



**CITY OF PALMER
VALID NONCONFORMING DETERMINATION APPLICATION**

APPLICANT*	PROPERTY OWNER
Name:	Name:
Mailing Address:	Mailing Address:
Contact Phone: Day Night	Contact Phone: Day Night
FAX:	FAX:
E-mail:	E-mail:

* Written Authorization is required if Applicant is not the Owner.

PROPERTY INFORMATION
Property tax # _____ Date property annexed into the City: _____
Street Address _____
Legal Description: Lot(s) _____ Block _____ Subdivision _____ OR Parcel/Tract: _____ Section: _____ Township: _____ Range: _____ Dates use has been in existence: _____ [Attach additional page if necessary.]
Current Zoning: R-1E Single-family Residential Estate <input type="checkbox"/> R-1 Single-family Residential <input type="checkbox"/> R-2 Low Density Residential <input type="checkbox"/> R-3 Medium Density Residential <input type="checkbox"/> R-4 High Density Residential <input type="checkbox"/> C-L Light Commercial <input type="checkbox"/> C-G General Commercial <input type="checkbox"/> I-Industrial <input type="checkbox"/> P- Public <input type="checkbox"/> Other _____ <input type="checkbox"/>

Explanation of Applicant's Request:

The Applicant is: Owner of Tract Agent for Property Owner One-Owner Among Several Other (specify)

I understand that certification of the legal nonconforming status for the use(s) shown hereon does not in any way relieve me of the responsibility of observing and complying with any deed restrictions or covenants applicable to the subject property. I hereby authorize the City of Palmer or its agents to enter upon the property, which is the subject of this application and between the hours of 8:00 AM and 5:00 PM for the purpose of gathering any information relevant to this application.

THE INFORMATION CONTAINED ON THIS APPLICATION AND THE ATTACHMENTS ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Date: _____

Signature: _____

The following information will help you complete the Legal Nonconforming Use certification process. Please call (907)745-3709 if you have any questions or need assistance.

CHECKLIST FOR CERTIFICATION OF A LEGAL NONCONFORMING USE

1. A description of the use of the property and a statement as to the period of time the use has been in existence:

- A. The statement needs to be signed by the applicant.
- B. Site Plan (The site plan needs to be to scale, but you can do it yourself).
- C. Other pertinent information supporting request.

2. Legal description of the property (You may use your Subdivision Lot & Block number, or your Tax ID number, the Township, Range & Section information off your deed, etc).

3. Clear and convincing evidence that the nonconforming use has been in existence and continuously used in the same manner since before the date the property was annexed into the city or prior to the adoption of the City of Palmer zoning code in 1963 (or its amendments or revisions to code).

Please note that the decision is based upon the evidence that you submit.

Examples of the type of evidence that supports your application may include any of the following:

- A. For a business - Occupational licenses covering each year since the use became nonconforming.
- B. For a business - Tax receipts.
- C. For a business - Business records.
- D. For a residence or a business - Affidavits from the owner and neighboring property owners who have knowledge of the existence of the use.
- E. For a residence or a business - Borough assessment records may contain information on when your building was constructed.
- F. All evidence must reflect continuous operation by dates of not more than six-month intervals from the date that the use became nonconforming.

▶ The following affidavit is provided to expedite your search for documentation. You may ask persons with information on how long your use has been in existence to use this form **OR** they may write us a letter that gives us information on how long they know your land use has existed.

Nonconforming Use or Building

AFFIDAVIT

I, _____, know the owner, _____, of the property located at (address) _____, and described as Section _____, Township _____ North, Range _____ East; Subdivision _____, Lot(s) _____, Block(s) _____, in Palmer, Alaska. Legal Description: _____ and,

I have direct knowledge of the fact that the above described premise(s) was constructed or used for the following purpose(s)

prior to the adoption of the City of Palmer zoning code in 1963 (or its amendments or revisions to code) or prior to the date the property was annexed into the City, and has been continuously used to date without cessation for more than 180 days.

I do hereby state that this information is true and accurate to the best of my knowledge.

Signature: _____

**STATE OF ALASKA
CITY OF PALMER**

Subscribed and sworn/affirmed to before me this _____ day of _____, 20____,

By _____.

(Seal)

Notary Public

My Commission Expires: _____

TYPES OF LEGAL NONCONFORMING DEVELOPMENT

Development that does not conform to the provisions of the Palmer Municipal Code, Title 17, Zoning, is called nonconforming development. A specific development is either legally nonconforming or not.

1. The use or structure originally complied with all applicable laws or requirements of the City of Palmer but the laws or requirements governing that use or structure have since changed.
2. A use or structure that complied with all applicable laws or requirements of the Matanuska-Susitna Borough prior to annexation into the City may be determined to be a legal nonconformity.
3. The third category of nonconformities includes those lots, uses, and structures that were illegal at the time of establishment and were not approved by any official action of the Matanuska-Susitna Borough prior to annexation into the City of Palmer.

Certain provisions in Chapter 17.68, Nonconforming Uses and Structures, of the Palmer Municipal Code establish the means by which a **lawful or legal nonconforming structure or use** is allowed to continue. It is the intent of Section 17.68.010 to provide for continuance of lawful nonconformities without unduly restricting their maintenance or improvement. Normal maintenance, repair, and structural alterations of a lawful nonconformity are allowed.

Nonconformity caused by granting of a variance means a building or lot does not comply with all requirements of the district in which the property is located and the noncompliance was allowed by a variance granted by the Planning and Zoning Commission. This building or lot is considered a conforming use.

Nonconformity caused by eminent domain means a building or lot does not comply with all requirements of the district in which the property is located and the noncompliance was the result of the exercise of eminent domain or by voluntary or involuntary donation or sale of the land for a governmental purpose. This building or lot will be considered a conforming structure.

Discontinuance of nonconforming uses means a nonconforming use which has been discontinued for a period of 180 days (for example, if the building becomes vacant or the business closes). When there has been a discontinuance, the use of the structure or the structure and land must then conform to the standards of the PMC Title 17, Zoning.

Replacement of damaged nonconforming buildings: Any nonconforming building or structure which has been damaged by any cause, to the extent of 60 percent of its value or more, as determined by the Zoning Administrator, may not be reconstructed or continued. **Except** that a residential dwelling, located in a residential district, damaged by any involuntary change, including fire, flood or earthquake, so that the cost of renewal of the damaged parts exceeds 60 percent of the assessed value of the entire building, then such building may be replaced or reconstructed to the same footprint on the original location subject to specific conditions enumerated in 17.68.050.C.

Procedures for Administrative Determination of Valid Nonconforming Uses

Any person or firm claiming to have a legal nonconforming use under the terms of the PMC Title 17, Zoning, may apply to the Zoning Administrator for a determination and a Letter of Certification. The application shall consist of a statement, with the applicant's signature, stating the nonconforming use and the dates that the use has been in existence. This statement must be submitted along with a legal description of the property where the use is located and sufficient evidence to support the claim.

Examples of evidence in support of the application may include any or all of the following:

1. Occupational licenses covering each year since the use became nonconforming.
2. Business records such as sales receipts, invoices, tax receipts, ledger books.
3. Tax records or other proof of continuous use.
4. Affidavits from the owner or neighboring property owners who have knowledge of the existence of the use.

All evidence must reflect continuous operation by dates of not more than six-month intervals from the date that the use became nonconforming.

If the Zoning Administrator determines from the evidence provided that a claim is valid, a Letter of Certification of Legal Nonconforming Use will be issued to the applicant.

If the Zoning Administrator determines that the claim is not valid, the applicant will be notified in writing with the reasons for the determination.