

13. NON-CONFORMITIES

PART 13A

PURPOSE OF CHAPTER

- (1) The purpose of this Chapter is to provide for the regulation of uses and buildings that were lawfully established prior to the coming into force of this Bylaw, but which, by the application of this Bylaw, no longer conform to the provisions and standards of the land use zones in which they are located.
- (2) The regulations will provide specific circumstances and conditions under which such non-conformities may be:
 - (a) continued;
 - (b) changed;
 - (c) expanded; or
 - (d) repaired and maintained.
- (3) The continued existence of non-conforming uses and buildings in the City are detrimental to achieving the development goals of the City. Accordingly, it is the intent of this Chapter to assist with the gradual removal of non-conformities.

PART 13B

REGULATIONS FOR ALL NON-CONFORMITIES

13B.1 CONTINUED USE

1.1 EXISTING LEGAL NON-CONFORMITIES

(1) Except as otherwise provided in this Chapter, any non-conforming:

- (a) use;
- (b) building; or
- (c) building under construction

lawfully existing at the time this Bylaw or subsequent amendments come into force may be continued, transferred or sold.

(2) No enlargement, additions to, or reconstruction of the non-conformities mentioned in subsection (1) is allowed, except in accordance with the provisions of:

- (a) Part 13C of this Chapter; and
- (b) sections 88 to 93 of *The Act*. [2013-64]

1.2 EFFECT OF PUBLIC ROADWAY CONSTRUCTION OR WIDENING

No existing use or building shall be deemed to be non-conforming as a result of the construction or widening of a registered road or rail right-of-way.

1.3 SPECIAL CASES - SITE SPECIFIC DESIGNATIONS

- (1) The uses listed in Table 13.1 were approved for the specified locations under provisions of Section 10.11 of *Zoning Bylaw No. 6600*, and carried forward in *Zoning Bylaw Nos. 7878* and *8484*. The uses and their locations are continued under this Bylaw and shall not be deemed to be non-conforming, notwithstanding the listing in this Chapter.
- (2) A change to any of the uses listed in Table 13.1 shall be in accordance with this Bylaw.

TABLE 13.1: SITE SPECIFIC USE DESIGNATIONS [2003-2]				
USE	LOT	BLOCK	PLAN	SUBDIVISION
Public Parking Area	9 & 10	403	Old 33	Regina
Public Parking Area	11	19	DV 270	Broder's Annex
Real Estate and/or Law Office	40	361	Old 33	Regina
Public Parking Area	Southern 24.98 feet of 9	90	Old 33	Regina
Private School	1 except South 35 feet	600	AP3598	Lakeview
Personal Service	A portion of the NW ¼ of 19-17-19-W2M, in Establishment Regina Subdivision, in the City of Regina, in the Province of Saskatchewan, in the Dominion of Canada, as the same is shown on a plan of record in the Land Titles Office for the Regina Land Registration District as Plan No. 16074, being a portion of the main floor of the existing building located at 2330 - 2344 Saskatchewan Drive, said portion being located at the most south easterly corner of said building and being 136.563 sq. m. in area.			
Retail Store	22	349	Old 33	Regina
Restaurant & Dwelling Unit in the same Building	24 & 25	5	AY3193	Mount Royal
School and Gymnasium Use	B		60R07552	South Lakeview
Mixed Use Building	30	404	Old 33	Regina
Offices for Administration Sales, General Business	West ½ of 11	409	Old 33	Regina
Offices for Administration Sales, General Business	11, South ½ of 12	433	Old 33	Regina
Offices for Administration Sales, General Business	North 5 feet of 14, all of 15, South 10 feet of 16	460	Old 33	Regina
Humanitarian Service Facility	15	210	Old 33	Regina
Senior Citizens Apartment	18 & 19	99	DV4404	Regina
Office and Accessory Storage Within the Existing Detached Dwelling	1	332	DV4420	Regina
Office and Accessory Storage Within the Existing Detached Dwelling	2	332	DV4420	Regina
Antique Furniture Retailing Within the Existing House-Form Building	South 1/3 of 6 and North 1/3 of 7	457	Old 33	Regina
Licensed Cocktail	A, B	7	FS3415	Rosemont South
Office	1, 2	401	Old 33	Regina
Office	H		80R41174	Hillsdale Commercial
Office	26-33	361	Old 33	Regina
Office	20	402	Old 33	Regina
Bowling Alley	North 170 feet/ E Plan of Parcel A	24	FZ5438	Rosemont North
Bowling Alley	B		73R49850	Glencairn

13B.2 PERMITTED ALTERATIONS

2.1 REPAIR, MAINTENANCE AND INSTALLATION

- (1) Subject to subsection (2), any non-conforming use or building may undergo normal maintenance and repair, including repair of:
 - (a) plumbing;
 - (b) electrical systems;
 - (c) structural supporting elements;
 - (d) changing of partitionsand other interior alterations or additions.
- (2) No alteration or addition made pursuant to subsection (1) shall have the effect of:
 - (a) expanding a non-conforming use;
 - (b) expanding the floor area of a non-conforming structure within the area of the non-conformity; or
 - (c) rearranging or replacing structural supporting element,except in accordance with other provisions of this Chapter. [1992/9250]

