

Article 17

Non-Conformities

Section 17.1. Purpose

The purpose of this Article is to regulate and limit the continued existence of non-conforming uses as defined in Article 19 that were established prior to the effective date of this Code Ordinance, or any amendment thereto, and that do not conform to this Code Ordinance. Any non-conformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this Article. Many non-conformities may continue, but the provisions of this Article are designed to curtail substantial investment in non-residential non-conforming uses non-conformities and to bring about their eventual elimination and/or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.

Section 17.2. Non-conforming Uses

Non-conforming uses of land or structures, and nonconforming structures that contain nonconforming uses, may continue only in accordance with the provisions of this Article. This Article shall only apply to the extent said non-conformities fully and clearly meet the definition of “non-conforming use” in Article 19 of this Ordinance.

- (a) Non-conforming Residential Uses. Normal repair and maintenance to structures may be performed to allow the continuation of a non-conforming residential use in that structure. The structure may be modified, enlarged, or rebuilt as permitted by current regulations provided that residential density is not increased and that no new non-conforming uses are created. Note the following special requirements in this code:
- (1) Changes to the exterior of any residential structure that has been listed on the Local Register of Historic Places must first obtain a certificate of appropriateness in accordance with Section 16.3.
 - (2) All residential structures in the designated floodplain that are being modified or rebuilt at a cost above 50% of the market value of the existing structure are subject to special provisions that may require elevating the lowest floor above the base flood elevation for that property. See Article 5 of Chapter 7 for the entire floodplain management code, including certain exceptions for structures listed in the Local Register of Historic Places that are within the floodplain.

- (b) Non-conforming Non-Residential Uses.
- (1) A non-conforming non-residential use shall not be enlarged by additions to the structure in which the non-conforming non-residential use is located, either attached or detached; and the continued existence of the non-conforming non-residential use cannot be the basis for creating additional non-conforming uses in the structure.
 - (2) However, if a non-conforming non-residential use can expand within the existing structure, it may do so as long as the Zoning Official determines that the interior expansion will not have a negative impact upon surrounding conforming uses. Any occupation of additional lands beyond the boundaries of the lot on which said non-conforming non-residential use is located is prohibited.
 - (3) Changes to the exterior of any non-residential structure that has been listed on the Local Register of Historic Places must first obtain a certificate of appropriateness in accordance with Section 16.3.
 - (4) All non-residential structures in the designated floodplain that are being modified or rebuilt at a cost above 50% of the market value of the existing structure are subject to special provisions that may require elevating the lowest floor above the base flood elevation for that property. See Article 5 of Chapter 7 for the entire floodplain management code, including certain exceptions for listed historic structures in the floodplain.
- (c) Less intense Non-Conforming Use. A non-conforming use may be changed to another equal or less intense non-conforming use pursuant to approval by the City Council, upon review and recommendation of the Planning Commission, when such change is not detrimental to the health, safety, and welfare of the surrounding area.
- (d) Changed to a Conforming Use. Once a non-conforming use has been changed to a conforming use, it shall not thereafter be used for any non-conforming use.
- (e) Non-conforming Use is abandoned. If a non-conforming use is abandoned for 365 +80 days or more, the use shall not be allowed to re-establish. All new uses in said structure shall thereafter be conforming.

Section 17.3. **Reserved**

Section 17.4. **Reserved**

Section 17.5. Reserved

Section 17.6. Non-conforming Lots of Record

- (a) When a non-conforming lot of record can be used in conformity with all the regulations applicable to the intended use, except the lot is smaller than the required minimums set forth in Article 3, the lot may be used as proposed just as if it were conforming. However, no use that requires a greater lot size than the minimum lot size for a particular zone is permissible on a non-conforming lot.
- (b) When the use proposed for a non-conforming lot of record is one that is conforming in all respects but the applicable setback requirements cannot be reasonably complied with, the Board of Zoning Appeals may allow variances ~~deviations~~ from the applicable setback requirements based upon conditions found in Article 16.10.