

Article 11: Nonconformities

Section 1101: Statement of Intent

- (A) The purpose and objective of the provisions established under Article 11 of this Zoning Ordinance is to establish specific regulations pertaining to nonconforming uses, lots, land areas, building and/or structures.
- (B) Through the enactment of this Zoning Ordinance, there exists or will exist certain nonconformities which, if lawful before this Zoning Ordinance was passed or amended, may be continued, subject to certain limitations, although such nonconformities would be prohibited, regulated or restricted under the terms of this Zoning Ordinance or future amendments thereto.
- (C) To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption and on which actual building construction has been diligently conducted upon.

Section 1102: Continuation

Any nonconforming building or structure, nonconforming use of a building or structure, nonconforming use of a lot or use of a nonconforming lot existing on the effective date of this Zoning Ordinance may be continued in the form evident at the time of enactment of this Ordinance, except as otherwise provided in this Article of the Zoning Ordinance.

Section 1103: Discontinuance

If a nonconforming use of land or a building ceases, is discontinued, is vacated or is non-operative for a continuous period of twelve (12) months or more, subsequent use thereof shall be in conformity with the provisions of this Zoning Ordinance.

Section 1104: Nonconforming Use of Land

Any lawful nonconforming use of land, exclusive of buildings and structures and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this Zoning Ordinance provided that such extension shall conform to area and lot regulations and to the design standards of this Zoning Ordinance for such use. The extension of a nonconforming use of land shall be limited to the lot which was in existence on the effective date of this Zoning Ordinance.

Section 1105: Expansion of Nonconforming use

- (A) Any lawful nonconforming use of a portion of a building or structure may be extended throughout the building or structure existing on the effective date of this Zoning Ordinance.
- (B) Any lawful nonconforming building or structure or nonconforming use of a building or structure may be expanded on the lot occupied by such building or structure. The expansion shall be limited to an area equal to fifty (50) percent of the gross floor area of the building or structure at the time of the effective date of this Zoning Ordinance and such expansion shall be subject to the setback regulations for the district in which it is located. Only one expansion of a nonconforming building or structure or nonconforming use of a building or structure shall be permitted to occur.

Section 1106: Reconstruction

Any lawful nonconforming building or structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar active cause, may be reconstructed in the same location, provided that:

- (A) The reconstructed building or structure shall not exceed the height, area, or volume of the damaged or destroyed building or structure and such reconstructed building or structure shall not infringe upon the required setback distance to a greater extent than did the former building or structure.
- (B) Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption.

Section 1107: Change of Use

A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, by special exception, be changed to another nonconforming use provided that the Zoning Hearing Board shall find that the proposed use is less intense than the prior use. Such intensity shall be measured by the extent of lot coverage, parking, traffic impact, noise pollution, air pollution, safety and other area and bulk regulations.

Section 1108: Nonconforming Lots of Record

In any district in which single-family detached dwellings are permitted, a single-family detached dwelling may, as a special exception, be erected on any single lot of record at the effective date of this Zoning Ordinance notwithstanding limitations imposed by other provisions of this Zoning Ordinance. Such lot must be in a single and separate ownership and not have continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet all the lot and area requirements of the district.

Section 1109: Registration of Nonconformities

The burden of proof that the use, lot, structure or building is a nonconformity shall be the responsibility of the property owner. All known nonconformities shall be a matter of public record and shall constitute sufficient notice and the limitations therein express and implied to any transferee acquiring any right to use or own such property.