

ARTICLE 4.

NON-CONFORMING LOTS, NON-CONFORMING STRUCTURES, NON-CONFORMING USES OF LAND AND STRUCTURES

SECTION 401. GENERAL

Within the zoning districts established by this Ordinance there exists certain lots, structures, and uses of land and structures, which were lawful prior to the effective date of this ordinance, but which are prohibited, regulated or restricted under the terms of this Ordinance. Such uses are declared to be non-conforming uses and are incompatible with permitted uses in the districts involved. Their elimination, as expeditiously as it is reasonable, is declared to be of as much concern to the public health, safety, and welfare, as is the prevention of the establishment of new structures and uses that would violate provisions of this ordinance. It is therefore, the objective of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

SECTION 402. NON-CONFORMING LOTS

Any legal lot or parcel of record or any lot or parcel in a final subdivision plat or map of this Ordinance which has an area, width, or depth smaller than the minimum prescribed by the zoning district in which the lot is located, and any plat or map so approved which is amended prior to the effective date of this Ordinance is classified as a non-conforming lot for purposes of this Ordinance.

Section 402.1 Yard Requirements In Effect

The yard requirements in effect for any legal lot or parcel of record or any lot or parcel in a final subdivision plat or map approved by the City Council prior to the adoption of this Ordinance are authorized for such lots or parcels in lieu of those prescribed by this Ordinance.

Section 402.2 Single-Family Dwelling Erection Permitted

The single-family dwelling may be erected on a non-conforming lot or parcel as described above in districts permitting such uses, provided that:

- (a) Such lot or parcel must be in separate ownership and not of continuous frontage with other lots or parcels in the same ownership.
- (b) Yard dimensions and other requirements not involving area or width, or both, conform to the regulations for the zoning district in which such lot or parcel is located;

- (c) Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment as provided in Article 11.
- (d) If two or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership are of record, and if all or part of the lots do not meet requirements for lot width and area established by this Ordinance, the lands involved shall be considered to be an undivided parcel, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements of this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot or parcel having width or area which does not meet requirements of this Ordinance.

SECTION 403. NON-CONFORMING STRUCTURES

Any structure, or portion thereof, lawfully existing on the effective date of this Ordinance, which was designed, erected or structurally altered for a use which does not conform to the regulation of the zoning district in which it is located; or which does not comply with all the height, setback and area regulations of the zoning district in which it is located, classified as a non-conforming structure for purposes of this Ordinance.

Section 403.1 Repair or Rebuilding of a Structure

Although the objective is the eventual elimination of non-conforming structures, the repairing or rebuilding of a nonconforming structure will be allowed on the footprint of the original structure, or expanding outside the limits of the footprint, as long as it meets the setback requirements of the zoning district. (Ord. 05-881 § 3, 2005)

Section 403.2 Unexpired Building Permits

Nothing herein contained shall require any change in plans, construction or designated use of a building for which valid, unexpired building permit has heretofore been issued, or obtained prior to the effective date of this Ordinance.

SECTION 404. NON-CONFORMING USES OF LAND AND STRUCTURES

Any use of land or a structure lawfully existing at the time of the enactment of this Ordinance, which does not conform to the regulations of the zoning district in which it is located, is classified as a non-conforming use of land or a structure of purposes of this Ordinance. Such nonconforming use may continue only in the manner and to the extent it existed at the time it became nonconforming.

Section 404.1 Expansion or Enlargement of Non-Conforming Use

A non-conforming use may be expanded or enlarged to an extent not exceeding 25% of the land area and/or building ground floor area existing at the time it became non-

conforming; such expansion shall require the approval of the Board of Adjustment but in no case shall it be greater than 25%.

Section 404.2 Abandonment or Discontinuance of a Non-Conforming Use

Whenever a non-conforming use is abandoned or has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future uses shall be in conformity with the provisions of this Ordinance. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A business license will serve as prima facie evidence of any operational use.