

# ARTICLE 701 NONCONFORMITIES

## SEC. 701.1 CONTINUATION OF NONCONFORMING BUILDINGS, STRUCTURES AND USES

A nonconforming building or structure legally existing at the time of adoption of this ordinance or any use, structure or lot which has been rendered nonconforming by the provision of this ordinance may not be continued and maintained except as provided in this section.

## SEC. 701.2 NONCONFORMING BUILDINGS AND STRUCTURES

**A. Alteration, Enlargement or Relocation of Buildings and Structures.** A building or structure which is conforming to use, but is nonconforming to setbacks, height, or off-street parking space, may be structurally enlarged or added to provided that the enlargement or addition complies with the setbacks, height, and off-street parking requirements of the district in which such building or structure is located. No nonconforming structure or building shall be moved, in whole or in part, to another location within the city unless otherwise approved by the City Council. Nothing in the provisions of the foregoing regulation shall in any manner prevent or prohibit normal maintenance of the premises.

**B. Destruction of Nonconforming Buildings or Structures.** Any structure developed prior to ordinance passage that complied with former ordinance standards but has been rendered substandard by the new ordinance may be termed a preexisting nonconforming structure and, in the event of damage or destruction, may be rebuilt to completion at the original site within one (1) year of destruction and shall not exceed the original dimensions of the nonconforming building or structure.

## SEC. 701.3 NONCONFORMING LOTS OF RECORD

- A.** In any district in which single family dwellings are permitted, 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. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. 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 requirements other than those applying to area or width or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.
- B.** 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 parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirement established by this ordinance nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

## SEC. 701.4 NONCONFORMING USES

- A. Building Vacancy.** A building, structure or portion thereof or land utilized for a nonconforming use which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.
- B. Damage or Destruction of Buildings or Structures.** If any structure that is devoted in whole or in part to a nonconforming use is destroyed by fire, explosion, or other casualty, such structure may be repaired and

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reconstructed and used for the same purposes as it was before the damage or destruction, provided such repair or reconstruction is commenced and completed within one (1) year of the date of such damage or destruction. In no event shall the structure be rebuilt, repaired or otherwise altered to increase the floor space or height of the original building in which the nonconforming use was conducted, except that the building height may be increased to minimally accommodate building code standards and not increase the nonconforming use.

any future use of such land or change of use shall be in conformity with the provisions of the district in which such land is located.

**SEC. 701.5 DISTRICT CHANGES**

Whenever boundaries of a zoning district shall be changed so as to transfer an area from one district to a different classification to another, the foregoing provisions shall also apply to any nonconforming uses existing therein.

- C. Accessories to Primary Nonconforming Uses.** Addition of or enlargement, alteration or relocation of accessory uses which are incidental to and accommodate the primary nonconforming use may be permitted if, after notices and a public hearing the Planning Commission finds the accessory promotes the public health, safety and welfare and does not expand or enlarge the primary nonconforming use. The procedures for application and review shall be the same as those for a conditional use.
- D. Expansion of Building.** Buildings or structures which are nonconforming as to use may not be enlarged or relocated on the lot. A nonconforming use may not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use.
- E. Discontinuance of Use.** If a nonconforming use or a portion thereof is discontinued for a continuous period of one (1) year or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the regulations of the district in which building or structure is located. A vacant or partially vacant nonconforming building or structure may be occupied by a use for which the building or structure was designed or intended if occupied within a period of one (1) year after the effective date of this ordinance.
- F. Land.** A nonconforming use of land without substantial buildings or structures may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of this ordinance. If such nonconforming use or portion thereof is discontinued for a continuous period of one (1) year, or changed,