

**CITY OF CORDOVA, ALASKA
ORDINANCE 1148**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA, AMENDING CORDOVA MUNICIPAL CODE BY REMOVING DEFINITIONS FROM CHAPTER 18.08, REPEALING AND REENACTING CHAPTER 18.52, AND AMENDING THE TITLE OF SECTION 18.80.040 TO UPDATE AND DEFINE NONCONFORMING LOTS, STRUCTURES, AND USES, TO ALLOW FOR THE EXPANSION AND ALTERATION OF NONCONFORMING STRUCTURES, AND TO INCREASE THE AMOUNT OF TIME A NONCONFORMING USE CAN CEASE TO EXIST BEFORE IT IS CONSIDERED DISCONTINUED

WHEREAS, the City of Cordova, Alaska (“City”) has determined that Chapter 18.52 entitled Nonconforming Uses” is difficult to interpret as it does not clearly differentiate between the different types of nonconformities; and

WHEREAS, Chapter 18.52 does not allow for the expansion of nonconforming buildings even if the expansion does not aggravate the nonconformity; and

WHEREAS, the City has determined that the proposed changes to the Cordova Municipal Code are in accordance with the purpose of Title 18 and the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cordova, that:

Section 1. Section 18.08.010 of the Cordova Municipal Code entitled “Definitions” is amended by deleting the following definitions:

~~“General maintenance” means the upkeep of property or equipment; to keep in an existing state of repair; preserve from failure or decline.~~

~~“Nonconforming building” means any building or structure or any portion thereof, lawfully existing at the time the ordinance codified in this title became effective, which was designed, erected or structurally altered for a use that does not conform to the use regulations of the zone in which it is located or a building or structure that does not conform to all the height and area regulations of the zone in which it is located.~~

Section 2. Chapter 18.52 of the Cordova Municipal Code entitled “Nonconforming Uses” is repealed and reenacted as follows:

Chapter 18.52 – NONCONFORMITIES

18.52.010 – Purpose.

The purpose of this chapter is to permit nonconforming lots, uses, and structures to protect property owners from undue hardship despite their compliance with past city laws, zoning codes, and regulations while moving towards conformity of lots, uses and structures.

18.52.020 – Definitions.

For the purposes of this chapter the following words or phrases shall be interpreted or defined as set forth in this section, and such interpretations or definitions shall supersede any conflicting interpretations or definitions set forth elsewhere in this title:

“Abandon” means the cessation of use for any length of time, combined with intent to indefinitely cease such use.

“Aggravate” means the physical alteration of structures if such alteration results in a greater invasion in any dimension of setback or height requirements, or a further violation of density, parking, or other requirements of this title.

“Discontinued” means that a nonconforming use has ceased, and has not substantially resumed, for a period of 24 consecutive months, regardless of intent.

“Nonconforming lot, structure, or use” means a lot, structure, or use authorized by the city through the application of city administrative processes, laws, and/or regulations that existed at the time of authorization but which no longer apply under the current requirements of this title.

18.52.030 – Nonconforming lots.

If at any time a nonconforming lot is brought into conformity with this title, the lot shall thereafter conform to all the regulations of the zoning district in which it is located.

A nonconforming lot may be developed in conformity with all other provisions of this title even though such lot fails to meet currently applicable minimum area or width requirements.

18.52.040 – Nonconforming structures.

If at any time a nonconforming structure is brought into conformity with this title, the structure shall thereafter conform to all the regulations of the zoning district in which it is located.

A nonconforming structure may be continued so long as it remains otherwise lawful. The following provisions apply to nonconforming structures:

- A. A nonconforming structure may be enlarged or altered, provided that it does not aggravate the nonconformity, and that no portion of the nonconforming structure extends over any lot line into property not owned by the owner of the nonconforming structure.
- B. A nonconforming structure may be altered to decrease its nonconformity.
- C. If a nonconforming structure is moved for any reason for any distance whatsoever it shall thereafter conform to the code provisions applicable in the zone in which it is located after it is moved.
- D. If a nonconforming structure or nonconforming portion of a structure is damaged, removed, or demolished by any means, including but not limited to acts of nature, acts of persons or animals, or lack of maintenance, to an extent of more than 50 percent of the nonconforming structure or nonconforming portion of a structure as determined by an inspection by the city, it shall not be reconstructed except in conformity with the provisions of Cordova Municipal Code.
- E. A nonconforming residential structure may be enlarged or altered without requiring additional parking, as long as the number of dwelling units in the structure is not increased and none of the existing parking is diminished.
- F. Nothing in this section shall be construed to prevent general maintenance on a nonconforming structure. General maintenance includes the repair or replacement of walls, doors, windows, roof, fixtures, wiring, and plumbing.

18.52.050 – Nonconforming uses.

If at any time a nonconforming use is brought into conformity with this title, the use shall thereafter conform to all the regulations of the zoning district in which it is located.

A nonconforming use may be continued so long as it remains otherwise lawful. The following provisions apply to nonconforming uses:

- A. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied as of the date it became nonconforming.
- B. No nonconforming use shall be moved in whole or in part to any other portion of the lot that was not occupied by the nonconforming use as of the date it became nonconforming.
- C. If at any time a nonconforming use is abandoned or discontinued, the use of that lot shall thereafter conform to the code provisions applicable in the zone in which the lot is located, and the nonconforming use shall not thereafter be resumed or allowed to continue.

18.52.060 – Proof of nonconforming lot, structure, or use.

A property owner shall bear the burden of proving that a lot, use, or structure is nonconforming for purposes of this chapter.

Section 3. Section 18.80.040 of the Cordova Municipal Code entitled “Nonconforming building or structure” is amended as follows:

18.80.040 – ~~Nonconforming~~ **Unlawful** building or structure.

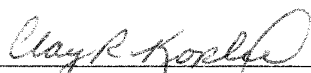
Any building or structure set up, erected, built, moved or maintained, or any use of property contrary to the provisions of this title shall be and the same is declared to be unlawful and a violation of this title and the city attorney shall, upon order of the city council, immediately commence action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such building, structure or use, and restrain and enjoin any person from setting up, erecting, moving, or maintaining any such building or structure, or using any property contrary to the provisions of this title.

Section 4. This ordinance shall be effective thirty (30) days after its passage and publication. This ordinance shall be enacted in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska, and published within ten (10) days after its passage.


1st reading: October 19, 2016
2nd reading and public hearing: December 7, 2016

PASSED AND APPROVED THIS 7th DAY OF DECEMBER, 2016





Clay R. Koplin, Mayor

ATTEST:


Susan Bourgeois, CMC, City Clerk