

## **ARTICLE V. NONCONFORMING USES, LOTS, AND STRUCTURES**

### **Sec. 130-161. In general.**

- (a) It is the purpose of this article to permit the structures or uses of land, lots, and structures that were lawful before Chapter 130 (Zoning) was enacted or amended, to continue as legal nonconforming uses, lots, or structures, subject to the requirements of this article.
- (b) The nonconforming status of any nonconforming use, improvement, lot, or structure shall adhere solely to the use of the land, and not to the owner, tenant, or other holder of any legal title to the property or the right to make use thereof.

### **Sec. 130-162. Nonconforming lots.**

- (a) A vacant nonconforming lot may not be developed without a variance and must meet all other requirements of the zoning district. A developed nonconforming lot may continue in existence but may not be altered except in accordance with this section.
- (b) A nonconforming lot may become a conforming lot by meeting the current minimum lot size, lot width, and lot frontage requirements of the zoning district in which the lot is located through one of the following actions:
  - (1) A consolidation of the nonconforming lot with an adjacent lot;
  - (2) A boundary adjustment between two contiguous lots, one being nonconforming and the other being conforming, provided such adjustment does not make the conforming lot nonconforming, does not create an additional lot, and does not increase the nonconforming lot's nonconformity; or
  - (3) Rezoning to a different zoning district to meet the lot size, lot width, and lot frontage requirements of that district.
- (c) No building or structure may be reconstructed, altered, or expanded on a nonconforming lot unless:
  - (1) The reconstruction, alteration, or expansion does not increase the nonconformity of the existing lot;
  - (2) Such lot is consolidated with one or more adjacent lots that reduce or eliminate the nonconformity of the lot; or
  - (3) A variance is granted for the reconstruction, alteration, or expansion.

### **Sec. 130-163. Nonconforming structures and improvements.**

- (a) All structures and improvements except single-family detached dwellings or manufactured homes:

- (1) A nonconforming structure under §130-163(a) or nonconforming improvement may continue as it existed when it became nonconforming. A nonconforming structure or nonconforming improvement shall not be reconstructed, altered, or expanded in any manner, except as provided in this section.
  - (2) A nonconforming structure or nonconforming improvement may be repaired only if:
    - a. Such repair constitutes routine maintenance necessary to keep the structure or improvement in the same general condition it was in when it originally became nonconforming; or
    - b. Such repair constitutes minor alterations, cosmetic modifications, interior renovations and similar changes that do not increase the land area occupied, unless approved as provided in §130-163(4).
  - (3) A nonconforming structure may be changed to make it a conforming structure.
  - (4) A nonconforming structure under §130-163(a) may be enlarged or altered to an extent not to exceed 20 percent of its original footprint by administrative approval if the proposed enlargement or alteration will be constructed in a manner that conforms to all current yard dimensions and setbacks as required for new construction within the specified zoning district.
  - (5) If a nonconforming structure is removed for any reason to another parcel of land, regardless of distance, or the lot lines of the parcel on which it is located change, the structure shall thereafter conform to the requirements of the district in which it is located.
- (b) All single-family detached dwellings:
- (1) A nonconforming single-family detached structure may continue as it existed when it became nonconforming. A nonconforming structure shall not be reconstructed, altered, or expanded in any manner, except as provided in this section.
  - (2) A nonconforming single-family detached structure may be changed to make it a conforming structure.
  - (3) A nonconforming single-family detached structure may be enlarged or altered by administrative approval if the proposed enlargement or alteration conforms to all currently required yard dimensions and setbacks as specified in the district in which it is located.
  - (4) Should a proposed alteration of a nonconforming single-family detached structure not meet current yard dimensions or setbacks, and the expansion proposed is less than 20 percent of the original footprint of the nonconforming structure, the Zoning Administrator may administratively approve the expansion if the proposed expansion does not increase the nonconformity of the existing yard dimensions or setbacks.

- (5) Should a nonconforming single-family detached structure be removed for any reason to another parcel of land, regardless of distance, or the lot lines of the parcel on which it is located change, the structure shall thereafter conform to the requirements of the district in which it is located.
- (c) The owner of any nonconforming structure damaged or destroyed by a natural disaster or other Act of God may repair, rebuild, or replace such structure to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such structure is damaged greater than 50 percent and cannot be repaired, rebuilt, or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. Any work done to repair, rebuild, or replace such structure shall comply with the requirements of the building code and City floodplain requirements. Unless such structure is repaired, rebuilt, or replaced within two years of the date of the natural disaster or other Act of God, such structure shall only be repaired, rebuilt, or replaced in accordance with the requirements of this chapter. However, if a nonconforming structure is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the property owner shall have an additional two years for the building to be repaired, rebuilt, or replaced as otherwise provided in this paragraph.
- (d) Any building or structure which is nonconforming under paragraph (2) of the definition of nonconforming structure shall be brought into compliance with the Uniform Statewide Building Code, and doing so shall not affect the nonconforming status of such building or structure.
- (e) Any nonconforming improvement shall be maintained in good condition, reasonable wear and tear excepted, or replaced with a conforming improvement.
- (f) Access to sanitary sewer systems being available throughout the City, the owner of real property with existing on-site sewage system may not replace such system if it is damaged by natural disaster or other Act of God, and shall connect to the City's sanitary sewer system.
- (g) Nonconforming signs. See Article IV. In the event of any permitted expansion of a nonconforming structure, all signs located on the property shall be brought into full compliance with the current Zoning Ordinance requirements.

