

ARTICLE XXXVIII. Nonconforming Development

§ 205-269. Purpose.

Article XXXVIII 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 which 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.

§ 205-270. 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.

§ 205-271. Nonconforming lots.

- A. Preexisting 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 this chapter.
- 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.

§ 205-272. Nonconforming structures.

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

- A. Continuation. A lawful nonconforming structure existing on the effective date of this chapter may be continued, repaired, maintained or altered, subject to the provisions of this article.
- B. Additions or enlargements to nonconforming structures.

- (1) A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more 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.
 - (c) The addition projects no further into a required side yard setback than the existing building; the length of the side wall of the addition is the smaller of 25 feet or 50% of the length of the existing nonconforming side wall; and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district.
- (2) No permitted addition to a nonconforming structure may place a wall within 10 feet of a window of an adjacent preexisting residential structure.
- (3) Nonconforming buildings shall be limited to one addition or enlargement pursuant to these regulations.
- 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.
- D. Repair of nonconforming structures. A lawful nonconforming building or structure damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed, provided that there is no increase in the degree of nonconformity. Repair and reconstruction within the designated floodplain shall be in conformance with floodplain development regulations. Repair or reconstruction of a nonconforming building or structure may also occur if required by law or ordinance or ordered by the Chief Building Official to secure the safety of the structure.
- 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 preexisting structure, building or development shall be exempt from Article XXXV, 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 chapter shall be subject to Article XXXV.

§ 205-273. Nonconforming uses.

- A. Continuation of nonconforming uses. Any nonconforming use lawfully existing on the effective date of this chapter may continue, subject to the limitations of this article.
- B. Enlargement of nonconforming uses. A building or structure housing a lawful nonconforming use may not be added to or enlarged.

- 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 six months from the effective date of this chapter, any subsequent use must conform to all use regulations applicable to the property's zoning district. [Amended 5-7-1996 by Ord. No. 1215]
- 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. Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50% of the replacement cost of the structure, the nonconforming use shall no longer be permitted.
- G. Nonconforming uses and conditional and special use permits. A lawful preexisting use which would require a special 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 XXXIX.

§ 205-274. (Reserved)

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