

Section 11. Nonconformities

§11.1 PURPOSE

Within the city there exist uses, structures and lots which were lawfully established pursuant to the zoning and building regulations in effect at the time of their development that do not now conform to the provisions of this *LDC*. The purpose of this Section is to regulate and limit the continued existence of these nonconforming uses, structures and lots. It is the intent of the City to permit these nonconformities to continue, but not to allow them to be enlarged or expanded, so as to preserve the integrity of the zone districts and the other provisions of this *LDC*.

§11.2 NONCONFORMING USES

- A. Authority to Continue.** Nonconforming uses may continue in accordance with the provisions of this chapter.
- B. Maintenance and Reconstruction**
 - 1. Normal Maintenance.** Normal maintenance, repairs or alterations may be performed to permit continuation of a nonconforming use.
 - 2. Reconstruction.** If a nonconforming use is damaged by fire or other cause to the extent of more than 80 percent of its replacement cost as determined by the zoning administrator, it shall only be reconstructed in compliance with the provisions of this *LDC*.
- C. Extensions.** A nonconforming use shall not be extended or enlarged. This limitation shall be construed so as to prevent:
 - 1. Extension of Area.** Enlargement of a nonconforming use by extension of the area of the structure which it occupies or by extension of the structure itself.
 - 2. Additional Land Area.** Occupancy of additional land area by the nonconforming use.
 - 3. Exceptions.** An exception to the limitations on extension of a nonconforming use may be permitted by the zoning administrator to comply with the provisions of the Americans with Disabilities Act (ADA), provided it is demonstrated that the only way to comply with the ADA would be through an extension which increases the use's nonconformity, and that the extension is the minimum necessary to comply with the ADA.
- D. Relocation.** A structure containing a nonconforming use shall not be moved to another location unless it shall thereafter conform to the provisions of the zone district into which it is moved.
- E. Change in Use.** A nonconforming use shall not be changed to another use unless the new use shall conform to the provisions of the zone district in which it is located. If a nonconforming use is changed to a conforming use for any period of time, it may not thereafter be changed back to any nonconforming use.
- F. Discontinuance.** If a nonconforming use is discontinued for a period of 18 consecutive months, then such use may not be reestablished or resumed, and any subsequent use must conform to the provisions of this *LDC*.

§11.3 NONCONFORMING STRUCTURES

- A. Authority to Continue.** Nonconforming structures may continue in accordance with the provisions of this chapter.
- B. Maintenance and Reconstruction**
- 1. Normal Maintenance.** Normal maintenance, repairs and alterations may be performed to permit continuation of a nonconforming structure.
 - 2. Reconstruction.** If a nonconforming structure is damaged by fire or other cause to the extent of more than 80 percent of its replacement cost as determined by the zoning administrator, it shall only be reconstructed in compliance with the provisions of this *LDC*.
- C. Extensions.** A nonconforming structure shall not be extended by an enlargement or expansion that increases its nonconformity.
- 1. Permitted Extensions.** A nonconforming structure may be extended or altered in a manner that does not increase its nonconformity.
 - 2. Americans with Disabilities Act.** An extension to a nonconforming structure may be permitted by the zoning administrator to comply with the provisions of the Americans with Disabilities Act (ADA), provided it is demonstrated that the only way to comply with the ADA would be through an extension which increases the structure's nonconformity, and that the extension is the minimum necessary to comply with the ADA.
- D. Relocation.** A nonconforming structure shall not be moved to another location unless it shall thereafter conform to the provisions of the zone district into which it is moved.

§11.4 NONCONFORMING LOTS

- A. Development Permitted.** A building containing uses permitted in the zone district may be developed on a lot which is nonconforming as to minimum lot size or minimum lot frontage, provided it can be located on the lot so that all other dimensional standards are met, or a Variance from such dimensional standards is obtained pursuant to Section 8, Variances, and provided the development complies with all other standards of this *LDC*.
- B. Conforming Lots Shall Not Be Made Nonconforming.** No lot that is conforming as to minimum lot size or minimum lot frontage as of the effective date of this *LDC* may be reduced in size or subdivided in such a way that it creates a nonconforming lot or causes any structure or use to become nonconforming.
- C. Lot Reduction Shall Not Increase Nonconformity.** No lot that is nonconforming as to minimum lot size or minimum lot frontage as of the effective date of this *LDC* may be reduced in size in such a way that its nonconformity would increase, or that causes the nonconformity of any use to increase.
- D. Nonconforming Lots Shall Not Be Subdivided.** No lot that is nonconforming as to minimum lot size or minimum lot frontage as of the effective date of this *LDC* may be subdivided.

§11.5 NONCONFORMING SIGNS

- A. Authority to Continue.** Any sign in existence on the effective date of this *LDC* which does not conform with any provisions of the *LDC* shall be allowed to remain and to be maintained in good repair, so long as the sign is used in conjunction with an existing business.
- B. Discontinuance.** In the event a nonconforming sign refers to a business which ceases to exist, or if the nonconforming sign is taken out of service for any period of time as a result of either an intentional act of the owner (other than for maintenance), an unintentional act of another or an Act of God, the replacement sign shall be constructed in conformance with the provisions of this *LDC*.

§11.6 NONCONFORMING MOBILE HOME PARKS

- A. Authority to Continue.** Nonconforming mobile home parks may continue in accordance with the terms of this chapter.
- B. Replacement of Mobile Homes.** A mobile home within a nonconforming mobile home park may be replaced with another mobile home, even if the dimensions of the replacement mobile home result in an increase in the degree of nonconformity of the mobile home park with respect to the minimum setbacks set forth in §3.3 I.4; provided, however, that the installation of the replacement mobile home shall not result in any of the following:
 - 1. International Fire Code.** A violation of the fire safety separation requirements of the *International Fire Code* as adopted by the City.
 - 2. Encroachment.** Encroachment of the mobile home into any adjoining street, alley, or property not a part of the mobile home park.
 - 3. Off-Street Parking.** Reduction in the number of required off-street parking spaces which existed prior to the replacement of the home.
- C. Discontinuance.** In the event a nonconforming mobile home park is not occupied by any inhabited mobile homes for a period of 12 consecutive months, then its use as a mobile home park may not be reestablished or resumed except in conformance with the provisions of this *Land Development Code*. The discontinuance of the use of one or more, but less than all, of the mobile home lots in a nonconforming mobile home park for inhabited mobile homes shall not prohibit the replacement of a mobile home upon said mobile home lot in accordance with the terms of this section.