**Sec. 130-164. Nonconforming manufactured homes or accessory structures.**

- (a) A nonconforming manufactured home (unit) or associated accessory structures may continue as it existed when it became a nonconforming structure. A nonconforming manufactured home shall not be reconstructed, altered, or expanded in any manner, except as provided in this section.

- (b) Such nonconforming unit may be enlarged or altered to an extent not to exceed 20 percent of the original footprint of the unit at the time of adoption of this chapter. Such enlargement or alteration may be approved if the construction conforms to minimum requirements as outlined in §130-164(d).
- (c) Should a nonconforming unit be removed from an existing nonconforming mobile home park lot, a comparable replacement unit may be placed on that lot provided the replacement unit meets the current HUD manufactured housing code. In such manufactured home park, a single-section unit may replace a single-section unit and a multi-section unit may replace a multi-section unit. Such replacement unit shall retain the valid nonconforming status of the prior unit.
- (d) Minimum location requirements for unit expansions in an existing nonconforming manufactured home park:
  - (1) No unit expansion shall be located closer than 15 feet to another unit.
  - (2) No unit expansion shall be located closer than five feet to a lot line.
  - (3) No unit expansion shall be located closer than 15 feet to the centerline of the pavement of any street or vehicle travelway.
  - (4) Each unit expansion shall maintain at least two off-street parking spaces.
  - (5) Each unit expansion may be provided appropriate access by means of stairs and an unroofed platform, subject to the following requirements:
    - a. No stairs, deck, or platform shall exceed 25 percent of the unit length.
    - b. No stairs, deck, or platform shall be located closer than 10 feet to an adjacent unit or the edge of any street or vehicle travelway.
    - c. When a unit is designed with a second exterior door, a minimum access stairway without a platform or deck shall be permitted if the stairs are not located closer than 10 feet to an adjacent unit.
- (e) At no time shall any unit, replacement unit, or expansion be located in such a manner that it obstructs any street, vehicle travelway, or fire lane in the manufactured home park.
- (f) A nonconforming accessory structure in a manufactured home park may be replaced or moved, but only if the replacement or the relocated structure is no closer than five feet to any other accessory structure, lot line, or unit. No accessory structure shall be located closer than 20 feet to the centerline of any street or vehicle travelway.
- (g) Should a unit be removed for any reason to another parcel of land, it shall thereafter conform to the requirements for the district in which it is relocated.

### **Sec. 130-165. Nonconforming uses.**

A nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be reconstructed, relocated, altered, or expanded in any manner, including the addition of new accessory uses, except as provided for in this section.

- (a) A nonconforming use may change to a conforming use.
- (b) Any nonconforming use may be extended throughout any part of a structure that was manifestly arranged or designed for such use at the time of adoption or amendment of this chapter.
- (c) A nonconforming use may change to a more restricted nonconforming use upon issuance by the Zoning Administrator of a zoning verification and approval for such a change. If the Zoning Administrator determines the proposed use is not "more restricted" than the existing nonconforming use, the application for a change to a more restricted nonconforming use shall be denied. To determine whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, shall be considered:
  - (1) Whether the proposed use will change, taking into consideration the size and scope, the volume, intensity, and frequency of its use; and
  - (2) Whether the proposed use will increase the intensity of the nonconforming use, including, but not limited to, storage requirements, noise, operational hours, and anticipated vehicular traffic.
- (d) A nonconforming use shall lose its nonconforming status, and any further use shall conform to the requirements of this chapter and shall file a site plan, if required by this chapter, when:
  - (1) The nonconforming use is discontinued for a period of two years; or
  - (2) The nonconforming use is intentionally abandoned, regardless of the length of time that has passed.
- (e) A nonconforming dwelling unit may have a home occupation subject to the requirements of §130-96.
- (f) A use that is accessory to a permitted principal use cannot be made the basis for a nonconforming principal use. No accessory use shall be continued after the nonconforming status of the principal nonconforming use is lost.

### **Sec. 130-166. Vested rights.**

- (a) No zoning interpretation or other writing issued by the City shall be a vested rights determination unless it strictly complies with the requirements of this section and the State Code. A vested rights determination will only be issued in response to the property owner's request. To request a vested rights determination, the owner or the owner's authorized agent must:

- (1) Submit a complete and accurate written request to the City requesting a vested rights determination, providing specific information including, but not limited to, the use of land or density for which a vested rights determination is sought;
  - (2) Pay the appropriate fee to be set by uncodified ordinance; and
  - (3) If the request is signed by an agent, provide written authority for the agent to act in this regard signed by the property owner or by a court with jurisdiction to grant such authority.
- (b) Upon receipt of a proper request for a vested rights determination, the Zoning Administrator and City Attorney will issue a determination.

**Secs. 130-167—130-200. Reserved.**