

ARTICLE IX

NONCONFORMING SITUATIONS

Section 1. Nonconformities

After the effective date of this ordinance, June 1, 1965, uses, structures or lots which would be prohibited for whatever reason under the regulations for the district in which it is located shall be considered as nonconforming. Nonconforming structures or uses may be continued under certain conditions as set forth in this Article.

Section 2. Nonconforming Lots

A nonconforming lot is a lot that was lawfully created prior to the original effective date of this ordinance, or any amendments thereto, but which does not conform to the minimum lot requirements for the zoning classification in which it is located.

A nonconforming lot in a business, office or industrial classification may be used for any of the uses permitted by this ordinance in the zoning classification in which it is located, provided that the use meets all limitation and minimum requirements for setback and yards, height, open space, buffers, screening, parking, and density for the zoning classification in which the lot is located.

A nonconforming lot in a residential classification may be used for a single-family dwelling provided that the use meets all limitation and minimum requirements for setback and yards, open space, and parking for the zoning classification in which the lot is located.

Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this section, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of the Subdivision Ordinance.

Section 3. Nonconforming Structures.

A nonconforming structure is a building or other structure which lawfully existed prior to the effective date of this ordinance, or an amendment thereto, and which no longer could be built under the terms of this ordinance, as amended, by reason or restrictions on area, open space, building height, setbacks, lot width or other requirements concerning the structure.

a. External Expansion of Nonconforming Structure. Nonconforming structures may be enlarged only upon issuance of a special use permit by the Board of Adjustment in accordance with Article V, Section 3 of this ordinance.

b. Repairs and Maintenance. Normal maintenance and repair of a nonconforming structure is permitted, provided that it does not the increase area or nonconformity.

c. Deteriorated and Dilapidated Structures. If any nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by the Director to be unsafe or unlawful by reason of its physical condition, the structure shall not be restored, repaired or rebuilt except in conformity with this ordinance.

d. Damage or Destruction of Nonconforming Structures. Any nonconforming structure which has been damaged by any means may be reconstructed, unless such structure has been declared by the Director to have been damaged to an extent exceeding sixty (60) percent of its accessed value at the time of destruction. If the building is damaged to a degree greater than sixty (60) percent, replacement of the structure must be in conformance with the zoning classification in which it is located.

e. Residential Exception. Any structure built to be a single family dwelling may be replaced, enlarged, expanded, and/or altered provided that no enlargement, expansion, or alternation encroaches into any required front; side or rear yard setback areas. However, any manufactured home shall meet the requirements for a manufactured homes within the district in which it is located.

Section 4. Nonconforming Uses.

A use of land and/or structure which was lawful prior to the adoption of this Ordinance, but which does not comply with the use regulations of this ordinance, may be continued so long as it remains the same, subject to the following provision.

a. Internal Expansion of Nonconforming Use. A nonconforming use may be extended throughout any portion of a completed building that when the use was made nonconforming by this ordinance, was clearly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.

b. Change of Use. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.

A nonconforming use may be changed to another nonconforming use only upon issuance of a special use permit by the Board of Adjustment. The Board shall grant such authorization if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

d. Discontinuance of Use. If active operations of a nonconforming use are discontinued for a continuous period of six (6) months, the property involved shall thereafter be used only for a conforming use.

c. Repair of Structure Housing Nonconforming Use. Normal maintenance and repair of a nonconforming structure is permitted, provided that it does not increase the area or nonconformity.

d. Damage or Destruction of a Building Occupied by a Nonconforming Use. Any structure occupied by a nonconforming use which has been damaged by any means may be reconstructed and used as before, unless such structure has been declared by the Director to have been damaged to an extent exceeding sixty (60) percent of its assessed value at the time of destruction. If the building is damaged to a degree greater than sixty (60) percent, future use of the structure must be in conformance with the zoning classification in which it is located.

Section 5. (Reserved)

Section 6. (Reserved)

Section 7. (Reserved)

Section 8. Amortization of Nonconforming Mobile Home Parks.

- (a)** Nonconforming mobile home parks, as defined in Article II, Section I, shall not be continued and shall be unlawful after May 13, 1996.
- (b)** The Director of Community Development shall serve notice (hereinafter, the "Notice of Discontinuance") upon the record owners of any nonconforming mobile home park, which Notice of Discontinuance shall provide such record owners with notice of the mandatory discontinuance of nonconforming mobile home parks as herein provided and shall order such record owners to remove all mobile homes from the affected real property on or before said mandatory discontinuance date.
- (c)** The Notice of Discontinuance shall be served before the expiration of thirty (30) days from the effective date of this ordinance, by personal service or certified or registered mail, return receipt requested. Failure by the Director of Code Enforcement to serve the Notice of Discontinuance shall not invalidate the effect of this ordinance as to any unserved nonconforming mobile home park but shall extend the amortization period herein provided as to any such unserved nonconforming mobile home park day for day from date of service of the Notice of Discontinuance such as to equal two (2) years.

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- (d) Upon receipt of the Notice of Discontinuance, the record owners of any such nonconforming mobile home park shall provide written notice to any and all residents thereof, and to any persons residing thereat at any time after the effective date of this ordinance, that all mobile homes shall be removed from such real property on or before the discontinuance date set forth in the Notice of Discontinuance.

This ordinance shall be enforced pursuant to the civil penalty provisions of Sec. 1-8 of the Code of Ordinances.