

Table One Nonconforming Use Status

	<p align="center">State Statute 462.357</p>	<p align="center">Present Code Chapter 531 Nonconforming Uses and Structures</p>
<p>Continued Use & Investment</p>	<p>may be continued, including through repair, <i>replacement, restoration, maintenance, or improvement, but not including expansion</i></p>	<p>No structure or use, or part thereof, shall hereafter be erected, constructed, <i>altered</i>, enlarged, relocated, used or intensified in character or operation except in conformity with the provisions of this zoning ordinance. Legal nonconforming uses and structures shall be allowed to continue so long as they remain otherwise lawful, subject to the provisions of this chapter.</p> <p>This chapter imposes a general prohibition on the enlargement, expansion, <i>restoration</i>, relocation, <i>structural alteration</i> or intensification of nonconforming uses and structures, and on the change of any nonconforming use to a use other than one allowed in the district in which the use is located.</p> <p>Normal maintenance and repair, including cosmetic changes, may be performed on any nonconforming structure or on any conforming structure containing a nonconforming use, provided however, that no such maintenance or repair shall result in an expansion or enlargement of the use or structure or increase the extent of the nonconformity, except as otherwise provided by this chapter. <i>Normal maintenance and repair shall not include a structural alteration.</i></p>
<p>Expansion</p>	<p>A municipality may, by ordinance, <i>permit an expansion or</i> impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.</p>	<p>(a) Legal nonconforming structure containing a conforming use or a structure containing a use nonconforming as to parking only. Where a legal nonconforming structure contains a conforming use, or where a structure contains a use nonconforming as to parking only, such structure may be enlarged, altered or relocated so long as such enlargement, alteration or relocation does not increase its nonconformity. Buildings accessory to a conforming use or accessory to a use nonconforming as to parking only may be added, provided such accessory buildings conform in all respects to the requirements of this zoning ordinance.</p> <p>(b) Structure (conforming or nonconforming) containing a legal nonconforming use. Structures containing one (1) or more legal nonconforming uses shall not be moved to a new location on the zoning lot, expanded, enlarged or <i>structurally altered</i> in any way, nor shall such use be intensified, except that the city planning commission may permit the relocation, expansion, enlargement, <i>structural alteration</i> or intensification of such use or structure or any accessory structure, if it makes the following findings, and the relocation, expansion, enlargement, <i>structural alteration</i> or intensification meets all other applicable regulations of this zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):</p> <p>(1) A rezoning of the property would be inappropriate.</p> <p>(2) The enlargement, expansion, relocation, <i>structural alteration</i> or intensification will be compatible with adjacent property and the neighborhood.</p> <p>(3) The enlargement, expansion, relocation, <i>structural alteration</i> or intensification will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors and parking congestion.</p> <p>(4) The enlargement, expansion, relocation, <i>structural alteration</i> or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.</p> <p>(5) In districts in which residential uses are allowed, the enlargement, expansion, relocation, <i>structural alteration</i> or intensification will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located.</p>

		(6) The enlargement, expansion, relocation, structural alteration or intensification will not be located in the floodway district.
Loss of Nonconforming Status	<p>(1) the nonconformity or occupancy is discontinued for a period of more than one year; or</p> <p>(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.</p>	<p>(a) Discontinuance.</p> <p>(1) In general. If a nonconforming use or structure is discontinued for a continuous period of more than one (1) year, it shall be deemed to be abandoned and may not thereafter be reestablished or resumed. Any subsequent use of the land or structure shall conform to the requirements of the district in which it is located.</p> <p>(2) Rebuttal of abandonment. A property owner may rebut the presumption of abandonment only by presenting clear and convincing evidence that discontinuance of the nonconforming use or structure for the specified period was due to circumstances beyond the property owner's control. The property owner shall bear the burden of proof.</p> <p>(b) Change to conforming use. When a nonconforming use has been changed to a conforming use, it may not thereafter be reestablished or changed to another nonconforming use. In addition, whenever the degree of nonconformity with the provisions of this ordinance is reduced (e.g., a use nonconforming by three (3) units is reduced to nonconforming by two (2) units or by one (1) unit), the degree of nonconformity shall not thereafter be increased.</p> <p>(c) Damage or destruction.</p> <p>(1) Legal nonconforming structure containing a conforming use. When a legal nonconforming structure is damaged or destroyed by any cause or means, to the extent that the cost of restoration exceeds one-half (1/2) of its market value, reconstruction of the nonconforming structure shall be prohibited. A new structure may be built on the parcel, but only in full conformity with the regulations of the district in which it is located.</p> <p>(2) Legal nonconforming use. When a legal nonconforming use is damaged or destroyed by any cause or means, to the extent that the cost of restoring or reestablishing the nonconforming use, including structural repairs and equipment and fixture replacement, exceeds one-half (1/2) of its market value, then the nonconforming use shall not be reestablished or resumed. A new structure may be built on the parcel and new uses established, but only in full conformity with the regulations of the district in which it is located.</p>