

# Article 19

## NON-CONFORMING DEVELOPMENT

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# ARTICLE 19: NON-CONFORMING DEVELOPMENT

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### SECTION 1 - RESTRICTIONS ADDITIVE

- 19.1.1 Regulations applicable to a non-conforming use are in addition to regulations applicable to a non-conforming structure, and in the event of any conflict, the most restrictive provision shall apply.

### SECTION 2 - EXCEPTION TO NON-CONFORMING STATUS

- 19.2.1 Notwithstanding the definitions of a non-conforming use and non-conforming structure, no use, building, structure, or property which conformed to the zoning and building regulations in effect immediately prior to the adoption of this Unified Development Code, shall be deemed to have come or shall become a non-conforming use or a non-conforming structure due to the adoption of this Code.
- 19.2.2 Any change in use of the property, which use conformed to the zoning regulations in effect immediately prior to the adoption of this Unified Development Code shall conform to the provisions of this Code.
- 19.2.3 Nothing herein contained shall require any change in plans, construction or designated use of a building or structure actually under construction at the time of adoption of this Unified Development Code, and which conformed to the zoning regulations in effect immediately prior to the adoption of this Code, as long as the building shall be completed within one (1) year from the effective date of this Code.

### SECTION 3 - NON-CONFORMING USES/STRUCTURES

- 19.3.1 A non-conforming land use, structure or building is any use, structure or building otherwise lawfully in use, or constructed at the time the property was annexed into the corporate limits of the City which has been in continuous use or operation, and does not conform to the regulations established in this Unified Development Code for the district in which it is located and/or any use, structure or building which was lawfully used or constructed and was in regular and continuous use prior to the enactment of the Ordinance 2299 being the Comprehensive Zoning Ordinance for the City of Grand Prairie.
- 19.3.2 Except as otherwise expressly herein provided, non-conforming uses, structures, or buildings may be continued under the regulations of this Unified Development Code.

### SECTION 4 - NON-CONFORMING LAND USE, BUILDING AND/OR STRUCTURE

- 19.4.1 A land use, building and/or structure which is acceptable, legal, and conforming at the time of construction and/or annexation becomes non-conforming due to the enactment of later ordinances, regulations at a subsequent date. (i.e. adoption of UDC)

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- 19.4.2 A non-conforming structure may be continued and may be enlarged, maintained, repaired or altered only if such development shall neither create an additional non-conformance nor increase the degree of existing non-compliance of all or any part of such structure, nor prevent the return of the property to a conforming use.
- 19.4.3 Exception for UDC Enactment: The enactment of the UDC does not make any land use, building or structure non-conforming by solely its enactment. Rules, regulations, ordinances before the UDC adoption and such rules, regulations and ordinances enacted after the UDC will make land uses, buildings, structures non-conforming if that is their intent to do so.

### SECTION 5 - DAMAGE OR DESTRUCTION OF NON-CONFORMING USE

- 19.5.1 Nothing in this Unified Development Code shall prevent the restoration within twelve (12) months of a non-conforming building or structure which has been damaged or destroyed by fire, explosion, flood, tornado, riot, or accident of any kind or the continuance of any use therein immediately prior to such damage or destruction, if the cost of restoration or reconstruction does not exceed fifty (50) percent of the value of the building or structure immediately prior to such damage or destruction.
- 19.5.2 If a structure(s) accommodating or serving a nonconforming use or a nonconforming structure(s) or building(s) is/are damaged or destroyed to the extent that the costs of reconstruction or restoration will not exceed fifty percent (50%) of its value immediately prior to the damage or destruction, the structure(s) may be rebuilt and the non-conforming use may be resumed, but such use, structure(s) or building (s) cannot be expanded. If there are substantial changes proposed for the structures, a site plan must be submitted for review in the manner provided in Article XVI "Site Plan", of this Code.  
For purposes of this Article:
- A. The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement, and shall include the total cost of all such intended work. No person may seek to avoid the intent of this Subsection, by doing such work incrementally.
- B. The "value" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.
- 19.5.3 The Chief Building Official shall issue a permit authorized by this Section if he finds that in completing the renovation, repair, or replacement work for the referenced destruction of 50% or less in Subsection 19.5.1 and Subsection 19.5.2, of this Article, no violation of this section will occur except that the permittee shall not

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lose his right to continue a non-conforming use.

### SECTION 6 - CHANGE OF NON-CONFORMING USE TO A CONFORMING USE

- 19.6.1 In the event that a non-conforming use is changed to another use which is a conforming use under this Unified Development Code, then the prior non-conforming use shall not be resumed.

### SECTION 7 - DISCONTINUANCE OF NON-CONFORMING USE

- 19.7.1 When a non-conforming use of land, or a non-conforming use of all or part of structures, is discontinued for a period of six (6) months, such use shall conclusively be deemed to have been abandoned and shall not be resumed. Normal, seasonal cessation of a use, or temporary discontinuance for purposes of maintenance, rebuilding after damage or destruction pursuant to Section 5 "Damage or Destruction of Non-Conforming Use", of this Article, shall not be included in the period of discontinuance. However, in no case shall this period be in excess of eighteen (18) months.
- 19.7.2 For purposes of determining whether a right to continue a non-conforming situation exists pursuant to this Section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent that apartment space thereafter so long as the apartment building as a whole is continuously maintained.
- 19.7.3 If a non-conforming use is maintained in conjunction with a conforming use, discontinuance of a non-conforming use for the required period shall terminate the right to maintain it thereafter.

### SECTION 8 - AMORTIZATION OF NON-CONFORMING USES

- 19.8.1 The Zoning Board of Adjustments may conduct a public hearing to consider an action to cease an existing non-conforming use by request of adjacent property owners or initiated by the City. If the Zoning Board of Adjustments votes to cease the non-conforming use, then they shall determine the nature and extent of the amortization for land uses and structure in accordance with Section 3 "Non-Conforming Uses/Structures" of this Article. For the purpose of this Article, amortization shall be defined as being a method of eliminating non-conforming uses by requiring the termination of the non-conforming use after a specified period of time. The specified time period must be sufficient to allow the property owner to recoup their investment on the property in question.

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### SECTION 9 - CHANGE FROM ONE NON-CONFORMING USE TO ANOTHER NON-CONFORMING USE

- 19.9.1 The Chief Building Official, subject to appeal to the Zoning Board of Adjustments, may grant a change of occupancy from one non-conforming use to another non-conforming use only if the use is within the same or more restrictive use classification than the original nonconforming use. The original use will be deemed to have been abandoned. Once the nonconforming use has been changed to a more restrictive use, the use may not revert to a less restrictive use.

### SECTION 10 - NECESSARY REPAIRS

- 19.10.1 The Code Compliance Supervisor or designee may order an unsafe non-complying structure to be restored to a safe condition.