

CITY PLAN COMMISSION STAFF REPORT



KANSAS CITY
Planning & Dev

CD-CPC-2026-00035

Text Amendments, Section 88-610-05

May 6, 2026

Docket #9

Request

Zoning Text Amendment
Loss of Nonconforming Status

Applicant

City of Kansas City

Approval Process



Overview

The proposed text amendments to Section 88-610-05-E, Loss of Nonconforming Status, change the criteria for loss of nonconforming status after accidental damage or destruction.

Existing Conditions

Section 88-610-05 of the Zoning and Development Code regulates Nonconforming Structures.

Required Public Engagement

Section 88-505-12, Public Engagement does not apply to this request. Standard protocol for Chapter 88 amendments is to post drafts to the City’s website prior to the City Plan Commission hearing.

Professional Staff Recommendation

Docket #9 Approval

AMENDMENT OVERVIEW

The intent of Section 88-610, Nonconformities, is spelled out in Section 88-610-01-A, to:

1. Recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
2. Promote maintenance, reuse, and rehabilitation of existing buildings;
3. Place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties; and
4. Secure eventual compliance with the standards of this zoning and development code.

There are three different types of nonconformities: lots, uses, or structures. A building or structure that was lawfully built but no longer complies with the zoning and development code is considered nonconforming. Nonconforming structures may remain, but are subject to the regulations of Section 88-610-05. This section establishes requirements for alteration and expansion, moving, and reconstruction in the case of damage or destruction.

The current ordinance establishes that, when more than 50% of the volume of a nonconforming structure is destroyed, the structure loses its nonconforming status and must be rebuilt in conformance with the standards of the current zoning ordinance. If less than 50% of the volume of a nonconforming structure is destroyed, the nonconforming structure may be restored as long as no nonconformities are increased.

Recently, staff assisted a homeowner who experienced a house fire and the detached house was damaged by more than 50% of its volume. The nonconforming detached house had extended into the platted setback; the fire caused the detached house to lose its nonconforming status. Section 88-610-05-E required that the homeowner obtain a variance in order to reconstruct the home on its previous foundation.

The proposed text amendment would add an exception to Section 88-610-05-E.2 allowing nonconforming detached houses to be reconstructed when:

- There is accidental damage or destruction not within the control of the owner or tenant;
- No new nonconformities are created and existing nonconformities are not increased;
- The structure remains a detached house;
- A building permit is obtained within 12 months; and
- Construction is diligently pursued.

If this amendment had been approved previously, the homeowner mentioned above would have been able to reconstruct the home on the existing foundation without a variance, as long as they complied with the ordinance criteria.

SPECIFIC REVIEW CRITERIA

Zoning and Development Code Text Amendments (88-510-07)

In reviewing and making decisions on zoning and development code text amendments, the City Planning and Development Director, City Plan Commission, and City Council must consider at least the following factors:

A. Whether the proposed zoning and development Code text amendment corrects an error or inconsistency in the Zoning and Development Code or meets the challenge of a changing condition.

The purposes of the zoning and development code (Section 88-10-05) include enhancing residents' quality of life and protecting the character of established residential neighborhoods.

The proposed text amendment balances protecting the character of established neighborhoods and recognizing the interests of landowners. Existing detached houses contribute to the character of established residential neighborhoods, even when they are nonconforming structures. Barriers to reconstruction after accidental damage or destruction impact neighborhood character as well as the interests of the property owner.

B. Whether the proposed zoning and development code text amendment is consistent with adopted plans and the stated purpose of this Zoning and Development Code.

The proposed amendment is consistent with the purposes of the zoning code mentioned above. It is also consistent with the KC Spirit Playbook's Quality Development objective to "Remove barriers and obstacles to quality development," specifically QD-12, "Identify the issues and challenges inherent to infill development and develop strategies to minimize or reduce these issues: Identify provisions in the development code that unintentionally inhibit infill projects (or require significant exceptions or variances) and explore revisions to better accommodate infill development."

C. Whether the proposed zoning and development code text amendment is in the best interests of the City as a whole.

The proposed amendment seeks a balance between the best interests of property owners, supporting established residential neighborhoods, and the goals of the zoning and development code.

ATTACHMENTS

1. Redline version of proposed amendments

PROFESSIONAL STAFF RECOMMENDATION

City staff recommends APPROVAL.

Respectfully submitted,



Sara Copeland, FAICP

Planning Manager

88-610-05 NONCONFORMING STRUCTURES

88-610-05-E. LOSS OF NONCONFORMING STATUS

1. INTENTIONAL DAMAGE OR DESTRUCTION

When a nonconforming structure is intentionally destroyed or damaged by causes within the control of the property owner or tenant, all nonconforming structure rights are lost and reconstruction of the nonconforming structure is prohibited.

2. ACCIDENTAL DAMAGE OR DESTRUCTION

(a) ~~When more than 50% of the volume of a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner or tenant, the structure may not be restored except in conformity with the regulations of the zoning district in which it is located.~~

~~(b)~~—When 50% or less of the volume of a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the property owner or tenant, the structure may be restored or repaired provided that no new nonconformities are created and the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 6 months of the date of occurrence of such damage, and once issued, construction must be diligently pursued or the nonconformity will be considered to be discontinued.

~~(b)~~ Except as provided in subsection 88-610-05-E.2(c) below, when more than 50% of the volume of a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner or tenant, the structure may not be restored except in conformity with the regulations of the zoning district in which it is located.

~~(c)~~ Notwithstanding the foregoing, when more than 50% of the volume of a nonconforming detached house is accidentally destroyed or damaged by causes that are not within the control of the owner or tenant, the structure may be restored or repaired provided that no new nonconformities are created, the existing degree of nonconformity is not increased, and the structure remains a detached house. A building permit to reconstruct the destroyed or damaged structure must be obtained within 12 months of the date of occurrence of such damage, and once issued, construction must be diligently pursued or the nonconformity will be considered discontinued.