SECTION 15

NON-CONFORMING LOTS, BUILDINGS, STRUCTURES AND USES

Section

20-15-1: Purpose
20-15-2: Non-Conforming Lots of Record
20-15-3: General Provisions

20-15-1: **PURPOSE:** It is the purpose of this Section to provide for the regulation of legal non-conforming lots, buildings, structure, and uses and to specify those requirements, circumstances and conditions under which legal non-conforming lots, buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming lots, buildings, structures, and uses not be permitted to continue without restriction.

20-15-2: **NON-CONFORMING LOTS OF RECORD:**

[13] A. Vacant Lots.

1. For the purposes of orderly development, a single family dwelling and customary accessory buildings may be erected on non-conforming lots of record at the effective date of this Chapter, provided:

   a. The lot fronts on an improved public right-of-way.

   b. The use of the lot is consistent with its current zoning designation.

   c. Frontage, depth and area requirements are at least seventy-five (75) percent of the minimum requirements of the district where the use is permitted.

   d. Unsewered lots have a lot area and soil conditions judged by the City Engineer to satisfactorily provide for private on-site sewage treatment.

2. If the owner has an interest in more than one lot of record contiguous to other lots of record, all such lots must be combined to meet the requirements of this section or the applicable zoning district standards. If sufficient contiguous property is held in one ownership to comply with the standard of the applicable zoning district, then those more restrictive provisions will apply. In no circumstances will there be approval of any

proposal for multiple lot developments based upon lots of record, and not conforming with the provisions of the existing zoning district.

3. The preceding subsection 1 is not intended to permit a reduction in setbacks or required yards.

4. In the event that the measurements of such lot's area and width do not comply with subsection 1 above, then approval for the construction of a single family dwelling may be requested as a conditional use permit, subject as regulated by Section 4 of this Chapter.

B. Developed Lots. An existing conforming single family use on a lot of substandard size may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Chapter.

20-15-3: **GENERAL PROVISIONS:**

A. Except as provided below, any non-conforming structure or use lawfully existing upon the effective date of this Chapter shall not be enlarged or reconstructed, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or subsequently amended.

B. Any proposed structure which will, under this Chapter, become non-conforming but for which a building permit has been lawfully granted prior to the effective date of this Chapter, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Chapter, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structures and use shall thereafter be a legally non-conforming structure or use.

C. Except as herein provided, normal maintenance of a building or other structure containing or related to a lawful non-conforming structure or use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use or structure.

D. Except as herein provided, alterations may be made to a building containing lawful non-conforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units, or size or volume of the building. A dwelling may not, however, be demolished and a new dwelling constructed unless the new dwelling is in full compliance with this Chapter.

E. A legal non-conforming, single family dwelling unit may be expanded to improve livability as a conditional use, as regulated by Section 4 of this Chapter, provided that the non-conformity is not increased.

F. Nothing in this Section shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Official, providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be determined by the City.

G. No non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this Chapter adoption unless such movement shall bring the non-conformance into substantially closer compliance with the requirements of this Chapter.

H. When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

I. A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.

J. If at any time, a non-conforming building, structure or use shall be destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the City, then without further action by the Council, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by said zoning regulations for the district in which such land and buildings are located. Any building which is damaged to an extent of less than fifty (50) percent of its value may be restored to its former extent, if it is reconstructed within twelve (12) months after the date of said damage. Estimate of the extent of damage or destruction shall be made by the Building Official. In such cases involving single family dwellings on substandard lots, the provisions of Section 20-15-2.A of this Chapter shall be applicable.

K. Whenever a legal non-conforming use of a structure or land is discontinued for a period of six (6) months, any future use of said structure or lands shall be made to conform with the provisions of this Chapter.

L. Any legal non-conforming use of land not involving a structure, and any legal non-conforming use involving a building or structure with a market valuation upon the effective date of this Chapter of Five Thousand Dollars ($5,000) or less, may be continued until 1 July 1997, whereupon such non-conforming use shall cease.

M. Non-conforming buildings, structures, and/or uses, which based upon documented study and evidence, pose a danger and/or threat to the health, safety, and general welfare of the community, shall:

1. Be legally declared a nuisance by the City.

2. Upon being identified by the City and upon the owner being notified in writing by the City, the owner shall provide to the City a documented time schedule and program with rationale to support the proposed amortization of the building, structure, or use investments which will result in the termination or correction of the non-conformity.

   a. The termination/correction time schedule shall be based upon, but not limited to, factors such as the initial investment and the degree of threat or danger being posed.

   b. The acceptability of the time schedule shall be determined by the Zoning Administrator with right of appeal.

   c. In no case shall a time schedule exceed five (5) years.