

**ARTICLE XXVII
NONCONFORMING USES**

Section 1. May be continued:

- A. The following lawful uses of land may be continued.
1. A use of land existing at the time of annexation of such land to the City, including that land used for the purpose of storing junk, scrap iron, and scrap material, including dismantled and wrecked automobiles or other vehicles, or other types of open storage and which is located in other than "I-2" Heavy Industrial District, shall be discontinued within five (5) years of annexation unless rezoned to an "I-2" District.
 2. A use of land existing at the time an amendment is made to the Zoning Ordinance, which changes such land to a more restrictive district even though such use does not conform to the provisions of this Ordinance. However, if such nonconforming use, or another nonconforming use to which the land may be changed, is discontinued for a period of six (6) months or more, then any future use of said premises shall be only in accordance with the provisions of the Zoning Ordinance.

Section 2. May not be continued: Nonconforming use, which may not be continued:

- A. Whenever a nonconforming use of a building has been changed to a more conforming use, such use shall not thereafter be changed to a less conforming use.
- B. A nonconforming building which has been damaged to the extent of more than sixty percent (60%) of its structural value by fire, explosion, act of God or the public enemy shall not be restored, except in accordance with all zoning regulations. In the event of a question as to the structural value of such a building, the same shall be determined by three (3) appraisers; one (1) of whom shall be selected by the Governing Body, one (1) of whom shall be selected by the owner of the building, and the third appraiser shall be selected by the two (2) appraisers so selected. If the first two (2) appraisers so selected cannot agree on the selection of the third such appraiser, the Judge of the appropriated court shall be requested to appoint such third appraiser. The decision of the appraisers, or a majority of them, shall be final and conclusive and shall be binding upon all concerned for the purpose of determining whether the damaged property may be restored. The property owner shall pay the cost of such appraisal.

- C. The nonconforming use of a building or premises for the purpose of dismantling to wrecking automobiles or other vehicles of any kind or for the purpose of storing junk, scrap iron and scrap material, including dismantled and wrecked automobiles or other vehicles, or other types of storage and which is located in other than "I-2" Heavy Industrial District, shall be discontinued within five (5) years from the effective date of this Ordinance, and the buildings or premises thereafter devoted to a use permitted in the district in which such buildings or premises are located.
- D. Where land is used for business signs, bulletin boards, or billboards, at the time of passage of the Zoning Regulations, and are not in conformance with the Zoning Regulations, the use of such land for said business signs, bulletin boards, or billboards shall be discontinued and the sign removed within five (5) years after the effective date of the Zoning Ordinance. Land, as used in this paragraph, shall mean signs on supports on vacant land as well as signs on buildings.

Section 3. NONCONFORMING STRUCTURES

- A. Maintenance and repair.** Remodeling of a Nonconforming Structure within the existing Building footprint shall be permitted without a Variance. Any Nonconforming Structure damaged to the extent of 50 percent or less of its fair market value by fire, wind, tornado, earthquake or other natural disaster may be rebuilt, provided such rebuilding does not increase the Intensity of Use as determined by the number of Dwelling Units (for residences) or Floor Areas or ground coverage (for nonresidential uses). The Structure shall not be rebuilt closer to the property line than the original Structure or the applicable Setback lines, whichever is closer. Nonconforming Structures damaged 50 percent or less of their fair market value by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code related to construction in flood hazard areas. Any Building so damaged more than 50 percent of its value may not be rebuilt, repaired, or used unless it is made to conform to all regulations for Buildings in the District in which it is located, provided that such restoration as may be made is to the fullest extent possible in conformance with development standards.
- B. Enlargement and expansion.** Any expansion of the Nonconforming Structure that increases the degree of nonconformance is prohibited. Other expansions of the Structure shall be permitted and shall not require a Variance. The initial determination of whether a proposed expansion increases the degree of Nonconformity shall be made by the Zoning Administrator, with an appeal to the Board of Zoning Appeals.

- C. Relocation.** If a Nonconforming Structure is relocated within the area to which this Code is applicable, it shall be placed only in a location in which it fully conforms with the requirements of this Code.
- D. Unsafe Structures.** Nothing in this section shall be construed to permit the continuing use of a Building found to be in violation of basic life safety or health codes of the City or County. The right to continue to use a noncomplying Structure shall be subject to all applicable housing, building, health and other life safety and health codes of the jurisdiction in which the Building is located.

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