

## CHAPTER 1015

### NON-CONFORMING BUILDINGS, STRUCTURES AND USES

#### SECTION:

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**1015-1: PURPOSE:** It is the purpose of this chapter to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. This Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this chapter that all non-conforming uses shall be eventually brought into conformity.

#### **1015-2: GENERAL PROVISIONS:**

- A. **Conditional Uses/Interim Uses/Uses By Administrative Permit:** Any established use or building legally existing prior to the effective date of this Ordinance, and which is herein classified as a conditional use, interim use, or use by administrative permit may be continued in like fashion and activity and shall automatically be considered as having received the applicable approval. Any change to such a use, including, but not limited to, building and/or site alteration, shall however, require a new permit be processed according to this Ordinance.
- B. **Moving Non-Conforming Buildings:** Subject to Section 1017-12 of this Ordinance, no non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted prior to the effective date of this Ordinance, hereof unless such movement shall bring the non-conformance into substantially closer compliance with the requirements of this Ordinance.
- C. **Subdivision:** No parcel of land or portion thereof shall be subdivided if such action results in buildings and/or uses becoming non-conforming.

**1015-3: NON-CONFORMING USES:**

- A. **Effective Date:** Except as provided in Section 1015-2.B of this chapter, the legal use of buildings or land existing on the effective date of this Ordinance, which do not conform to the provisions of this Ordinance may be continued at the same size and in the same manner of operation; provided, however, that no such non-conforming use of land shall be enlarged or increased, nor shall any such non-conforming use be expanded to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance, nor shall any such non-conforming use be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this Ordinance.
  
- B. **Changes to Non-Conforming Uses:**
  - 1. When a legal, non-conforming use of any structure or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
  
  - 2. A legal, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.
  
  - 3. In cases of non-conformities not addressed by Section 1015-4.C or 1015-4.D. of this chapter, legal, non-conforming single-family and two-family units may be improved to maintain the livability of the dwelling, provided the structure is not expanded.
  
- C. **Discontinuance:** In the event a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located. If a non-conforming use is interrupted or prevented from operating because of governmental action, such as road construction, that period shall not be deemed as discontinuance of the non-conforming use.

**1015-4: NON-CONFORMING BUILDINGS AND STRUCTURES:**

- A. **Proposed Structures:** Any proposed structure which will, under this Ordinance, become non-conforming but for which a building permit has been legally granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure shall thereafter be a legally non-conforming structure.

**B. Restoration:**

1. Any legal, non-conforming building or structure which has been damaged by fire, explosion, act of God or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, as determined by the Building Official, shall not be restored, except in conformity with the regulations of this Ordinance, and as specifically provided in Section 1015-4.B.2 below.
2. Any legal, non-conforming building or structure which has been damaged by fire, explosion, act of God or public enemy, to the extent of more than fifty percent (50%) of its market value, as determined by the Building Official, may be repaired or replaced provided a permit is sought within one hundred eighty (180) days of the date the property was damaged.

**C. Alterations:** Alteration and normal maintenance to a legal non-conforming building or structure may be made through the building permit process provided:

1. The alterations do not expand the foundation and/or building volume, unless specifically allowed by this Ordinance.
2. The alterations do not increase the building occupancy capacity or parking demand.
3. The alteration does not increase the non-conformity of the building or the use.

**D. Expansion Of Non-Conforming Buildings Or Structures:**

1. Administrative Approvals: Except in the environmental protection districts established by Chapter 1050 of this Ordinance, the following expansions of legal, non-conforming single and two-family residential buildings may be approved through the administrative permit process by the Zoning Administrator subject to the provisions of Chapter 1008 of this Ordinance. The Zoning Administrator shall make a determination that the building expansion will comply with the intent and purpose of this chapter and this Ordinance.
  - a. Expansion of principal buildings found to be non-conforming only by reason of height and yard setback may be allowed provided the expansion complies with the performance standards of this Ordinance.
  - b. Expansion of non-conforming detached accessory structures shall not be allowed.

2. Conditional Use Permit: Legal, non-conforming commercial, industrial, public, semi-public, and multiple-family residential principal structures may be expanded on the same lot by conditional use permit provided:
  - a. The expansion will not increase the non-conformity of the building or site.
  - b. The new building expansion will conform with all the applicable performance standards of this Ordinance. A conditional use permit shall not be issued under this Chapter for a deviation from other requirements of this Ordinance unless variances are also approved.
  - c. The request for conditional use permit shall be evaluated based on standards and criteria set forth in Chapter 1005 of this Ordinance.

**1015-5: NON-CONFORMING LOTS:**

- A. **Vacant Lots:** Except in environmental protection districts, legal, non-conforming, vacant lots of record may be developed for single family detached dwellings upon approval of an administrative permit, provided that:
  1. The lot in question was legally established in accordance with city code requirements existing at the time of its creation and is a separate, distinct tax parcel.
  2. The lot is properly zoned for single-family residential land uses.
  3. **Minimum Lot Size:** A lot of record as of the effective date of this Ordinance, having direct access to municipal sewer and water shall be considered buildable provided measurements for lot area and/or width meet minimum requirements or are within seventy percent (70%) of the requirement of the district.
  4. The lot in question has frontage on and will directly access an improved public street.
  5. The setback and yard requirements of the base zoning district can be achieved while simultaneously resulting in development which complies with the character and general design of the immediate area and the objectives of the City's Comprehensive Plan and this Ordinance.
- B. **Developed Lots:** An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.