



Nonconforming Situations

What is a nonconforming situation?

An existing use, residential density, structure, lot, or parking situation that was either legally established prior to existing zoning provisions OR was allowed or not prohibited by law when established. Commonly referred to as "grandfathered." (See Reverse)

What do I do if I think I have a nonconforming situation on my property?



Apply for Nonconforming Certification Review



Review Process

Submit a completed application to the Community Development Department (CDD)



CDD reviews the application and relevant information and makes a determination regarding nonconforming status.



If a situation is determined to be nonconforming, CDD issues a Nonconforming Certificate. If it is determined that a situation is not compliant, you will receive notification on how to comply with current zoning. This decision is appealable to the Planning Commission.

What information can I submit to establish nonconforming status?

Examples of information may include historic zoning maps, building permits, aerial photography, dated photographs, as-built surveys, utility bills, advertisements, or other information to show the existence of the nonconforming situation.

When is a Nonconforming Certification Review required?

You may request a Nonconforming Certification review at any time. CDD recommends that if you know a nonconforming situation exists, request certification as soon as possible. A Nonconforming Certificate is required prior to issuing a building permit or land use permit related to a nonconforming situation.

Fees

Certificate of Nonconforming Status: \$150
This may be waived if filed with a building permit or land use permit application.

Types of Nonconforming Situations

Nonconforming Lots: Lots that do not meet the current dimensional standards for the zoning district (lot area, width, or depth). These lots generally have the same development rights as conforming lots, if a Nonconforming Certification is received.

Nonconforming Parking: Parking standards, including number and types of off-street parking, that do not meet the current parking requirements for the use of the property. Generally, nonconforming parking situations are allowed to continue if it is determined that there is no harm to public health or safety, if a Nonconforming Certification is received.

Nonconforming Residential Density: A residential development that has a greater density than is allowed under current code. Generally, nonconforming residential densities are allowed to continue, if a Nonconforming Certification is received.

Nonconforming Use: The use of a property that is not currently allowed by code. Nonconforming uses are generally allowed to continue if it is determined there is no harm to public health or safety, if a Nonconforming Certification is received.

What is abandonment and why is it important?

Abandonment is the discontinuation of, or failure to maintain, a nonconforming situation. When a nonconforming situation is determined to be “abandoned,” the nonconforming situation cannot continue and must comply with current zoning regulations.

You may request reconsideration of this determination using the process outlined in CBJ 49.30.225.

What if my nonconforming situation is accidentally destroyed?

In non-industrial zoning districts, a nonconforming structure containing exclusively residential use may be reconstructed in its footprint (except across property lines and into public rights-of-way), regardless of the extent of the damage.

In industrial and waterfront industrial zoning districts, a nonconforming structure containing a residential use may only be rebuilt if certain criteria are met.

A nonconforming situation is deemed destroyed when damaged accidentally and the cost to replace the structure is more than 75 percent of the assessed building value, exclusive of the foundation(s).

If your nonconforming situation has been damaged or destroyed, contact the Community Development Department as soon as possible.

May I perform normal maintenance on my nonconforming structure?

Yes! Normal maintenance and routine repairs are allowed for nonconforming situations. Examples of routine maintenance include: roofing repair or replacement, window replacement, and other similar minor structural repairs.

If a nonconforming situation is intentionally damaged, destroyed, removed or demolished by the owner or by an authorized agent of the owner, nonconforming rights are lost.

For more information call and ask to speak to the Planner on Call: 907-586-0715

Note: This handout is for information purposes only and does not replace the code sections outlined in CBJ 49.30.