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ARTICLE 12: NONCONFORMITIES

17.12.1: General

17.12.1.1: Purpose and Intent

This Article is intended to regulate buildings, structures, uses, fences and signs that came into being lawfully but that do not conform to one or more of the requirements of this Zoning Ordinance. Further it is the intent to identify circumstances and conditions under which any nonconforming building, structure, use, fence or sign shall be permitted to exist and may be modified.

17.12.1.2: Authority to Continue

Any nonconformity that legally existed on April 1, 2013, or that becomes nonconforming upon the adoption of any amendment to this Zoning Ordinance, may be continued in accordance with the provisions of this Article.

17.12.1.3: Nonconformities Detrimental to Health and Safety

No provision of this Article shall be construed to allow continuation of any nonconforming building, structure, use, fence or sign when it is determined by the Director to be detrimental to public health or safety. The right to continue the use of any nonconforming building, structure, use, fence or sign shall be subject to all life safety requirements of applicable housing, building, health and other safety codes and standards.

17.12.1.4: Determination of Nonconformity Status

The burden of establishing that a building, structure, use, fence, or sign is nonconforming shall, in all cases, be solely upon the owner of such nonconforming building, structure, use, fence or sign.

17.12.1.5: Nonconforming Certificate

An owner of any nonconforming building, structure, use, fence or sign may request a Nonconforming Certificate by filing an application with the Director. The application shall include the approximate date that the building, structure, use, fence, or sign was established, and any other information determined by the Director to be necessary to permit an accurate determination as to whether the building, structure, use, fence, or sign is nonconforming.

17.12.1.6: Nonconformities Created by Public Action

When lot area or setbacks are reduced as a result of land acquired by a federal, state or local government, or any other public agency, for a public purpose, and the remaining is at least sixty (60) percent of the required minimum standard for the zoning district in which it is located, then that lot or structure is deemed to be in compliance with the minimum standards of this Zoning Ordinance.

17.12.2: Nonconforming Buildings or Structures

17.12.2.1: Nonconforming Buildings or Structures in Single-Family and Two-Family Residential Zone Districts

A nonconforming building or structure may continue to be used subject to the following provisions:

A. Repair:

A nonconforming building or structure may be repaired or structurally altered only if the alteration or repair does not increase the nonconformity and complies with this Zoning Ordinance. If the nonconforming building or structure, or any portion thereof, is declared unsafe by the City building inspector, the building may be strengthened or restored to a safe condition even if compliance with the requirements of this Zoning Ordinance is impossible.

B. Expansion:

1. A nonconforming principal building or structure may be enlarged, extended, constructed or altered as determined by the Director as follows:

    a. The expansion or alteration is no greater than 20 feet in length, or 20 percent of the average lot depth, whichever is less; and

    b. The expansion or alteration comes no closer to the property line than the existing nonconforming portion of the building or structure and is no less than 3 feet from the adjacent property line; and

    c. No new nonconformities are created; and

    d. The expansion or alteration is compatible with the pattern of existing development in the vicinity; and

    e. The expansion or alteration is consistent with the Comprehensive Plan; and

    f. All other standards of this Zoning Ordinance are met.

2. No vertical expansion is permitted unless it meets all standards of this Zoning Ordinance.

C. Restoration of Damage:

1. A nonconforming principal building or structure that is damaged or destroyed by fire or any other natural disaster may be restored in accordance with Section 17.12.1.3:. In such case, the principal building or structure may be re-established to the extent that existed before the time of damage, and within the pre-existing structure boundaries, provided that the repairs or rebuilding do not increase the degree of nonconformity and provided that such repairs, restoration or reconstruction begin within 18 months of the date of such damage.

2. A nonconforming accessory building or structure that is destroyed or damaged to the extent of more than 60 percent of its replacement value shall not be repaired or rebuilt except in compliance with the requirements of this Zoning Ordinance.

