



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT
FROM LINCOLN/LANCASTER COUNTY PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Text Amendment #25013

FINAL ACTION?
No

PLANNING COMMISSION HEARING DATE
November 12, 2025

RELATED APPLICATIONS
None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

The proposed application is to amend Lincoln Municipal Code 27.61.010 Continuation of Nonconforming Use and 27.61.040 Extension or Enlargement. The request was submitted to allow more flexibility for reuse of existing buildings where no expansion, enlargement or reconstruction is proposed but where other alterations are proposed that may require a special permit for expansion of nonconforming use.

JUSTIFICATION FOR RECOMMENDATION

The proposed text amendment is justified as it will allow for structural alterations to existing nonconforming uses without a special permit. An expansion or reconstruction of a building would still require a special permit. The allowed uses per the Nonconforming and Nonstandard chapter will not change.

APPLICATION CONTACT

Tim Gergen, (402) 477-9291

STAFF CONTACT

George Wesselhoft, (402) 441-6366 or
gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposed text amendment is compatible with the Comprehensive Plan because it will further the goal of the reuse of existing buildings and streamlining the zoning permit process.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Elements Section

E1: Complete Neighborhoods and Housing

Existing Neighborhoods:

-The City's primary strategy for residential infill and redevelopment outside of the Greater Downtown is to encourage the redevelopment and reuse of sites and buildings in commercial areas in order to create new mixed-use centers that are compatible and complementary to adjacent neighborhoods.

E2: Infill and Redevelopment

Mixed Use Redevelopment Nodes and Corridors:

-The City's primary strategy for residential infill and redevelopment outside of the Greater Downtown is to encourage the redevelopment and reuse of sites and buildings in underutilized commercial and industrial areas.

E3: Business, Economy, and Workforce

Commercial Infill:

7. Maintain or adaptively reuse existing structures (especially historical structures) where possible.

Policies Section

P6: Nodes and Corridors - The adaptive reuse of historic or other existing structures into mixed uses is encouraged.

P12: Economic Growth - Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

6. Explore additional opportunities for streamlining the zoning and building permitting processes.

CLIMATE ACTION PLAN SPECIFICATIONS:

p. 11 Key Initiative - Transition to Low-Carbon Energy.

- Continue incentive-based (residential, commercial, or industrial) programs promoting the installation of renewable energy systems. Incentives may include offering rebates on purchasing equipment, attractive net metering pricing, tax incentives, height allowances, setback, and area-based incentives, expedited permitting, and others.

ANALYSIS

1. The text amendment proposes to amend Lincoln Municipal Code 27.61.010 Continuation of Nonconforming Use and 27.61.040 Extension or Enlargement. This request was submitted by Clark & Enersen. The intent is to allow more flexibility for reuse of existing buildings which have a nonconforming use by allowing structural alterations which do not expand or enlarge the building or involve reconstruction.
2. The proposed text amendment is as follows:

27.61.010 Continuation of Nonconforming Use.

Subject to the provisions of this chapter, the lawful use of a building or premises existing immediately prior to the effective date of this title may be continued although such use does not conform to the provisions hereof.

If ~~no structural alterations are made, the building or premises are not enlarged, extended, or reconstructed,~~ a nonconforming use may be changed to another nonconforming use of the same or of a more restrictive category. For the purposes of this chapter, each of the following categories of use shall be considered to be "more restrictive" than those it precedes:

- a. Single- and two-family residential;
- b. Multiple-family residential;
- c. Office buildings;
- d. Retail sales and service;
- e. General commercial;
- f. Light industrial;
- g. Heavy industrial;
- h. Uses only by special permit in the I-1 industrial district.

Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

Subject to the requirements of Sections 27.61.040 and 27.61.080, below, a nonconforming use not involving a building may be continued even though such use does not conform to the provisions hereof if no changes are made

in regard to size or location of water lines, sewer lines or private roads. (Ord. 12571 §295; May 8, 1979).

27.61.040 Extension or Enlargement.

Any nonconforming building or premises devoted to a use not permitted by this title in the district in which the building or premises is located shall not be enlarged, extended, ~~converted, or~~ reconstructed, ~~or structurally altered~~ unless such use is changed to a use permitted in the district in which the building or premises is located or unless authorized under the provisions of Section 27.63.280 or this Chapter or required to do so by law or order. (Ord. 20108 §6; November 17, 2014; prior Ord. 12571 §298; May 8, 1979).

3. The proposed amendment would allow for basic alterations to a nonconforming building where no expansion or enlarged is proposed and no reconstruction is proposed. This would allow, for example, doors and windows to be revised and replaced or interior walls to be altered without necessitating a special permit.
4. Currently a change of use for a nonconforming building may only be allowed through building permit to another use under 27.61.010 if there is no structural alteration of any kind. Otherwise, a special permit may be required under 27.63.280 depending on the proposal. As an example, a nonconforming commercial building could not add a window in a wall that is load bearing because it is considered a structural alteration. There may be no change at all in the use or floor area, but a special permit would be required simply because the wall was load bearing and the opening in the wall is considered a structural alteration under the current code.
5. The intent of the text amendment is to allow more flexibility in the ability to re-use and preserve existing buildings. Lincoln's history for the past number of decades is to retain nonconforming uses. There are 164 special permits which have been issued for expansions of nonconforming use. Planning and Development Services is not aware of a request to alter a nonconforming use ever being denied. There is an appreciation for older commercial buildings in existing neighborhoods as part of the character of the area.
6. The proposed text amendment is consistent with the 2050 Comprehensive Plan which supports the adaptive reuse of structures, including historic and other structures.