13B.3 EVIDENCE OF LEGAL NON-CONFORMITY

3.1 STATUS CERTIFICATE

At the request of the owner of any use or building, the Development Officer shall issue a certificate certifying a use or building as legally non-conforming upon proof that:

- (a) the use or building was lawfully in existence at the time this Bylaw came into force, and the reason for the non-conformity;
- (b) the non-conformity has not been:
 - (i) terminated;
 - (ii) illegally changed; or
 - (iii) altered since the adoption of this Bylaw; and

- (c) the Development Officer has inspected the use or building and determined the nature and extent of any non-conformity with this Bylaw. [1992/9250]

3.2 BURDEN OF PROOF

The burden of establishing that a use or building is legally non-conforming shall, in all cases, be upon the owner of the use or building. [1992/9250]

3.3 REGISTER

The Development Officer shall maintain a register, in the Appendix F to this Bylaw, of all legally non-conforming uses and buildings in the City, to which a certificate has been issued pursuant to section 3.1. [1992/9250]

PART 13C

REGULATIONS FOR SPECIFIC NON-CONFORMITIES

13C.1 NON-CONFORMING USES

1.1 RELOCATION

No non-conforming use shall be moved in whole or in part, to any other location on the same or any other lot unless the use conforms to the regulations of the land use zone in which it is located after the move. [1992/9250]

1.2 EXTENSION OF NON-CONFORMING USE

The non-conforming use of a part of a building may be extended throughout the building, but the building, whether or not it is non-conforming, shall not be enlarged, added to and no structural alteration made, except those required by statute or bylaw of the City. [1992/9250]

1.3 EXTENSION OF THE NON-CONFORMING USE OF PART OF VACANT LAND

The non-conforming use of part of a vacant land for such uses as a parking lot may be extended throughout the lot, so long as the nature and character of the use is unchanged and substantially the same facilities are used. [1992/9250]

1.4 TERMINATION

When a non-conforming use has been discontinued for a period of twelve consecutive months, all subsequent uses shall be in accordance with this Bylaw. [1992/9250, 2013-64]

13C.2 NON-CONFORMING BUILDINGS

2.1 MODIFICATION

Any non-conforming building may continue to be used and any structural alterations which conform to the regulations of the Zoning Bylaw may be made, but the element of non-conformity is not to be increased by the alteration or addition. [1997/9904]

2.2 DAMAGE OR DESTRUCTION

If a non-conforming building is damaged or destroyed by fire, flood or an act of God to the extent of over 50% of the value of the building above its foundation, it shall not be repaired or reconstructed, except in conformity with this Bylaw. [1992/9250; 1997/9904]

13C.3 NON-CONFORMING SITES/LOTS

3.1 STATUS DETERMINATION

If upon the coming into force of this Bylaw a lot does not comply with the dimensional requirements of Chapter 5 of this Bylaw, the lot may still be developed for a permitted or discretionary use if the owner or applicant submits information to establish that the lot was:

- (a) lawfully established and of record in the Regina Land Titles Office; or
- (b) the subject of an agreement for transferring the lot executed prior to the adoption of this Bylaw; and

conformed to the dimensional requirements existing at the time it was registered in the Regina Land Titles Office, or the agreement was concluded. [1992/9250]

3.2 MODIFICATION

No dimension of a non-conforming site or lot shall be reduced, except where necessitated by federal, provincial or municipal government action. [1992/9250]

13C.4 NON-CONFORMING LANDSCAPING

4.1 SURFACE PARKING LOT LANDSCAPING

- (1) The landscaping of a legally non-conforming parking lot shall be brought into conformity, in accordance with this Subpart and Chapter 15 of this Bylaw, as part of any enlargement to the associated building or use that conforms to the Zoning Bylaw.
- (2) For the purpose of bringing the landscaping of a non-conforming parking lot into conformity, Council may authorize the removal or redesign of some or all existing parking spaces.
- (3) Any parking space which is removed shall be counted towards satisfying the parking requirements of Chapter 14.

- (4) Notwithstanding subsection (3), in no case shall more than the number of parking spaces removed exceed the levels specified in Table 13.2.

