

ORDINANCE NO. 3759

ORDINANCE AMENDING SECTIONS 01.80.030 and 01.80.040 OF ALBANY MUNICIPAL CODE AS THE SAME PERTAINS TO NON CONFORMING USES OF LAND AND NON CONFORMING USES OF A STRUCTURE UNDER THE ZONING REGULATIONS OF THE CITY OF ALBANY.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1:

That Section 01.80.030 of Albany Municipal Code is amended to read as follows:

Section 01.80.030 Uses:

(a) Pursuant to the procedures provided in Section 01.80.041, a nonconforming use may be enlarged or extended within a building or in the same lot provided that the more restrictive requirements of either the district involved or the proper district for the use involved applies to such enlargement or extension; and, provided further that all current development regulations are complied with, and, that additional adverse effects are not created for abutting properties or the neighborhood, e.g., objectionable conditions, visual and noise pollution, vehicular traffic, dust, or street parking.

(b) A nonconforming use may continue and a nonconforming building may be occupied, except as follows:

1. No nonconforming use which shall have been discontinued for a period of one year shall be resumed nor shall it be replaced by another nonconforming use.

2. A nonconforming use of the land which shall include lands with buildings with an assessed valuation of \$500 or less must be made conforming within three years after adoption date of this Ordinance.

(c) Pursuant to the procedures provided in Section 01.80.041, a nonconforming use may be changed to another nonconforming use if it does not increase the degree of incompatibility with the immediate neighborhood from that of the previous use and the building or land involved cannot reasonably be utilized for a conforming use.

Section 2:

That Section 01.80.040 of Albany Municipal Code is amended to read as follows:

Section 01.80.040 Buildings:

(a) A nonconforming building may be structurally altered, repaired or enlarged based on percentage of expansion governed by existing gross floor area, provided that any addition conforms to the requirements of the district in which it is located. Also, it is the intent of this special provision to restrict expansion to one time only.

<u>Percentage of Expansion</u>	<u>Existing gross floor area</u>
25%	Building under 4,000 sq ft
20%	Building under 10,000 sq ft
15% or 2,000 sq. ft.	whichever is larger

(b) An existing building on a nonconforming lot may be structurally altered, repaired or enlarged in compliance with all current regulations, including side yard requirements, where applicable.

(c) Any building or other structure containing a nonconforming use or any nonconforming building or portion thereof declared unsafe under the City's building code by the City building inspector may be strengthened or restored to a safe condition.

(d) A nonconforming building or a building containing a nonconforming use which has been damaged by fire, flood, wind or other calamity or act of God may be restored to its original condition, (suitable structure) provided such work is started within 12 months of such calamity and completed within 24 months of the time the restoration is commenced, and provided, further, that any nonconforming setbacks or other aspects of the building which create an adverse condition for neighboring properties shall be corrected even if there is a reduction in building size required.

Section 3:

The Albany Municipal Code is hereby amended by an addition thereto of Section 01.80.041 to read as follows:

Section 01.80.041 Review and Approval:

(a) Prior to the filing of an application for a modification to a nonconforming use under Section 01.80.030 (a) or (c), a preapplication conference shall be held with the Planning Department where the applicant will be advised of the information required for review and the procedures to be followed. Upon filing of the application, the Planning Department shall post the property indicating that a modification of a nonconforming use has been filed

and that more detailed information may be obtained from the City's Planning Department. The Planning Department shall also notify by mail the owners of abutting properties and properties located within 200 feet of the property lines of the land for which such application has been filed and that they may review the application during the Planning Department's regular office hours.

(b) The Planning Department shall, within 21 days, but not less than 14 days after mailing of the notice to surrounding property owners, either grant the application, deny it, or refer it to the Planning Commission for review. The applicant, or an owner of property located within 200 feet of the subject property, may appeal such decision to the Planning Commission by filing an appeal with the planning department within 14 days of its decision. If no such appeal is filed, the decision shall be deemed final. If an appeal is filed, the Planning Commission shall hold a public hearing on the application pursuant to the procedures and requirements provided in Section 01.68.030.

(c) The Planning Department or the Planning Commission shall base its decision to grant or deny the application for modification to a nonconforming use on the applicable criteria found in Section 01.80.040. If the application is granted, the Planning Commission may impose such conditions and requirements as are reasonably necessary to meet the criteria for approval.

PASSED BY THE COUNCIL January 23, 1974

APPROVED BY THE MAYOR January 23, 1974

EFFECTIVE DATE February 22, 1974


MAYOR

ATTEST:


CITY RECORDER