

ARTICLE 10

NON-CONFORMING USES, STRUCTURES AND LOTS

Section 10.1 Intent.

Certain existing lots, structures and uses of lots and structures were lawful before this Ordinance was adopted, but have become non-conformities under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such non-conformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Non-conformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Non-conformities are declared by this Ordinance to be incompatible with the structures and uses permitted in the various Districts.

Section 10.2 Non-Conforming Lots.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this Ordinance.

Section 10.3 Non-Conforming Uses of Land.

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of the Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

10.3.1. No such non-conforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

10.3.2. No such non-conforming 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.

10.3.3. If such non-conforming use of land ceases operation for a period of more than six (6) months this shall constitute abandonment. Any subsequent use of such land shall conform to the regulations specified by the Ordinance for the district in which such land is located.

Section 10.4 Non-Conforming Structures.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

10.4.1. No such structure may be enlarged or altered in a way which furthers its non-conformity.

10.4.2. Should such structure be destroyed by any means to an extent of more than fifty (50%) percent of replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.

10.4.3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 10.5 Non-Conforming Uses of Structures and Land.

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject of the following provisions:

10.5.1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

10.5.1.A. If an existing Single Family Dwelling is damaged or destroyed, the use and structure shall be considered conforming, and allowed to be re-established in compliance with restrictions established for the residential district in closest proximity to the property in question. Such structure or use shall be re-established within a two (2) year period.

10.5.2. Any non-conforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

10.5.3. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the non-conforming use may not thereafter be resumed. Subparagraph 10.4 of this section shall apply to any non-conformity relating to the structure(s).

10.5.4. If such non-conforming use of land and structures ceases operation for a period of more than six (6) months this shall constitute abandonment. Any subsequent use of such land shall conform to the regulations specified by this Ordinance pertaining to the uses permitted in the district in which such land is located. Structures occupied by seasonal uses shall be excepted from this provision only so long as seasonal uses shall continue.

10.5.5. Where non-conforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the non-conforming status of the land.

10.5.6. If no structural alterations are made, any non-conforming use of structure, or structure and premises, may be changed to another non-conforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

Section 10.6 Repairs and Maintenance.

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50%) percent of the replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

A nonconforming structure, nonconforming portion of a structure, or a structure containing a nonconforming use which is physically unsafe or unlawful due to lack of repairs and maintenance, as determined by the Building Official may be restored to a safe condition. Where enlargement or structural alternation is necessary to allow compliance with health and safety laws or ordinances, the cost of such work shall not exceed twenty-five (25%) percent of the structure's fair market value, as determined by the Assessor at the time such work is done.

Section 10.7 Uses Allowed As Conditional Approval Uses, Not Non-Conforming Uses.

Any use in existence at the time of adoption of this Article for which conditional approval is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

Section 10.8 Change of Tenancy or Ownership.

There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures, and premises provided there is no change in the nature or character of such non-conforming uses except in conformity with the provisions of this Ordinance.

Section 10.9 Non-Conforming Uses of Signs.

10.9.1 Any sign, billboard, commercial advertising structure or object which existed and was maintained at the time this zoning ordinance was adopted and which are subject to the regulations of this zoning ordinance because of any changes or additions made by this new ordinance, shall be deemed a non-conforming sign. Non-conforming signs may remain provided they are not expanded, enlarged or reduced other than routine maintenance and upkeep of the sign itself. Any non-conforming sign shall be removed or made to conform to the provision of this ordinance within thirty (30) days of the happening of any of the following events:

1. The change of the activity advertised thereon.
2. Change in the use of the property on which the sign is located.
3. Any alterations or changes to the sign.
4. Relocation of the sign.
5. Substantial change to the sign.

10.9.2 Change in the copy of the sign surface due to requirements of the franchise, change in logo, change in franchise, new name due to change in ownership that maintains the same use of the property may be made without making the sign compliant.

10.9.3 All nonconforming signs shall be made conforming by December 31, 2018.

10.9.4 Any sign that is nonconforming, where the business has ceased operations for at least six months shall remove the sign or make the sign conform to the ordinance. Upon failure to comply and after receiving written notice, the City may remove the sign and recover its cost as a nuisance special assessment to the property.