
Sec. 27-291. Classification.

- (a) Nonconformities shall be classified as:
- (1) Lots;
 - (2) Uses of land without structures or minor structures only;
 - (3) Uses of major structures and premises;
 - (4) Structures;
 - (5) Characteristics of use;
 - (6) Tents.
- (b) To be considered and established as a nonconformity, the property owner or authorized agent ["applicant"] must request a written determination for formal decision by the zoning administrator, pursuant to section 27-54. A nonconformity must have been in compliance with the zoning requirements which were lawful when it was established, but would be prohibited, regulated, or restricted by the enactment of this chapter or subsequent amendments thereto. To establish a nonconformity, the applicant must demonstrate one (1) of the following:
- (1) The nonconformity must have been deemed nonconforming under the former zoning code and continue to be designated nonconforming under the provisions of this chapter or subsequent amendments hereto; or
 - (2) The nonconformity must have been deemed conforming under the former zoning code and made nonconforming and continue to be designated nonconforming by the provisions of this chapter or subsequent amendments hereto.
- (c) A nonconformity may also be created where lawful public taking or actions pursuant to a court order have the same effect as violation of this chapter.

Sec. 27-297. Nonconforming uses of major structures or structures and premises in combination.

Nonconforming use(s) of structure(s) with a value higher than the respective values set forth in section 27-296 shall be considered a major structure, and may be continued exactly as such use(s) existed at the time its nonconforming status was established, provided:

-
- (1) A nonconforming use may not be enlarged, extended, intensified, or changed, except for a change to a use permitted in the district in which the property is located, except as provided below.
 - a. A nonconforming use may be extended through portions of a building manifestly arranged or intended for such use, and,
 - b. A nonconforming use shall not extend to occupy land outside such building or any additional building not used for such nonconforming use at the time that nonconforming status was established.
 - (2) If there is an intentional and voluntary abandonment of a nonconforming use for a period of more than one hundred eighty (180) consecutive days, or if a nonconforming use is changed to a conforming use, said use shall lose its nonconforming status. Thereafter, subsequent occupancy and use of the land, building, and/or structure shall conform to the regulations of the districts in which the property is located and any structural alterations necessary to conform the structure or building to the regulations of the district in which the property is located shall be required. An intentional and voluntary abandonment of use includes, but is not limited to, vacancy of the building or structure in which the nonconforming use was conducted, or discontinuance of the activities consistent with or required for the operation of such nonconforming use.
 - (3) Upon the zoning administrator's own action or through the formal decision process set forth in section 27-54, the zoning administrator will evaluate the evidence of an intentional and voluntary abandonment of a nonconforming use and determine the status of the nonconforming use. The evidence, collectively, must at a minimum demonstrate the following:
 1. Continual operation (or intent to operate) of the use;
 2. Continual maintenance (or intent to maintain) of the structure and property;
 3. Continual possession of any necessary and valid state and local permits, licenses, or active/pending application(s) for approval related to prolonging the existence of the use.

Evidence of an intentional and voluntary abandonment of a nonconforming use may include, but is not limited to, public records, utility records, property records, personal records, or other general research and documentation as follows:

1. Public records, including those available through applicable City of Tampa, Hillsborough County, and State of Florida agencies;
2. Utility records, including water/sewer accounts, solid waste accounts, and electricity accounts;

-
3. Property records, including executed lease or sales contracts and real estate listings for property sale/lease/rent;
 4. Personal records, including photographs and notarized statements of direct personal observations;
 5. Other general research and documentation, including listings from the Polk Directory, Burgert Brothers photographs, SanBorn Maps, aerials and other maps available through a geographic information system.
- (4) When building(s) or structure(s) devoted to a nonconforming use are destroyed or damaged, by any cause, to the extent of sixty (60) percent or more of the current assessed taxable value of all the building(s) or structure(s) comprising the nonconforming use, such building(s) or structures, if restored, shall thereafter be devoted to conforming uses.
- (5) No structural or non-structural alterations may be made to a nonconforming use, except where the following type alterations do not conflict with the provisions set forth above:
- a. Alterations made in the course of ordinary maintenance and repairs, or
 - b. Alterations made to comply with the requirements of law, or
 - c. Alterations made to accommodate a conforming use provided the alteration does not increase the degree of nonconformity, or
 - d. Within a local historic district, the zoning administrator, after consultation with the historic preservation administrator, may approve alterations and new construction if the proposed work includes the restoration of a contributing historic structure, and the proposed improvement(s) do not increase the degree of nonconformity, or
 - e. Alterations made to comply with the schedule of area, height, bulk and placement regulations.