

## Chapter 20.45

### USES, BUILDINGS, STRUCTURES AND LOTS

#### Sections:

- 20.45.010 Continuing Existing uses of Structures.
- 20.45.020 Nonconforming Uses or Structures.
- 20.45.030 Nonconforming Use.
- 20.45.040 Termination of Nonconforming Uses and Structures.
- 20.45.050 Completion of Structure.
- 20.45.060 Nonconforming Lots of Record.
- 20.45.070 Special Lot Requirements.
- 20.45.080 Lot Frontage Required.

**20.45.010** **Continuing Existing Uses of Structures.** Except as hereinafter specified, any lawful use, building or structure, existing at the time of the enactment of the ordinance codified in this title or upon annexation, may be continued even though such lawful use, building or structure may not conform with the provisions of Chapters 20.02 through 20.67 for the district in which it is located. In any district where a use lawfully exists upon the effective date of the ordinance or upon annexation, and which is not listed as a permitted use in the zoning district in which located, said use shall be issued a Conditional Use Permit for that use at that location only, and may be repaired or structurally altered providing all codes and ordinances of the city are complied with. Provided, however, should the owner or user of the property or use, desire to enlarge or increase the scope of the use of structure, amendment to the Conditional Use Permit shall be requested in Accordance with Chapter 2.70, Benton City Municipal Code. (Ord. 765, September 2003.)

**20.45.020** **Nonconforming Uses or Structures.** Any lot, buildings or structure conforming as to use but nonconforming as to height, lot area, lot coverage or yards at the effective date of the ordinance codified in this Title, or upon annexation, may be altered or repaired, provided that such alteration or repair conforms to all codes and ordinances of the City for the district said use, building or structure is located. Any existing lot, building or structure devoted to a use not permitted by Chapters 20.02 through 20.67 in the district said building or structure is located, except when required to do so by law, shall not be enlarged, extended, reconstructed, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or structure is located; except, however, when such enlargement, extension, or reconstruction is made necessary due to accidental destruction or damage and the replacement or repair of which can be completed within one (1) year as evidenced by

an Occupancy Permit from the date of damage or destruction. (Ord. 765, September 2003.)

**20.45.030** **Nonconforming Use.** No building, structure, or premise involving a nonconforming use, which has been changed to a conforming use, shall again be put to a nonconforming use. (Ord. 765, September 2003.)

**20.45.040** **Termination of Nonconforming Uses and Structures.**

- A. Except as specified elsewhere, nonconforming uses of land not involving a structure except minor structures having an assessed valuation of five hundred dollars or less, shall cease or be made conforming within two years after adoption of the ordinance codified in this title or two years after annexation. All nonconforming structures having an assessed valuation of five hundred or less, shall be removed or made conforming within two (2) years after adoption of the ordinance codified in this title or two (2) years after annexation.
- B. A nonconforming use or structure shall become discontinued when it is:
  - 1. Abandoned for a period of one (1) year or more;
  - 2. Damaged or destroyed and a building permit for the reconstruction or repair has not been obtained within six (6) months of such damage or destruction; and
  - 3. The use or structure has been changed to a conforming use or structure as provided in Section 20.45.030.
- C. Evidence of abandonment of the non conforming use or structure may include, but are not limited to the following:
  - 1. Removal or destruction of the contents, property or fixtures necessary to maintain the nonconforming use or structure.
  - 2. Failure to maintain in a workable or habitable condition, necessary elements for the nonconforming use or structure.
  - 3. The existence of uses or improvements incompatible with the nonconforming use or structure.
  - 4. Declarations by the owner and/or occupant evidencing an intent to abandon the nonconforming use or structure.

5. Absences or lack of use of the premises or structure that is consistent with its nonconforming use shall not be, by themselves, evidence of abandonment. (Ord. 765, September 2003.)

**20.45.050** **Completion of Structure.** Nothing in this title shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been issued and construction work has commenced prior to the adoption of the ordinance codified in this title or annexation, except that if the structure has an assessed valuation of less than five hundred dollars, and is nonconforming or is intended for a nonconforming use, it shall be completed and in use within one year after adoption of the ordinance codified in this title or annexation. Provided, however, the city council, upon written request, may grant one six-month extension, if found that this provision would cause an unfair and unnecessary hardship. (Ord. 765, September 2003.)

**20.45.060** **Nonconforming Lots of Record.** In any district where residential uses are permitted, a single family detached building may be erected on any lot of official record on the effective date of the ordinance codified in this title, or upon annexation subject to compliance with all development requirements and required setbacks. (Ord. 765, September 2003.)

**20.45.070** **Special Lot Requirements.** In any district where a public water supply and/or public sanitary sewer is not accessible, the minimum lot area and yard requirements may be increased if so recommended by the county health department. (Ord. 765, September 2003.)

**20.45.080** **Lot Frontage Required.** In any R district, no lot shall be created after the effective date of the ordinance codified in this title to be used in whole or part for residential purposes unless such lot abuts at least forty-five feet on a street. (Ord. 765, September 2003.)