

ARTICLE 07. NON-CONFORMITIES

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Sec. 07-01. GENERAL

- A. The provisions of this Article shall apply to all non-conforming uses, parcels of land, structures, and signs.
- B. Non-conformities may be incompatible with and detrimental to permitted land uses and structures in the zoning districts in which they are situated; they inhibit present and future development of nearby properties; and they confer upon their owners and users a position of unfair advantage.

Sec. 07-02. SCOPE OF PROVISIONS

- A. An existing non-conforming land use, structure, parcel of land, or sign shall not cause further departures from the Unified Development Code (UDC).
- B. Non-conformities should be abolished or reduced within a reasonable period of time but in some instances may continue to exist as specifically described in this Article. In no case, shall an existing non-conformity be expanded.
- C. A non-conforming use may be changed to another use only when the new use may be one that is permitted in the zoning district governing the property in which the non-conformity is situated, provided that the new use complies with the regulations of that district.
- D. The existence of any present non-conformity anywhere in the City shall not itself be considered grounds for the issuance of a variance for other property.

Sec. 07-03. ESTABLISHMENT OF A NON-CONFORMITY

- A. A non-conformity shall be deemed to have existed on the date this UDC or any amendment thereto becomes effective if:
 - 1. It existed on a continuous basis and to its fullest extent on the date referred to above.
 - 2. If such non-conformity is a use, such use had not been abandoned as hereinafter defined in Section 07-09.
 - 3. Provided however that nothing in this UDC shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction had lawfully begun in good faith prior to the effective date of this UDC, if such construction is completed within two (2) years following such date. Actual construction is hereby defined to include the placing of construction materials so that they are in a permanent position and fastened to the earth in a permanent manner.

Sec. 07-04. ENLARGEMENT OR ALTERATION OF A NON-CONFORMING USE

- A. A non-conforming use of land shall not be enlarged, extended or altered and a structure or part thereof devoted to a non-conforming use shall not be enlarged, extended, constructed, reconstructed, or structurally altered, except:
1. As may be required by law; or
 2. In changing the use to one that is permitted in the zoning district in which such use is situated; or
 3. To the extent hereinafter permitted; or
 4. To provide off-street parking or loading space; or
 5. An existing legal non-conforming tavern or restaurant existing on December 1, 1975, or an existing tavern or restaurant which becomes non-conforming because of a subsequent change of zoning district classification, may be issued a liquor license in accord with the provisions of Chapter 801, SLCRO 1974, as amended, and such issuance and sale of liquor thereunder shall not be deemed an enlargement, extension, or alteration of said use.
- B. Relocation.
- A non-conforming use of land shall not be moved to another part of a lot or outside the lot, and a non-conforming use of a structure shall not be moved to any part of the structure not manifestly arranged and designed for such use at the time the use became non-conforming except that in the case of extraction of raw materials from the earth, extraction operations and moving of related structures may occur on any part of the tract owned or leased by the operator at the time of becoming a non-conforming use.
- C. Conditional Uses.
- Where any change is proposed to be made to a use that is permitted in the district only by a conditional use permit, such change may be made only through a conditional use permit granted pursuant to the procedure specified in Article 02-12 of this UDC.
- D. Number of Dwelling Units.
- The number of dwelling units in a non-conforming residential structure shall not be increased over the number of dwelling units in the structure at the time of the structure becoming a non-conforming structure.

Sec. 07-05. RESTORATION

- A. Nothing in this UDC shall be deemed to prohibit the restoration of any structure and its use where such structure has been destroyed by any means out of the control of the owner (such as a natural disaster) to an extent less than 60% of its replacement value (excluding the value of the land, the cost of preparation of land, and the value of any foundation adaptable to a conforming use) at the time of destruction, provided the restoration of such structure and its use in no way increases any former non-conformity, and provided further that restoration of such structure is begun within six (6) months of such destruction and diligently prosecuted to completion within two (2) years following such destruction.
- B. Whenever such structure has been destroyed by any means out of the control of the owner (such as a natural disaster) to an extent of more than 60% of its replacement value (excluding the value of the land, the cost of preparation of land and the value of any foundation adaptable to a conforming use) at the time of destruction, as determined by the Planning and Development Services Director, or by any means within the control of the owner to any extent whatsoever, the structure shall not be restored except in full conformity with all regulations of the district in which such structure is situated.
- C. When a structure is determined to be substandard by the Planning and Development Services Director under any applicable ordinance of the City and the cost of placing the structure in condition to satisfy the standards under such ordinance shall exceed 60% of the reconstruction cost of the entire structure, such non-conforming structure shall not be restored for the purpose of continuing a non-conforming use. However, none of the restrictions contained in this Section shall limit the authority of the Board of Adjustment to grant relief for reconstruction of a non-conforming structure, as provided in Article 02-19 of this UDC.
- D. Flood.

If any non-conforming use or structure is destroyed by flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of the UDC. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historical Places or a State Inventory of Historical Places.

Sec. 07-06. RECONSTRUCTION IN FLOOD PLAIN "FP" DISTRICT

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of Article 05 and other applicable regulations. Violation of the provisions of Article 05 or failure to comply with any of its requirements (including violation of conditions and safeguards established in connection with grants of variances or special

exceptions) shall constitute a misdemeanor subject to penalties as established in Article 08 of this UDC.