TABLE 13.2: MAXIMUM REMOVABLE PARKING SPACES	
NUMBER OF EXISTING PARKING SPACES	MAXIMUM REMOVABLE SPACES
1 to 6	nil
7 to 15	1
16 to 35	2
36 to 70	3
more than 70	5%

- (5) Where parking spaces are removed pursuant to subsection (2), their location and number shall be indicated on the final approved landscape plan. [1992/9250]

4.2 SALVAGE YARD/JUNKYARD SCREENING AND BUFFERING

An existing salvage or junkyard which does not conform with the screening and buffering provisions of Chapter 14 of this Bylaw, shall be brought into conformity in accordance with the schedule specified in section 4.3. [1992/9250]

4.3 AMORTIZATION

- (1) The compliance required by sections 4.1 and 4.2 shall be carried out within five years of the receipt of the notice mentioned in subsection (2).
- (2) Upon receipt of a notice of its non-conforming status from the Development Officer, the owner of the non-conforming surface parking lot or junkyard/salvage yard shall provide the Development Officer with a plan of intention to bring the site into conformity within the period specified in subsection (1).
- (3) The plan shall:
- (a) comply with the provisions of Chapter 15 of this Bylaw; and
 - (b) conform, at the minimum, with the schedule provided in Table 13.3 or Table 13.4, as the case may be. [1992/9250]

TABLE 13.3: MINIMUM AMORTIZATION SCHEDULE FOR NON-CONFORMING SURFACE PARKING LOTS		
YEAR	COMPONENT TO BE COMPLETED	PERFORMANCE STANDARDS
1	<ul style="list-style-type: none"> ◆ Perimeter landscaping ◆ Lighting 	<ul style="list-style-type: none"> ◆ Landscaping shall be in accordance with Chapter 15 [2017-23] ◆ Lighting shall be in accordance with Chapter 4
2	<ul style="list-style-type: none"> ◆ Interior landscaping ◆ Graveling or annual treatment with approved dust inhibitors, if paving will not be completed in the second year 	<ul style="list-style-type: none"> ◆ Interior landscaping shall be in accordance with Chapter 14. ◆ Graveling shall be at least 75 millimetres of crushed gravel, levelled and compacted ◆ The dust inhibitor used shall be acceptable to the City. [2014-44]
3	<ul style="list-style-type: none"> ◆ Connection to storm drainage system 	<ul style="list-style-type: none"> ◆ The connection shall be in accordance with Chapter 14
4		
5	<ul style="list-style-type: none"> ◆ Full pavement of parking surface and exit aprons 	<ul style="list-style-type: none"> ◆ The paving shall be in accordance with Chapter 14

TABLE 13.4: MINIMUM AMORTIZATION SCHEDULE FOR NON-CONFORMING JUNKYARD/SALVAGE YARD		
YEAR	COMPONENT TO BE COMPLETED	PERFORMANCE STANDARDS
1 & 2	<ul style="list-style-type: none"> ◆ Perimeter fencing along a property line which abuts a residential use or residentially zoned property 	<ul style="list-style-type: none"> ◆ The fence shall be constructed in accordance with Subpart 8D.1, section 1.3
	<ul style="list-style-type: none"> ◆ Perimeter fencing along a property line which abuts a public right-of-way 	<ul style="list-style-type: none"> ◆ The fence shall be constructed in accordance with Subpart 8D.1, section 1.3
3	<ul style="list-style-type: none"> ◆ Perimeter fencing along a property line which abuts an institutional use or institutionally zoned property 	<ul style="list-style-type: none"> ◆ The fence shall be constructed in accordance with Subpart 8D.1, section 1.3
4 & 5	<ul style="list-style-type: none"> ◆ Perimeter fencing along a property line which abuts a commercial use or commercially zoned property 	<ul style="list-style-type: none"> ◆ The fence shall be constructed in accordance with Subpart 8D.1, section 1.3, except that the fence may be: <ul style="list-style-type: none"> (a) less than 1.83 metres; and (b) a solid fence, a soft landscape; or a combination

13C.5 NON-CONFORMING PARKING PROVISIONS

Where the parking provisions of a building are legally non-conforming, the use of the building may be changed provided that the parking requirements specified in Chapter 14 for the new use do not exceed those of the existing use. [1992/9250]

13C.6 NON-CONFORMING SIGNS

6.1 NO RECONSTRUCTION, REMODELING, RELOCATION, ETC.

- (1) No non-conforming sign shall be reconstructed, remodelled, relocated or changed in size or content to show:
 - (a) a new trade name;
 - (b) different words, letters or numbers;
 - (c) new design;
 - (d) different colours or different logo,unless such action will make the sign conform to the requirements of this Bylaw.
- (2) Subsection (1) shall not prevent the repainting, replacement of broken or deteriorated parts, or the general maintenance of a sign to ensure that it:
 - (a) is structurally safe and does not constitute a hazard to public health and safety; or
 - (b) does not obstruct light or air or interfere with the proper functioning of a building. [1992/9250]

6.2 DESTRUCTION OF NON-CONFORMING SIGNS

Where a non-conforming sign is destroyed or damaged by fire, it may be restored only after the owner has shown that the damage did not exceed 50 percent of the value of the sign. If the sign is destroyed or damaged to an extent exceeding 50 percent, it shall be removed and shall not be reconstructed or replaced unless in conformity with this Bylaw. [1992/9250]

6.3 SIGNS ACCESSORY TO DEMOLISHED OR DESTROYED BUILDINGS

A non-conforming sign shall be removed within 30 days if the building containing the use to which it is accessory is demolished or destroyed to an extent exceeding 50 percent of the value of the building. [1992/9250]