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CHAPTER 15.18: NONCONFORMITIES¹

15.18.000 GENERAL PROVISIONS²

15.18.000.A Purpose

The purpose of this chapter is to regulate and restrict uses, structures, lots, and signs that were established legally prior to the effective date of this Code, that no longer conform to the requirements of this Code or future Code amendments. All such situations are collectively referred to in this chapter as “nonconformities.” While nonconformities may continue, this chapter is intended to curtail substantial investment in nonconformities and bring about their eventual elimination, in order to preserve and enhance the integrity of this Code and the character of the City.

15.18.000.B Authority to Continue

1. Generally³

Except as provided in this chapter, the lawful use and location of any structure or land existing at the time of enactment of the ordinance codified in this chapter may be continued even though the use or location does not conform to the requirements of this chapter.

2. Exception Due to Variances or Minor Modifications

Notwithstanding subsection 1 above, this chapter shall not apply to any development standard or feature that is the subject of a variance or minor administrative modification granted under this Code. Where a variance or minor modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this Code, that development standard or feature shall be deemed conforming.

15.18.000.C Determination of Nonconformity Status

In all cases, the burden of establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity, not the City.

15.18.000.D Nonconformities Created Through Government Action

If a structure, use of land, use of structure, or characteristic of use does not comply with the requirements of this Code solely as a result of an acquisition of land or other action by a government agency for a public purpose, then such structure, use of land, use of structure, or characteristic of use on land not acquired by the government shall be deemed conforming.

¹ NOTE: The following chapter carries forward the language set forth in 17.44 of the current code per page 48 of the Diagnosis. We have suggested new provisions that are common in many communities for your consideration as noted.

² NOTE: The following is all new language, except as noted for subsections B and F below.

³ NOTE: The following is taken from 17.44.010 of the current code.

15.18.000.E Change of Ownership or Tenancy

Changes of ownership, tenancy, or management of property with an existing nonconformity are permitted, but such nonconformities shall continue to be subject to the provisions of this chapter, except for mobile homes as set forth in Section 15.18.050 of this chapter.

15.18.000.F Maintenance and Minor Repair ⁴

Minor repairs or maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the minor repair or maintenance does not increase the extent of nonconformity. For purposes of this section, “maintenance or minor repair” shall mean:

1. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
2. Maintenance of land areas to protect against health and environmental hazards and promote the safety of surrounding land uses; and
3. Repairs that are required to remedy unsafe conditions that cause a threat to public safety.

15.18.010 NONCONFORMING LOTS ⁵

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Code, a single-family dwelling and customary accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of area, width, and setback requirements shall be obtained only through appropriate action through the variance or minor administrative modification procedures set forth in Section 15.06.060 of this Code.

15.18.020 NONCONFORMING USES ⁶

15.18.020.A Nonconforming Use of Structure

If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of this Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout parts of a structure which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be extended to occupy any land outside such structure.
3. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district

⁴ NOTE: We suggest the following new language to replace the very brief language set forth in 17.44.020 of the current code.

⁵ NOTE: The following is new language for the City's consideration.

⁶ NOTE: The following is new language for the City's consideration to address nonconforming uses that is briefly addressed in the current code.

in which such structure is located, and the nonconforming use may not thereafter be resumed.

4. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for one year, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.⁷
5. Where nonconforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the nonconforming status of the land.
6. A nonconforming use shall not be changed to a use of the same or less restrictive classification; a nonconforming use may, however, be changed to another use of a more restrictive classification.⁸

15.18.020.B Nonconforming Use of Land

Where, at the effective date of adoption or amendment of this Code, lawful uses of land exist that are no longer permissible under the terms of this Code as enacted or amended, such uses may be continued, so long as they remain otherwise lawful, subject to the following provision:

1. No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Code.
2. No such nonconforming use shall be moved in whole or in part of any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Code.
3. If any such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this Code for the district in which such land is located.

15.18.020.C Specific Uses and Special Exceptions

1. A use existing prior to the effective date of this Code that is permitted as a specific use in the district in which it is located under this Code, but which lacks an approved specific use approval, shall not be deemed a nonconforming use, but rather shall be considered to exist as a conforming specific use.
2. A specific use or special exception use existing prior to the effective date of this Code that is permitted in its entirety as a principal use in the district in which it is located under this Code shall not be deemed a nonconforming use. Such use shall be deemed a permitted principal use and the specific use approval shall be null and void.

15.18.030 NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

⁷ NOTE: This provision is intended to incorporate the one year specified in 17.44.040 of the current code.

⁸ NOTE: This provision is taken from 17.44.050 of the current code.

15.18.030.A Enlargement, Alteration, or Movement

1. No such structure may be enlarged or altered in a way that increases its nonconformity.
2. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

15.18.030.B Damage or Destruction ⁹

1. If a nonconforming structure is damaged or destroyed by any means to an extent greater than 50 percent of its replacement cost at the time of damage or destruction, then such structure shall not be re-established unless it is made to conform to the requirements of this Code.
2. Where a nonconforming structure is damaged by less than 50 percent of its replacement cost at the time of damage, it may be repaired or restored, provided any such repair or restoration is started within 12 months and is completed within 18 months from the date of partial destruction.
3. The Director¹⁰ shall determine the above reconstruction costs. The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

15.18.030.C Nonconforming Religious Institution Buildings ¹¹

A nonconforming religious institution building (having less front, rear, or side yards than otherwise required in this Code) may be enlarged or extended in line with such nonconforming yard or yards.

