

ARTICLE XIV Nonconformance

Article 14: Nonconformance

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Section 14.1. CONFORMANCE REQUIRED.

Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this ordinance for the district in which the building or land is located.

Section 14.2. CONTINUING EXISTING USES.

The lawful use of a building existing at the time of the enactment of this ordinance may be continued even though such use may not conform to the regulations of this ordinance for the district in which it is located. Any use in existence at the adoption hereof which was not an authorized nonconforming use under previous zoning ordinances shall not be authorized to continue as a nonconforming use pursuant to this ordinance, or amendments thereto. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance.

Section 14.3. NONCONFORMITIES.

Within the districts established by this ordinance or by amendments which may later be adopted, there exist lots, structures, buildings and uses which were lawful before this ordinance was effective or amended, but which would be prohibited, regulated or restricted under the provisions of this ordinance or future amendment, the intent of this ordinance is to permit these nonconformities to continue until they are removed, but not to encourage their continuance. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except that properties rendered nonconforming by virtue of the application of low impact development provisions of this ordinance shall not be made nonconforming for purposes of this Article, provided said properties comply with Section 1.8 of this ordinance. Two or more nonconforming lots, or portions thereof, that are contiguous in frontage and under the same ownership shall be considered to be an unsubdivided zoning lot for purposes of this ordinance. No portion of said parcel or zoning lot shall be sold and then used which does not meet minimum lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

Section 14.4. NONCONFORMING USES OR STRUCTURES IN ANY RESIDENTIAL ZONED DISTRICTS.

No building or land devoted to a use not permitted by this ordinance in a residential district in which such building or land is located, except when required by law, shall be enlarged, extended, constructed, reconstructed, substituted or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building, structure or premises is located, except as follows:

1. Discontinuance. In the event that a nonconforming use of any building, structure or land is discontinued for period of one (1) continuous year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no improvement or structure is erected or constructed which does not conform to the provisions of this ordinance and the use of land upon which no building is erected or constructed which becomes nonconforming by reason of a subsequent change in this ordinance, shall be discontinued within one (1) continuous year from the date of the change.
2. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than fifty percent (50%) of its insured value, exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot or act of God shall not be restored or reconstructed and used as before such happening. If less than fifty percent (50%) is damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it is done within six (6) months of such happening. This provision does not to include the purposeful or intentional destruction or alteration of any structure for purposes of rebuilding or replacing a damaged building.

Section 14.5. NONCONFORMING USES OR STRUCTURES IN ANY OTHER ZONING DISTRICT OTHER THAN AN R-DISTRICT

1. Structural Alternations and Enlargements. Nonconforming structures or buildings may be structurally altered or enlarged in conformity with the lot area, lot width, yard, and height requirements (Bulk Regulations) of the district in which such use is located. Such construction shall be limited to buildings on lots of record in the same ownership prior to the effective date of this ordinance. Any variance must be obtained through action of the Board of Adjustment. In the event of such structural alterations of buildings, the premises involved may not be used for any nonconforming use other than the use existing on the effective date of this ordinance, other provisions of this ordinance notwithstanding.
2. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no improvement or building is erected or constructed, which becomes nonconforming by reason of a subsequent change in this ordinance, shall be discontinued within one (1) year from the date of the change.
3. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than fifty percent (50%) of its insured value, exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot or act of God, shall not be restored or reconstructed and used as before such happening; but if less than fifty percent (50%) is damaged above the foundation, it may be restored, reconstructed or used as before provided that reconstruction commences within six (6) months of such happening. This provision does not to include the purposeful or

intentional destruction or alteration of any structure for purposes of rebuilding or replacing a damaged building.

4. Moving Nonconforming Structures or Buildings. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
5. Removal of Nonconforming Use or Building. Where nonconforming use status applies to a structure and land in combination, the removal, elimination or complete destruction of the structure shall eliminate the nonconforming status of the land.

Section 14.6. REPAIRS TO DAMAGED BUILDINGS.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declare to be unsafe by an official charged with protecting the public safety upon orders of such official.

Section 14.7. USES UNDER CONDITIONAL USE APPROVAL NOT NONCONFORMING.

Any use, for which a conditional use status is permitted, as provided in this ordinance, shall not affect the nonconforming status of the land on which the conditional use is permitted, but shall without further action be deemed a conforming use in any such district. Any additions shall be with approval of the Board of Adjustment.

Section 14.8. CHANGE OF TENANCY OR OWNERSHIP.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures, or of structures and land in combination without affecting the conformity or nonconforming status of such land, use or structure.