



## NONCONFORMING LOTS AND LEGAL LOTS OF RECORD F.A.Q.

**Note:** Information comes from [Clark County Code 40.530.010 Nonconforming Lots, Structures and Uses](#) and [Development Services Legal Lot Determination information sheet](#)

**Disclaimer:** This information is not intended to be legal advice that can be applied to any particular property owned in the county. Anyone who wants legal advice should retain an attorney.

### What is a legal lot of record?

A legal lot of record is a parcel of land that complied with the zoning and platting laws that were in place when it was originally created. Zoning standards specify the minimum lot size and dimensional requirements that apply to properties, depending upon their location. Platting standards specify the type of county review process required to legally create new lots. If a parcel meets the requirements in place when originally created, and doesn't change, it will remain a legal lot of record, even if the requirements change later.

The majority of parcels in Clark County are legal lots of record, even those smaller than current zoning laws require. Owners of legal lots of record are generally eligible to apply for building permits or other development applications.

### Aren't all parcels for which taxes are paid legal lots of record?

No, not necessarily. Under Washington law, the county assessor is required to honor any taxpayer's request to segregate any portion of their property, even if the portion is smaller than the minimum size for the zone and was never legally platted. After the property is segregated into separate tax parcels, the assessor is obligated to treat it as a separate tax parcel. All that means is that the assessor will value each tax parcel separately, and that a separate tax bill will be sent for each. The assessor does not require compliance with any zoning or platting laws, so tax parcels are not the same as legal lots of record.

### How can I tell if a particular parcel is a legal lot of record?

Here are a few shortcuts. If a parcel has a house or mobile home on it, it is a legal lot of record if the owner obtained necessary building and/or placement permits, and the parcel hasn't been changed since that time. If a parcel was part of a subdivision or short plat that was reviewed and approved by the county, and hasn't changed since approval, it is a legal lot of record. If a parcel hasn't changed since 1969, it is a legal lot of record. If the status of parcels can't be determined through these shortcuts, they might be legal lots of record. The key factors to know are when the parcel was created, whether, when and how it was changed since creation, and what the zoning and platting requirements were in place at the time of creation or change.

If the above shortcuts are insufficient to prove a lot was legally created, a check of the sales deed history is required. A property owner may already have previous recorded sales deeds along with other ownership documents. The county auditor keeps records of all recorded sales in the county. Or, for a small fee, a private title company can provide you with a recorded sales history for any parcel. Permit Center staff can help explain and identify the issues, but it does not keep records of private sales or transfers.

>[More information about legal lot determination](#)

# Clark County Comprehensive Growth Management Plan Update 2015-2035



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### **What is a nonconforming lot?**

A nonconforming lot is one whose establishment would be restricted or prohibited under current zoning regulations, or that did not undergo the platting process. For example, a property owner who has a 5-acre property in a Rural-10 zoning district, which requires a 10 acre minimum, would have a nonconforming lot.

### **I keep hearing about legal nonconforming lots and illegal nonconforming lots. What is the difference?**

A legal nonconforming lot was lawfully created under prior zoning and/or platting regulations. Illegal nonconforming lots were not in conformance with applicable zoning and/or platting regulations at the time of creation or establishment.

### **Can a legal nonconforming lot be developed?**

Yes. A legal lot of record, as defined in Section [40.100.070](#) and created as a building site, which does not conform to minimum lot area, width or depth requirements of the zoning district in which it is currently situated may be developed, subject to requirements of building, fire, health, life safety and other specific criteria as listed in [40.530.010 Nonconforming Lots, Structures and Uses](#).

### **If I have a nonconforming lot that is much smaller than the minimum lot size for the zoning district, is there some flexibility for the development of my property?**

Yes, Clark County Code [40.530.010](#) allows for residential lots of record in the Rural, Forest, Agriculture, Urban Reserve and Urban Holding districts which have smaller lot areas, widths and/or depths than required by the zone to use setbacks for the residential zoning classification which most closely corresponds to the area or dimensions of the legal lot of record.

### **What is a conditional use and is it required for only nonconforming lots?**

Each zoning district in Clark County has a table of uses identified in the county's Title 40 – Unified Development Code. The uses set out in each districts' "Use Table" are examples of uses allowable in that district. The appropriate review authority is mandatory. Each use within that zone district will have one of the following codes:

- "P" – Uses allowed subject to approval of applicable permits.
- "R/A" – Uses permitted upon review and approval as set forth in Section [40.520.020](#).
- "C" – Conditional uses which may be permitted subject to the approval of a conditional use permit as set forth in Section [40.520.030](#).
- "X" – Uses specifically prohibited.

Conditional uses are uses with unusual characteristics, or uses that are located in areas with special characteristics. Such uses can be approved with appropriate conditions of approval to ensure that the uses are properly located and restricted in size and/or intensity to comply with the objectives of Section [40.520.030](#). They are required for any legal lot applying for a use that requires a conditional use permit.

For example, if someone was interested in establishing a Bed and Breakfast in the Forest and Agriculture zones, a conditional use permit would be required. Conditions could be imposed to protect the interests of the surrounding properties or neighborhood, or the county as a whole.

