

ARTICLE 6. - NONCONFORMITIES

DIVISION 1. - NONCONFORMING USES AND STRUCTURES

- A. Purpose and intent. The purpose of this article is to regulate and limit the development and continued existence of uses, structures, and lawful lots established prior to the effective date of these regulations and subsequent amendments hereto, which do not conform to the requirements of these regulations. Many nonconformities may continue, but the provisions of this article are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement or elimination in order to preserve the integrity of these regulations and the character of the city.
- B. Applicability. Any nonconforming use, structure, or lot which lawfully existed as of the effective date of the ordinance from which this chapter is derived and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of these regulations or any subsequent amendment to these regulations may be continued or maintained only in accordance with the terms of the following provisions regarding nonconformities.
- C. Continuation of nonconforming use or structure. Except as may be provided elsewhere in this article, a lawful use or structure that is made no longer permissible as of the date of enactment of these LDRs shall be permitted to continue, so long as it remains otherwise lawful and subject to the standards and conditions contained herein.
- D. Expansion of nonconforming use or structure. A nonconforming use or structure shall not be expanded or extended beyond the floor area, lot area or both that it occupied on the effective date of these LDRs or the effective date of any amendment to the ordinance from which this chapter is derived rendering such use or structure nonconforming, except as follows:
 - 1. Development determined to have vested rights pursuant to article 3, division 12 of these LDRs are not subject to the limitation on expansion in this subsection.
 - 2. The nonconforming structure shall not be expanded, enlarged, or increased beyond 25 percent of the existing gross floor area of the building; providing that all other nonconformities either created as a result of the expansion or existing shall be brought into conformity to the best extent physically possible as set forth in this article.
 - 3. The nonconforming use shall not be expanded, enlarged, so as to increase the degree of nonconformity of the use by adding related nonconforming principal uses or accessory uses.
 - 4. Where such alteration or modifications are interior to the structure and do not create any additional gross floor area.

- E. Discontinuation or abandonment of a nonconforming use; nuisances and hazards prohibited. If a nonconforming use is discontinued and abandoned, for a period of 180 consecutive days, including any period of discontinuation and abandonment before the effective date of these regulations, then that use or structure shall not be renewed or re-established and any subsequent use of the lot or structure shall conform to all applicable district regulations to the best extent physically possible as set forth in this article. A nonconforming use shall not be continued if it produces odors, noxious fumes, smoke, noise or other external impacts that become a nuisance or hazard to residents.
- F. Change of use, general. A nonconforming use may be changed to a permitted use, related permitted use or special exception use for the zoning district in which the property is located as set forth subject to the review and approval requirements of the appropriate zoning district.
- G. Change from one nonconforming use to another nonconforming use. When a nonconforming use is changed to a more restrictive nonconforming use, the new nonconforming use shall not be permitted to subsequently change back.
- H. Ordinary repair and maintenance. Ordinary repairs and maintenance may be made to a nonconforming structure. The administrative official shall determine what constitutes "ordinary repairs and maintenance," in accordance with the criteria that such repairs and maintenance do not substantially alter the structure, result in a change of occupancy of the structure or contravene or circumvent other provisions herein.
- I. Destruction of a lawful nonconforming structure. If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, then the structure may be restored or reconstructed to its original height and density upon a filing and approval of a vested rights determination application, pursuant to article 3, division 12 of these LDRs, and consistent with policy 1.2.7 of the comprehensive plan.

DIVISION 2. - NONCONFORMING LOTS

Sec. 6-201. - Nonconforming lots of record.

- A. Nonconforming lots of record may be utilized for any permitted use within the applicable zoning district, provided that all such use and all development shall comply with all regulations of this chapter, other than those regulations applicable to lot size, dimension, and/or setbacks, which are nonconforming.
- B. When two or more contiguous, vacant, nonconforming lots of record are in a single ownership, if such lots are subdivided, they shall only be used or developed in such manner as will make them both conforming.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 3. - NONCONFORMING ACCESSORY USES AND ACCESSORY STRUCTURES

Sec. 6-301. - Termination after principal use or structure is discontinued.

Nonconforming accessory uses or accessory structures shall not continue after the principal use or structure is terminated by abandonment, damage or destruction unless such accessory use or accessory structure conforms to the standards for the zoning district in which it is located.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 6-302. - Substantial improvement to principal use or structure.

Any nonconforming accessory use or accessory structure shall be brought into conformity with these LDRs whenever a substantial improvement to, addition to, or change in the principal use or structure on the property is proposed and approved.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 4. - TERMINATION OF STATUS AS A NONCONFORMITY

Sec. 6-401. - General.

A nonconforming use or structure may be deemed to be in conformity with these LDRs, and may thereafter be allowed to continue and to expand as a lawfully existing use or structure, if such use or structure is granted special exception approval in accordance with the provisions of this division and the procedures in article 3.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 6-402. - Standards for terminating nonconforming status.

Special exception approval shall not be granted to terminate status as a nonconforming use or structure unless the nonconformity is improved in a way that will reduce the impact of the nonconformity on the neighborhood. The impact of the nonconformity can be reduced as follows:

- A. Significant upgrading and improvement to the building facades; or
- B. Addition of substantial landscaping to buffer the property; or
- C. Upgrading or improving onsite parking to minimize overflow parking to the extent possible on the property.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)