

NONCONFORMING DEVELOPMENT

11 ARTICLE ELEVEN – NONCONFORMING DEVELOPMENT

1101 Purpose

Article 11 shall be known as the Nonconforming Development Regulations. The purposes of these regulations are:

- a. To allow for reasonable use of legally created lots of record, which do not meet current minimum requirements for their respective zoning districts.
- b. To provide for reasonable use of legally constructed structures that do not meet current site development regulations for their respective zoning districts.
- c. To allow for the reasonable continuation of legally established uses, which do not meet current use regulations for their respective zoning districts.
- d. To limit the continuation and provide for the gradual replacement of nonconforming uses.

1102 Regulations Additive

Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

1103 Nonconforming Lots

a. Pre-Existing Lots of Record

Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Ordinance.

b. Reductions Due to Public Acquisition

If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

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1104 Nonconforming Structures

These regulations apply to buildings and structures, which were constructed legally under regulations in effect before the effective date of this Ordinance.

a. Continuation

A lawful nonconforming structure existing on the effective date of this Title may be continued, repaired, maintained, or altered, subject to the provisions of this Section.

b. Additions or Enlargements to Nonconforming Structures

1. A lawful nonconforming structure may be added to or enlarged if the addition satisfies either of the following conditions:

- (a) The enlargement or addition, when considered independently of the existing building, complies with all applicable setback, height, off-street parking, and landscaping requirements.
- (b) The nonconforming building and impervious surface coverages on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.

2. No permitted addition to a nonconforming structure may place a wall within ten feet of a window of a pre-existing residential structure in a residential zone, on an adjacent lot.

c. Moving of Nonconforming Structures

A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district when the move has been completed.

d. Repair of Nonconforming Structures

A lawful nonconforming building damaged by fire, explosion, storm or other calamity may be repaired and reconstructed provided there is no increase in the degree of nonconformity.

e. Conversion of a Conforming Building

A conforming building shall not be changed in any way that will result in a nonconforming development.

f. Applicability of Landscaping and Screening Regulations

A pre-existing structure, building, or development shall be exempt from Article 8, Landscaping and Screening Regulations. However, any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of this Ordinance shall be subject to Article 8.

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1105 Nonconforming Uses

a. Continuation of Nonconforming Uses

Any nonconforming use lawfully existing on the effective date of this Ordinance may continue, subject to the limitations of this Section.

b. Enlargement of Nonconforming Uses

A building or structure housing a lawful nonconforming use may not be added to or enlarged in the RES or any R District. Any building in districts other than a "RES" or "R" District devoted to a use made non-conforming by this ordinance may be structurally altered or enlarged in conformity with the lot area, lot width, yard and height requirements of the district in which situated. In the event of such structural alteration or enlargement of structures, the premises involved may not be used for any non-conforming use other than the use existing on the effective date of this ordinance, other provisions of this ordinance notwithstanding.

c. Abandonment of Nonconforming Use

If any structure or property used as a lawful nonconforming use becomes vacant or unused for a continuous period of twelve months, any subsequent use must conform to all use regulations applicable to the property's zoning district. This period may be extended for not more than six months at a time upon application of the owner of the premises to the City Council. Such application must be received prior to the expiration of the initial six-month grace period. The application shall be reviewed by the Planning and Zoning Commission prior to consideration by the City Council. The City Council may impose additional requirements as part of its consideration of an extension of non-conforming status.

d. Change of Use

A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal to or less intensive than that normally required for the previous use.

e. Allowance for Repairs

Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.

f. Damage or Destruction of Structures

1. Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.
2. For buildings for which reconstruction is permitted, such reconstruction shall begin within one year of the date of the damage.

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g. Nonconforming Uses and Conditional Use Permits

A lawful pre-existing use, which would require a Conditional Use Permit in its zoning district, shall be presumed to have the appropriate Permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of Permits, set forth in Article 12.