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Article 15: Nonconforming Lots, Uses, and Structures

Section 15.01 Intent and Purpose

A. It is recognized that there are existing lots, structures, and uses of land which were lawful at one time or before this Ordinance was adopted or amended.

B. The intent of this Article is to permit legal nonconforming lots, structures or uses to continue until they are removed, or otherwise cease existence.

C. No building or structure, or part thereof, shall be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of and building, structure or land, or part thereof, except in conformance with the provisions of this Article.

Section 15.02 General Provisions Applicable to All Nonconformities

A. This Article shall be applicable to any nonconforming use, nonconforming buildings, and nonconforming lots within the City of the Village of Douglas, as defined in Article 2 of this Ordinance.

B. Change of ownership between private parties does not remove the nonconformity nor extend time limits.

C. Nothing in this Article shall prevent the repair, reinforcement, improvement, or rehabilitation of nonconforming structures or structures occupied by nonconforming uses, or part thereof, existing as of the effective date of this Ordinance, rendered necessary by wear and tear, deterioration, or depreciation; nor prevent compliance with the provisions of the applicable building codes, relative to the maintenance of buildings or structures occupied with a nonconforming use.

D. The creation of nonconformities by a zoning decision to allow the construction of a building or expansion of an existing building shall be prohibited.

Section 15.03 Nonconforming Lots

A. Wherever multiple contiguous lots of record, as defined in Article 2 of this Ordinance, are in single ownership, and each is below the minimum requirements for lot width, area, or both in a zoning district, said lots shall be combined in the minimum number necessary to meet the lot size requirements of the district in which they are located. In so doing the combined lot shall be considered a single lot for zoning purposes.

B. A nonconforming lot, as defined in Article 2 of this Ordinance, which does not meet the current dimensional requirements for lot area, lot width, or lot depth in the district in

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which it is located may be used for a land use permitted in that zoning district, provided the following can be met:

1. The proposed structure meets ninety percent (90%) zoning district's dimensional requirements, provided, however, no structure is constructed closer than five (5) feet to any lot line.
2. The off-street parking requirements of Section 21.05 can be met.
3. In cases where the proposed construction of a building cannot reasonably meet 90% of the district requirements, the applicant may seek a dimensional variance, pursuant to Article 29, Zoning Board of Appeals.

Section 15.04 Nonconforming Use of Land

A. The nonconforming uses of land may lawfully continue for the life of the structure in which it occupies, provided that structures occupied by nonconforming uses shall not be improved or expanded in such a way that would extend the life of the nonconforming use, except for provided for herein.

B. Improvements to Structures Occupied by Nonconforming Uses.

1. A structure occupied by a nonconforming use may not be improved by way of expansion or any other improvement that would extend the life of the nonconforming use, life the nonconforming use, except as provided below:
    a. The addition of an unenclosed porch, deck, or similar feature that does not extend the building footprint of the structure.
    b. Improvements to the structure only to provide barrier-free access or accommodation.
    c. Interior improvements that would not constitute an expansion of the footprint of the structure.
    d. Exterior improvements such as new roofing, siding, shutters, gutters, driveways, landscaping, and stormwater controls.

C. Reconstruction and Restoration. A structure occupied by a nonconforming use that is destroyed or damaged by fire, explosion, natural disaster, or other similar causes may only be restored or rebuilt in accordance with the following:

    a. The structure previously occupied by a nonconforming use may be rebuilt or restored only in compliance with the current land use and dimensional regulations for the zoning district in which the structure was located, with the following exceptions:
        (1) Residential Structures. If the structure occupied by a nonconforming use was a residential structure, it may be rebuilt or restored if a building permit is applied for within one year of the destruction or total loss of the home.

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(2) Rebuild letter. The Zoning Administrator may write a "rebuild letter" for a prospective buyer or property owner who wishes to refinance a residential home that is considered a nonconforming use in the zoning district in which it is located, whose lending institution requires this as part of the terms of financing.

(3) All other structures occupied by nonconforming uses may request a use variance from the Zoning Board of Appeals, provided that the property cannot be reasonably occupied by a use that is permitted by right or by special land use in the zoning district in which it is located.

Section 15.05 Nonconforming Structures

A. Where an existing structure that was lawful at the effective date of adoption or amendment of this Ordinance, but no longer meets the dimensional requirements for the zoning district it is located with respect to setbacks, height, lot coverage, floor areas, or similar requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

B. Improvements to Nonconforming Structures.

1. Alterations or enlargements of structures that do not increase the degree of the nonconforming nature of the structure may be permitted, provided the alteration or enlargement complies with the provisions of this Ordinance, with the following exceptions:

   a. Improvements to add an unenclosed porch or another similar architectural feature that is in keeping with the surrounding architectural style, provided such an unenclosed porch or feature is no closer than five (5) feet from any property line.

   b. Improvements to the structure only to provide barrier-free access or accommodation.

2. Reconstruction and Restoration.

   a. A nonconforming structure damaged or destroyed by fire, explosion, natural disaster, or other similar causes may be restored or rebuilt only in compliance with the current dimensional regulations, with the following exception:

      (1) Zoning Board of Appeals may consider a variance from the district dimensional requirements under the procedures and standards outlined in Article 29, Zoning Board of Appeals.

Section 15.06 Creation of Nonconformities

A. Whenever the zoning designation is changed to different zoning designation, the provisions of this Article shall apply to any existing uses or lots that become nonconforming as a result of the rezoning.

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B. No land division shall be approved that would create a nonconforming lot or structure.

Section 15.07 Illegal Nonconforming Uses

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without a valid zoning or building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

Section 15.08 Abandonment of Nonconforming Uses

Any legally established nonconforming use which remains discontinued after receipt of notice by mail to the owner of record, and posting of the property in a conspicuous place, stating that "the vested right of continuance will be terminated unless the use of land or occupancy of the structure is re-established within 365 days", shall be conclusively presumed to be abandoned and shall lose all rights to continuance as a legal nonconformity.

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