Prepared by George Wesselhoft, Planner
(402) 441-6366 or gwesselhoft@lincoln.ne.gov

Date: October 30, 2025

Applicant: Clark & Enersen

Contact: Tim Gergen

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/TX/25000/TX25013 Structural Alteration.docx>

ORDINANCE NO. _____

AN ORDINANCE amending Lincoln Municipal Code Section 27.61.010 Continuation of Nonconforming Use and Section 27.61.040 Extension or Enlargement to allow for flexibility in the ability to re-use and preserve existing buildings and infrastructure in the built environment; and repealing Sections 27.61.010 and 27.61.040 as hitherto existing.

BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

Section 1. That Section 27.61.010 of the Lincoln Municipal Code be amended to read as follows:

27.61.010 Continuation of Nonconforming Use.

Subject to the provisions of this chapter, the lawful use of a building or premises existing immediately prior to the effective date of this title may be continued although such use does not conform to the provisions hereof.

If the building or premises is not enlarged, extended, or reconstructed~~no structural alterations are made,~~ a nonconforming use may be changed to another nonconforming use of the same or of a more restrictive category. For the purposes of this chapter, each of the following categories of use shall be considered to be "more restrictive" than those it precedes:

- a. Single- and two-family residential;
- b. Multiple-family residential;
- c. Office buildings;
- d. Retail sales and service;
- e. General commercial;
- f. Light industrial;

g. Heavy industrial;

h. Uses only by special permit in the I-1 industrial district.

Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

Subject to the requirements of Sections 27.61.040 and 27.61.080, below, a nonconforming use not involving a building may be continued even though such use does not conform to the provisions hereof if no changes are made in regard to size or location of water lines, sewer lines or private roads.

Section 2. That Section 27.61.040 of the Lincoln Municipal Code be amended to read as follows:

27.61.040 Extension or Enlargement.

Any nonconforming building or premises devoted to a use not permitted by this title in the district in which the building or premises is located shall not be enlarged, extended, ~~converted,~~ or reconstructed, ~~or structurally altered~~ unless such use is changed to a use permitted in the district in which the building or premises is located or unless authorized under the provisions of Section 27.63.280 or this Chapter or required to do so by law or order.

Section 3. That Sections 27.61.010 and 27.61.040 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

Section 4. This ordinance shall be published, within fifteen days after the passage hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted on the official bulletin board of the City, located on the wall across from the City Clerk's office at 555 S. 10th Street, in lieu and in place of the foregoing newspaper publication with notice of passage and such posting to be given by publication one time in the official newspaper by the City Clerk. This ordinance shall take effect and be in force from and after its passage and publication

- 1 or after its posting and notice of such posting given by publication as herein and in the City Charter
- 2 provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2025:

Mayor

October 15th, 2025

Mr. David Cary
City of Lincoln
555 S. 10th Street, Ste. 213
Lincoln, NE 68508

RE: Text Amendment to Lincoln Municipal Code
27.61.010 Continuation of Nonconforming Use; 27.61.040 Extension or Enlargement

Dear Mr. Cary

Enclosed please find the following:

1. Application & Fee (\$490)

On behalf of Clark & Enersen, we are requesting a Text Amendment to Lincoln Municipal Code 27.61.010 Continuation of Nonconforming Use and 27.61.040 Extension or Enlargement. The proposed amendment to the Lincoln Municipal Code will give more flexibility in the ability to re-use and preserve existing buildings in the built environment, as well as to be able to re-use our important existing infrastructure. Below are the proposed amendments:

27.61.010 Continuation of Nonconforming Use.

Subject to the provisions of this chapter, the lawful use of a building or premises existing immediately prior to the effective date of this title may be continued although such use does not conform to the provisions hereof.

If ~~no structural alterations are made~~ the building or premises are not enlarged, extended, or reconstructed, a nonconforming use may be changed to another nonconforming use of the same or of a more restrictive category. For the purposes of this chapter, each of the following categories of use shall be considered to be "more restrictive" than those it precedes: ...

27.61.040 Extension or Enlargement.

Any nonconforming building or premises devoted to a use not permitted by this title in the district in which the building or premises is located shall not be enlarged, extended, ~~converted, or reconstructed, or structurally altered~~ unless such use is changed to a use permitted in the district in which the building or premises is located or unless authorized under the provisions of Section 27.63.280 or this Chapter or required to do so by law or order. (Ord. 20108 §6; November 17, 2014; prior Ord. 12571 §298; May 8, 1979).

Please contact me if you have any questions or require additional information.

Sincerely,



Tim Gergen