

## CHAPTER 15 - NON-CONFORMING BUILDINGS, STRUCTURES AND USES

### SECTION:

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### **15.01: PURPOSE.**

It is the purpose of this Chapter to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. This Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Ordinance that all non-conforming uses shall be eventually brought into conformity.

### **15.02: NON-CONFORMING LOTS.**

- A. No lot of record shall be reduced in size below the district requirements of this Ordinance.
- B. A lot of record shall be deemed buildable even though the lot area and/or dimensions are less than those required for the district provided the following conditions are met:
  - 1. Evidence is provided that the lot in question met minimum requirements for the division of property under ordinance regulations in effect at the time the property was divided.
  - 2. It has frontage on a public street.
  - 3. The lot is at least sixty percent (60%) of the minimum lot area and lot width required as specified in the applicable district and other provisions of the Ordinance are complied with.
  - 4. If two (2) or more lots are in single ownership and if all or part of the lots do not meet the width and area requirements of this Ordinance, the contiguous lots shall be considered to be an undivided parcel for the purposes of this Ordinance and the Subdivision Ordinance.

### **15.03: NON-CONFORMING USES OR STRUCTURES.**

Non-conforming use or structure may be continued subject to the following limitations and such further regulations as the City Council may require for securing the purposes of this Ordinance.

- A. A non-conforming use of land or structure shall not be enlarged or increased in size or land area, nor shall such non-conforming use be moved to any part of the parcel of land upon which the same was not conducted prior to the adoption of the Ordinance.
- B. A non-conforming use shall not be changed unless changed to a conforming or more conforming use; such use shall not thereafter be changed to a non-conforming use.
- C. If any existing non-conforming use of building or land is discontinued for a period of one (1) year it cannot be resumed.
- D. If a structure occupied by a legal nonconforming use or a legal nonconforming structure is destroyed by fire or other peril to the extent that repair or replacement costs exceeds fifty percent (50%) of the assessors estimated market value of the structure and no building permit has been applied for within 180 days of when the structure is damaged, the structure shall not be replaced or repaired except in conformity with this Ordinance. In the event a building permit to replace or

repair such a building is applied for within 180 days of when the structure is damaged, the City may impose reasonable conditions on a building permit issued thereto to mitigate any newly created impact on adjacent property.

- E. Alterations may be made to a residential building containing non-conforming residential units when alterations will improve the livability of the unit provided the number of dwelling units in the building is not increased.

**15.04: STRUCTURAL CHANGES.**

No existing structure devoted to a non-conforming use shall be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a conforming use.

**15.05: MAINTENANCE.**

Maintenance of a building or other structure containing or used for a non-conforming use will be permitted when it includes necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.

**15.06: RESTORATION AND ALTERATIONS REQUIRED BY LAW FOR THE BENEFIT OF HEALTH, SAFETY, AND WELFARE.**

Nothing in this Ordinance shall prevent the strengthening, restoration, or alteration of a structure or building maintained for a nonconforming use when such action is required by: (1) Americans With Disabilities Act of 1990 (ADA) or its amendments, (2) Occupational Health and Safety Act (OSHA) or its amendments, or (3) any other state or federal law which requires changes based on health, safety, or welfare. This Ordinance shall not prevent such strengthening, restoration, or alterations even if the building is enlarged so long as the purpose of the restoration, strengthening, or alteration is required by ADA, OSHA, or other state or federal law dealing with health, safety, and welfare. Proof of such requirement shall be provided by the applicant.