Sec. 07-07. CONFORMANCE WITH ZONING PERFORMANCE STANDARDS

Within five (5) years of the date of the adoption of this UDC, or the date of adoption of any applicable amendments to this UDC, any use that is or becomes a non-conforming use, shall be brought into conformance with the zoning performance standards established in Article 04 of this UDC.

Sec. 07-08. REQUIRED DISCONTINUANCE

The non-conforming use of open land for junk yards, storage (other than stockpiling of sand, gravel, and rock as an accessory operation to the extraction of raw material from the earth) and non-conforming structures containing 200 square feet of ground floor space or less shall be discontinued within five (5) years of the date of their becoming non-conforming uses by the adoption of this UDC, amendments to this UDC or previous Zoning Ordinances. Any use listed in this paragraph need not be discontinued in the event that the adoption of this UDC or amendments to this UDC changes the status of such use from that of a non-conforming use to that of a permitted use in the district in which it is located.

Sec. 07-09. ABANDONMENT OF NON-CONFORMING USES

Any non-conforming use that has been abandoned for a period of 12 consecutive months shall not thereafter be re-established. Abandonment occurs when a structure or land, or structure and land in combination, which was formerly devoted to a non-conforming use has been discontinued for a period of 12 months. When abandonment occurs, said structure or land shall not again be devoted to any use other than those uses which are permitted in the district in which the structure or land, or structure and land in combination, is situated.

Sec. 07-10. NON-CONFORMING SIGNS

A. Scope of Provisions.

1. The provisions of this Section shall apply to all non-conforming signs. A non-conforming sign is one which existed lawfully whether by variance or otherwise, on the date this UDC or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations of the UDC or such amendment thereto.
2. Such non-conformities may be incompatible with permitted land uses and structures in the zoning districts in which they are situated; and they confer upon their owners and users a position of unfair advantage.

B. Non-conformities are not to be expanded, and they should be abolished or reduced to conformity as quickly as the fair interest to the parties will permit.

- C. An existing non-conforming sign shall not cause or authorize further departures from the UDC.
- D. An existing non-conforming sign may be continued except as hereinafter limited in this Section.
- E. A non-conforming sign may be changed to another sign only in accord with the following:
 - 1. The new sign may be one that is permitted in the underlying district governing the property in which the non-conformity is situated, provided that the new sign complies with the regulations of that district; or
 - 2. The new sign may be one that is permitted in the most restrictive district in which the non-conforming sign is a permitted sign, provided that the new sign complies with the regulations of that district.

Sec. 07-11. NON-CONFORMING ADVERTISING SIGNS

- A. A non-conforming advertising sign shall not be enlarged or relocated except:
 - 1. As may be required by law or where relocated by governmental authority.
 - 2. To the extent hereinafter permitted.
- B. An existing advertising sign which is legally non-conforming or would be legally non-conforming, but, for failure to have terminated such non-conformity within five (5) years as provided in Section 1003.260 of the St. Louis County Zoning Ordinance of 1946, or Section 1003.170 of the St. Louis County Zoning Ordinance of 1965, may be repaired, reconstructed or structurally altered, but may not be enlarged or relocated.
- C. The existence of any present non-conformity anywhere in the City shall not itself be considered grounds for the issuance of a variance for a sign on other property.

Sec. 07-12. ALTERATION OR RELOCATION OF NON-CONFORMING SIGNS

- A. A non-conforming sign shall not be enlarged or relocated except:
 - 1. As may be required by law or where relocation is relocated by governmental authority; or
 - 2. To the extent hereinafter permitted; and
 - 3. Restoration, alteration, or reconstruction of the sign face shall not be considered as an increase in non-conformity or a non-conforming sign.

Sec. 07-13. RESTORATION OF NON-CONFORMING SIGNS

- A. Nothing in this UDC shall be deemed to prohibit the restoration of any sign and its use where such sign has been destroyed by any means out of the control of the owner (such as a natural disaster) to an extent less than 60% of its replacement value at the time of destruction, provided the restoration of such sign and its use in no way increases any former non-conformity, and provided further that restoration of such structure is begun within six (6) months of such destruction and diligently prosecuted to completion within six (6) years following such destruction.
- B. Whenever such sign has been destroyed by any means out of the control of the owner (such as a natural disaster) to an extent of more than 60% of its replacement value at the time of destruction, as determined by the Planning and Development Services Director, or by any means within the control of the owner to any extent whatsoever, the sign shall not be restored except in full conformity with all regulations of the district in which such structure is situated.
- C. When a sign is determined to be substandard (i.e., deteriorated, in disrepair, or is unsightly) by the Planning and Development Services Director under any applicable ordinance of the City and the cost of placing the sign in condition to satisfy the standards under such ordinance shall exceed 60% of the reconstruction cost of the entire sign, such non-conforming sign shall not be restored for the purpose of continuing a non-conforming use.
- D. However, none of the restrictions contained in this Section shall limit the authority of the Board of Adjustment to grant relief for reconstruction of a non-conforming sign, as provided in Article 02-19 of this UDC.

Sec. 07-14. ABANDONMENT OF SIGNS

Any non-conforming sign that has been abandoned shall not thereafter be re-established. See Article 10, "Definitions" for definition of abandonment as used in this UDC.