

ARTICLE 1.01.010

NONCONFORMING LOTS, USES, STRUCTURES, OR SITE ELEMENTS

OUTLINE

Note - All additions to the existing code are shown in red and underlined text. All deletions, if any, are shown in red and strike-out text

SEC. 1.01.001 ADOPTION.

SEC. 1.01.002 DESIGNATION AND CITATION OF CODE.

SEC. 1.01.003 CATCHLINES OF ARTICLES, DIVISIONS AND SECTIONS.

SEC. 1.01.004 DEFINITIONS AND RULES OF CONSTRUCTION.

SEC. 1.01.005 SEVERABILITY OF PARTS OF CODE.

SEC. 1.01.006 REPEAL OF ORDINANCES.

SEC. 1.01.007 AMENDMENTS OR ADDITIONS TO CODE.

SEC. 1.01.008 SUPPLEMENTATION OF CODE.

SEC. 1.01.009 GENERAL PENALTY FOR VIOLATIONS OF CODE; CONTINUING VIOLATIONS.

SEC. 1.01.010 NONCONFORMING LOTS, USES, STRUCTURES, OR SITE ELEMENTS

Sec. 1.01.010 Nonconforming lots, uses, structures, or site elements

- (a) **Nonconforming property defined.**
- (b) **Continuation of existing lots, uses, structures, or site elements.**
- (c) **No increase in nonconformity.**
- (d) **Enlargement prohibited.**
- (e) **Nonconforming lot.**
- (f) **Variances.**

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ARTICLE 1.01 CODE OF ORDINANCES

PROPOSED CODE AMENDMENTS

Note - All additions to the existing code are shown in red and underlined text. All deletions, if any, are shown in red and strike-out text

- Sec. 1.01.001 Adoption.
- Sec. 1.01.002 Designation and citation of code.
- Sec. 1.01.003 Catchlines of articles, divisions and sections.
- Sec. 1.01.004 Definitions and rules of construction.
- Sec. 1.01.005 Severability of parts of code.
- Sec. 1.01.006 Repeal of ordinances.
- Sec. 1.01.007 Amendments or additions to code.

Sec. 1.01.008 Supplementation of code.

Sec. 1.01.009 General penalty for violations of code; continuing violations.

Sec. 1.01.010 Nonconforming lots, uses, structures, or site elements

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(g) Nonconforming property defined.

For purposes of this Code, a nonconforming property is a land use, lot of record, structure, or other site element or improvement related to the use or development of land that was legally established prior to the date of adoption of this Code or subsequent amendment hereto, that does not conform to the requirements of this Code on the date of adoption or amendment. The following definitions shall apply to situations which are legally nonconforming as a result of the date of adoption of this Code or any amendments hereto:

- (1) A nonconforming lot is a tract of land which does not fully conform to the standards and regulations set forth in this Code.
- (2) A nonconforming use is a use of land, building, or other structure, or combination thereof, which does not fully conform to the standards and regulations set forth in this Code.
- (3) A nonconforming structure is any building or structure which does not fully conform to the standards and regulations set forth in this Code.
- (4) A nonconforming site element is an element or improvement other than a use, lot, or structure, such as site lighting, parking, screening, or landscaping, which does not fully conform to the standards and regulations set forth in this Code.

(h) Continuation of existing lots, uses, structures, or site elements.

Except as otherwise set forth in this Code or other regulations of the city, the lawful use of a lot, building, structure, or other site element on date of adoption may be continued, subject to the provisions herein, although such use does not conform with the provisions of the Code. Such uses shall be considered valid nonconforming uses. If a nonconforming use is discontinued for six (6) consecutive months or more, then the property shall thereafter be occupied and used only for a conforming use, except as provided for re-establishments in Section 1.01.010 (f) below. A nonconforming use may continue, provided that the nature and degree of the nonconformity will not be changed or increased from that which existed before the nonconforming use was discontinued.

(i) No increase in nonconformity.

In general, no action shall be taken that increases the degree of the nonconformity of a nonconforming lot, use, structure, or site element.

(j) Enlargement prohibited.

No enlargement of a nonconforming use, structure, or site element, and no replatting or reconfiguration of a lot except in conformance with this Code is permitted except if allowed by law, which preempts this Code. For purposes of this article, the enlargement of a nonconforming use or structure shall be deemed to have occurred when:

- (1) The area of the building in which the nonconforming use is occurring is enlarged or increased, or the building is expanded or structurally altered to accommodate the nonconforming use;
- (2) The nonconforming use expands within the building or facility beyond the square footage occupied by the use at the time it became nonconforming;
- (3) If applicable, seating capacity of a building or on property where the use is occurring is increased;
- (4) The nonconforming use expands into another building or facility;
- (5) The number of residential units is increased;
- (6) The number of nonconforming uses or units is increased;
- (7) The parking or loading areas located on the property where the use is occurring is increased;
- (8) The storage area or products stored on the premise is increased beyond the storage capacity existing at the time the use became nonconforming;
- (9) New structures which are used in furtherance of the nonconforming use are constructed or located on the property; or
- (10) The nonconforming use expands beyond the area on the tract of land in which the use has historically been conducted or the nonconforming use within a building is expanded to occupy land outside the building.

(k) Nonconforming lot.

A nonconforming lot shall be changed only to conform to the requirements of this Code and shall not be reconfigured through platting, replatting, or otherwise to become more nonconforming.

- (1) A structure situated on a nonconforming lot shall be considered a nonconforming structure, subject to the provisions of this article.
- (2) A nonconforming lot that was made nonconforming with the adoption of this Code may be used for the construction of a building allowed in the Code, provided that all other standards are met, unless otherwise provided for in this article.

(f) Variances.

Where the City Council finds that extraordinary hardships may result from strict compliance with the regulations of this article, it may vary the regulations of this article so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the interest and purpose of the general community plan or regulations. In granting a variance, the City Council shall prescribe only conditions that it deems necessary or desirable to the public interest. In making the findings hereinbelow required, the City Council shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, and the probable effect of such variance on public health, safety, convenience, and welfare of the vicinity. No variance shall be granted unless the commission finds:

- (1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article will deprive the applicant of the reasonable use of his land.
- (2) That the variance is necessary for the preservation and enjoyment of a property right of the applicant.
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.
- (4) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this article.
- (5) Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.