15.18.040 NONCONFORMING SIGNS ¹²

15.18.040.A Termination

A nonconforming sign shall immediately lose its legal nonconforming status, and therefore shall be brought into conformance with this Code or removed, when any of the following occur:

⁹ STAFF: We suggest the following language that is common in many communities to replace that set forth in 17.44.030. That section states that any building damaged by anything other than natural deterioration may be restored to its original condition if done within one year. Would staff like to keep this existing provision?

¹⁰ STAFF: Is this the correct term for this individual? It is not clear from the City's website what the title of this individual is.

¹¹ NOTE: The following is taken from 17.44.060 of the current code. We have replaced the term "church" with "religious institution" to match the use as listed in the new Table 15.10-1, Table of Allowed Uses.

¹² NOTE: This is a proposed new section per page 48 of the Diagnosis. The current code only addresses nonconforming billboards in 17.42.080 and nonconforming off-premise signs but does not address the issue generally.

1. The size or shape of the sign is changed; or
2. The sign structure is altered. Alteration does not include repairs and/or maintenance; or
3. The nonconforming sign is accessory to a nonconforming use that has lost its nonconforming status; or
4. The sign or billboard is removed from the property for 30 days or more; or
5. The primary structure on the property at which the sign is located is the subject of an application for a building permit for reconstruction, remodeling, expansion, or other improvements to the primary structure on such property, and the value of the proposed improvements total more than 25 percent of its replacement cost of such primary structure.

15.18.040.B Reconstruction of Damaged Sign

If a sign or its supports are damaged to the extent where the repair costs exceed 50 percent of the replacement cost of the sign as determined by the Director, the sign shall be removed or brought into compliance.

15.18.040.C Alteration, Relocation, or Replacement of Nonconforming Signs

A nonconforming sign shall not be structurally altered, relocated, or replaced unless it is brought into compliance with the provisions of this section.

15.18.040.D Maintenance of Nonconforming Signs

Nonconforming signs shall continue to be maintained in safe condition pursuant to the building regulations of the City.

15.18.040.E Nonconforming Billboards¹³

All billboards that were lawfully constructed before the effective date of the ordinance codified in this section will be considered:

1. Legal permitted billboards if they could be constructed under this chapter; or
2. Prior nonconforming billboards if they could not be constructed under this chapter.
3. Except as allowed within the I-80 signage corridor, the number of billboard sign support structures within the City limits shall not be increased.
4. For the purposes of this subsection, a sign support structure is one or more poles which support a single- or two-sided billboard.
5. For prior nonconforming billboards located outside of the I-80 signage corridor, within five years from the effective date of this Code:
 - a. Each sign face shall be reduced to no more than 240 square feet; and
 - b. The height of each billboard, as measured from ground level at the foot of the support structure to the top of the billboard, shall be 35 feet or less.
6. A prior nonconforming billboard support structure and its sign faces may be relocated within the City limits under these conditions:
 - a. The new site is 500 feet or more from all then-existing billboards;
 - b. Then-current zoning allows a billboard in the location;
 - c. All required permits are obtained; and
 - d. The location is approved in advance by the city council, after a public hearing is held (adjoining property owners to the property on which the sign is to be placed shall be

¹³ NOTE: The following is taken from 17.42.080 of the current code.

given notice by first class mail), as being consistent with the health, safety, and general welfare of the community.

7. Prior nonconforming billboards may remain in existence but shall not be increased in area and shall not be increased in height.
8. Prior nonconforming billboards are subject to all requirements regarding safety, maintenance, and repair.

15.18.040.F Nonconforming Off-Premise Signs ¹⁴

Nonconforming off-premise signs are allowed to remain in place subject to all requirements regarding safety, maintenance, and repair, and as follows:

1. Nonconforming off-premise signs may not be repaired or reconstructed after damage or destruction if the estimated cost of reconstruction or repair exceeds 50 percent of the replacement cost of the sign;
2. Only normal repair and maintenance are allowed. The sign structure cannot be altered;
3. Signs advertising a discontinued business shall be removed or shall advertise another active business within 90 days of the date the business was discontinued;
4. A nonconforming sign may not be replaced with another nonconforming sign;
5. Nonconforming signs may not be moved or relocated except to a lawful location; and
6. Sign copy or message may be changed provided there are no physical alterations to the sign structure.

15.18.050 NONCONFORMING MOBILE HOMES ¹⁵

- 15.18.050.A** All nonconforming mobile homes existing and within the City upon the effective date of the ordinance codified in this section shall be brought into compliance on or before January 1, 2000; provided, however, that this provision shall not be applicable to nonconforming mobile homes used by the same person in occupancy from the date of adoption of this section, and the continued use of the nonconforming mobile home shall be permitted as long as the mobile home is used by the same person.
- 15.18.050.B** Nonconforming mobile homes annexed after the effective date of the ordinance codified in this section shall be brought into compliance on or before five years after the date of their annexation.
- 15.18.050.C** Ordinary repairs and maintenance of a nonconforming mobile home shall be permitted.
- 15.18.050.D** Notwithstanding the required date of compliance, nonconforming mobile homes may not be replaced by other nonconforming mobile homes.
- 15.18.050.E** A nonconforming mobile home shall not be moved to a new location, where such location is private property or leased property, within or into the City limits.¹⁶

¹⁴ NOTE: The following is taken from 17.42.040.F of the current code.

¹⁵ NOTE: The following is taken from 17.44.035 of the current code.

¹⁶ NOTE: This provision has been suggested by staff to address the issue of allowing nonconforming mobile homes to be relocated to different parts of the city, specifically to mobile home parks. Although the current language does not specifically address this, it has been current practice to allow this. This issue needs further discussion from the ZAC as to either allowing or prohibiting this practice.