17.12.2.2: Nonconforming Buildings or Structures in Multifamily, Mixed-Use, Commercial and Light Industrial Zone Districts

A nonconforming building or structure in a multifamily, mixed-use, commercial or light industrial zone district may continue to be used subject to the following provisions:

A. Repair

A nonconforming building or structure may be repaired or structurally altered only if the alteration or repair does not increase the nonconformity, except as provided in Subsection B, below. If the nonconforming building or structure, or any portion thereof, is declared unsafe by the City building inspector, the building may be strengthened or restored to a safe condition even if compliance with the requirements of this Zoning Ordinance is impossible.

B. Expansion:

A nonconforming building or structure shall be permitted to be enlarged, extended, or altered as follows:

1. A nonconforming building or structure may be expanded by a maximum of 20 percent of the gross floor area of the structure that existed on April 1, 2013, if the expansion or alteration does not increase or extend any existing nonconformity or create any new nonconformities.

2. A nonconforming building or structure may be expanded more than 20 percent of the gross floor area of the building or structure that existed on April 1, 2013, if that portion of the building or structure that is being expanded meets the requirements of Article 5.

C. Restoration of Damage:

1. A nonconforming principal building or structure that is damaged or destroyed by fire or any other natural disaster may be restored in accordance to Section 17.12.1.3:. In such case, the principal building or structure may be re-established to the extent that existed before the time of damage, and within the pre-existing structure boundaries, provided that the repairs or rebuilding do not increase the degree of nonconformity and provided that such repairs, restoration or reconstruction begin within 18 months of the date of such damage.

2. A nonconforming accessory building or structure that is destroyed or damaged to the extent of more than 60 percent of its replacement value shall not be repaired or rebuilt except in compliance with the requirements of this Zoning Ordinance.

17.12.3: Nonconforming Use

A. With the exception of single family dwelling units and duplexes, no non-conforming use maybe expanded through any development activities. For any expansion of a single family or duplex unit, the design and development standards of the R-1-6 zone district shall apply

B. An existing nonconforming use may be continued except that the nonconforming use shall terminate if it is discontinued for a period of 180 days or more, regardless of any intent to resume operations. However, the Director, for good cause shown, may extend the discontinuation period based upon the following criteria:

1. The building and/or site was designed specifically for the particular use for which the extension is being requested; and

2. There are no substantial redevelopment opportunities for that site in the near future; and

3. No redevelopment has occurred in the vicinity of the site; and

4. The use for which the extension is being requested will not have a detrimental impact on the surrounding uses or potential redevelopment.

C. A nonconforming use shall not be changed to another nonconforming use. However, the Director, for good cause shown, may permit a change to another nonconforming use based upon the following criteria:

1. The configuration and design of the site and/or building significantly limit redevelopment and reuse opportunities; and

2. No redevelopment has occurred in the vicinity of the site; and

3. The use for which the extension is being requested will have less adverse impact than the previous nonconforming use or than a vacant building on the site; and

4. The Director, at his or her discretion, may require certain site improvements as a condition of approval in accordance with other standards of this Zoning Ordinance; and

5. The Director, at his or her discretion, may subject the proposed nonconforming use to a special use permit process as described in Article 2 of this Zoning Ordinance.

D. A nonconforming use, if changed to a conforming use, may not thereafter be changed to any nonconforming use.

17.12.4: Nonconforming Fences

A nonconforming fence must be brought into conformity if the fence is damaged or destroyed by more than 60 percent of its total replacement value.

17.12.5: Nonconforming Signs

A. A nonconforming sign must be brought into conformity if:

1. The sign is damaged or destroyed by more than 60 percent of its total replacement value; or

2. There is a request made for a permit to alter the structural support of the sign.

17.12.6: Nonconforming Parking

Nonconforming parking in the multifamily, mixed-use, commercial or light industrial zone districts may be continued except that when any building or structure is enlarged, extended or altered, the parking shall meet the minimum parking standards identified in Table 17.8.1.

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