

CHAPTER 15

NON-CONFORMING BUILDINGS, STRUCTURES AND USES

SECTION:

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10-15-1: 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. It is necessary and consistent with the establishment of the Zoning Ordinance 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 and structures shall be eventually brought into conformity.

10-15-2: GENERAL PROVISIONS:

- A. **Continuance of Existing Uses and Buildings:** Any established use or building legally existing prior to the effective date of this Ordinance may, regardless of ownership, be continued in like fashion and activity and shall automatically be considered as having received the required approval at the time of its establishment.
- B. **Moving Non-Conforming Buildings:** Subject to Section 10-17-12 of this Ordinance, no non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted prior to the effective date of this Ordinance, hereof unless such movement shall bring the non-conformance into substantially closer compliance with the requirements of this Ordinance.
- C. **Subdivision:** No parcel of land or portion thereof shall be subdivided if such action results in buildings and/or uses becoming non-conforming.

10-15-3: NON-CONFORMING USES:

- A. **Effective Date:** Except as provided in Section 10-15-2.B of this Ordinance, the legal use of buildings or land existing on the effective date of this Ordinance,

which do not conform to the provisions of this Ordinance may be continued at the same size and in the same manner of operation; provided, however, that no such non-conforming use of land shall be enlarged or increased, nor shall any such non-conforming use be expanded to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance, nor shall any such non-conforming use be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this Ordinance.

B. Changes to Non-Conforming Uses:

1. When a legal, non-conforming use of any structure or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
2. A legal, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.
3. In cases of non-conformities not addressed by Section 10-15-4.C or 10-15-4.D. of this Ordinance, legal, non-conforming single-family and two-family units may be improved to maintain the livability of the dwelling, provided the structure is not expanded.

C. Discontinuance: In the event a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located. If a non-conforming use is interrupted or prevented from operating because of governmental action, such as road construction, that period shall not be deemed as discontinuance of the non-conforming use.

10-15-4: NON-CONFORMING BUILDINGS AND STRUCTURES:

A. Proposed Structures: Any proposed structure which will, under this Ordinance, become non-conforming but for which a building permit has been legally granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure shall thereafter be a legally non-conforming structure.

B. Restoration:

1. Any legal, non-conforming building or structure which has been damaged by fire, explosion, act of God or the public enemy, to the extent of more

than fifty percent (50%) of its fair market value, as determined by the Building Official, shall not be restored, except in conformity with the regulations of this Ordinance, and as specifically provided in Section 10-15-4.B.2 below.

2. Except as otherwise provided by this Ordinance or State Statutes, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
 - a. The nonconformity or occupancy is discontinued for a period of more than one year.
 - b. The nonconforming use or building is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within one hundred eight (180) days of when the property is damaged.
 3. Any subsequent use, building or structure not meeting the standards established in Sections 10-15-4.B.1 and 10-15-4.B.2 of this Ordinance shall be only occupied in a conforming manner.
- C. **Alterations:** Alteration and normal maintenance to a legal non-conforming building or structure may be made through the building permit process provided:
1. The alterations do not expand the foundation and/or building volume, unless specifically allowed by this Ordinance.
 2. The alterations do not increase the building occupancy capacity or parking demand.
 3. The alteration does not increase the non-conformity of the building or the use.
- D. **Expansion of Non-Conforming Single Family Homes:** Non-conforming single family homes may be expanded in a manner compliant with all standards of this ordinance.

10-15-5: NON-CONFORMING LOTS:

- A. **Vacant Lots:** Except in environmental protection districts, legal, non-conforming, vacant lots of record may be developed for single family detached dwellings upon approval of an administrative permit, provided that:
1. The lot in question was legally established in accordance with city code requirements existing at the time of its creation and is a separate, distinct tax parcel.
 2. The lot is properly zoned for single-family residential land uses.
 3. The lot area and/or width meet minimum requirements or are within seventy (70) percent of the requirement of the applicable zoning district.
 4. The lot in question has frontage on and will directly access an improved public street.
 5. The setback and yard requirements of the base zoning district can be achieved while simultaneously resulting in development which complies with the character and general design of the immediate area and the objectives of the City's Comprehensive Plan and this Ordinance.
- B. **Developed Lots:** An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.