted provisions of the International Property Maintenance Code and with EMC Chapter 8.20.020, Nuisances. However, when a nonconforming residential use has been changed to a permitted use, the residential use shall not be re-established.
 - 3. Voluntary demolition. Where a property owner undertakes voluntary demolition and replacement, the nonconforming use shall not be established in the new structure.

- A. What it does:
 - 1. Changes the time frame for when discontinued nonconforming uses can be re-established. The existing time frame is two years, which would be reduced to one year.
 - 2. This section also has a new provision requiring when a structure with a nonconforming use is voluntarily demolished, any new structure can only contain a use that complies with current zoning standards.
- B. Effect of code provision:
 - 1. The new discontinuation time frame could mean that some nonconforming uses may not be re-established after one year, rather than two years currently. This provision closes a loophole in the current code.

Code Provision: 19.38.020 Nonconforming uses.

- D. Expansion. Evaluation criteria and review process
1. Evaluation criteria: (Move from current location to Chapter 15.02)
 2. Review process: modify review process as follows:
 - Review process I – Up to 10% of land or building area.
 - Review process II – >10% - 25% land or building area.
 - Review process III - >25% land or building area.

Discussion:

- A. What it does: Modifies evaluation criteria by eliminating those that are not effective and creating a new one addressing hours of operation/impacts on adjacent properties. Also modifies review process to allow minor expansions (up to 10%) to be reviewed administratively without public notice.
- B. Effect of code provision: The revisions will make review and evaluation of nonconforming use applications easier for staff and simplify the review of minor applications.

Code Provision: 19.38.040 Substandard parcels - Nonconforming lots

Definitions used in this section:

1. "Lot" means an area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon in accordance with the provisions of the Zoning Code.
2. "Nonconforming lot" means a legally established lot, the area, dimensions or location of which met the applicable Zoning Code requirements in effect at the time the lot was created, but which fails by reason of such adoption, revision or amendment of the Zoning Code, to conform to the present requirements of the zone in which it is located.
3. "Conforming lot" means a lot that meets all current zoning requirements.
4. "Substandard parcel" means a parcel that does not meet minimum zoning requirements for lot area, width, depth or frontage.

- A. What it does: Adds two new definitions: "Conforming lot" and "Substandard parcel." The new terms are used within the revised chapter and are needed to clarify the difference between lots that can be certified as legal nonconforming and those that either have not been certified or cannot be certified.
- B. Effect of code provision: The new definitions will improve implementation of nonconforming lot regulations.