

**TEMPLE TERRACE CODE
CHAPTER 25 – LAND DEVELOPMENT**

ARTICLE VIII. NONCONFORMING DEVELOPMENT AND VARIANCES

Section 25.800 PURPOSE.

The purpose of Article VIII, Nonconforming Development and Variances, is to outline the sources or causes of nonconforming development; to identify the types of nonconforming development; to establish standards for compliance or continuation of nonconforming development with this Article, and to set forth the procedures and criteria for the granting of variances from the provisions of this Chapter. The term “chapter” as used in this Article shall include previously adopted regulations addressing the particular subject matter.

Section 25.805 SOURCES OF NONCONFORMING DEVELOPMENT.

Nonconforming development may occur as a result of one of the following actions: (1) property which has previously been developed in accordance with applicable land uses, development standards and permitted uses of structures is rezoned and does not comply with the land uses, development standards or permitted uses of structures in the new zoning district or, (2) the City modifies development standards, land uses or permitted uses of structures.

**Section 25.810 STANDARDS AND CONDITIONS FOR CONTINUATION, EXPANSION,
DISCONTINUANCE OR AMORTIZATION OF NONCONFORMING
DEVELOPMENT.**

Section 25.810.1 EXISTING USES AND NONCONFORMITY.

(a) Any lawful use of land or structure existing on the effective date of the original zoning code (July 19, 1966) or any subsequent amendment thereto, which by its terms has become a nonconforming use, is hereby declared not to be a violation at the effective date of the zoning code or such amendment. Such a nonconforming use shall be subject to all of the provisions of this Chapter and amendments pertaining to its continuance, change and discontinuance; and further provided, that any use of land or structure which was nonconforming under the provisions of any zoning code repealed and which continues to be nonconforming under the provisions of this Chapter shall not be continued for a time period longer than would have been permitted under the zoning code repealed.

(b) Commercial activities legally in operation as of December 19, 1995, and which are identified as being subject to conditional use approval, shall be recognized as approved conditional uses and further approvals by the City Council are **NOT** required. (*Ord. No. 906, 12-19-95*)

Section 25.810.2 NONCONFORMING USES OF LAND OR LOTS.

Where at the effective date of adoption (July 19, 1966) or amendment of this Chapter, a lawful use of land exists as a permissible zoning use and is made no longer permissible under the terms of this Chapter as enacted or amended, such use may be continued as long as it remains otherwise lawful subject to the following provisions:

(a) No such nonconforming principal permitted use shall be enlarged, expanded, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter.

(b) No such nonconforming principal permitted use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such principal permitted use at the effective date of adoption or amendment of this Chapter.

(c) If any such nonconforming principal permitted use of land ceases for any reason for a period of more than ninety (90) days, any subsequent principal permitted use of land shall conform to the regulations specified by this Chapter for the district in which such land is located.

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(d) A nonconforming principal permitted use shall not be continued if, by reason of unsafe condition, odors, noxious fumes, smoke, noise, or otherwise, it shall become a public nuisance to residents in residential or other districts.

(e) The nonconforming principal permitted use of land shall be discontinued and cease within three (3) years from the date such becomes nonconforming, in each of the following cases:

- (1) Where no buildings are employed on the premises in connection with such principal permitted use.
- (2) Where the only buildings employed are incidental or accessory to such principal permitted use or have a current appraised market value of less than two thousand (\$2,000) dollars.
- (3) Where such nonconforming use is maintained in connection with a building conforming as to use, provided that this requirement of elimination shall not apply to off-street parking accessory to a building conforming as to use.

(f) The nonconforming principal permitted use of land which is accessory or incidental to the nonconforming use of a building or structure shall be discontinued on the same date the nonconforming principal permitted use of the building or structure is discontinued.

(g) A nonconforming principal permitted use of land which has in connection therewith incidental or accessory buildings or structures having a value in excess of two thousand (\$2,000) dollars, shall be deemed to have taken on the characteristics of and to have become a nonconforming structure and shall be subject to the provisions of this Article relating to nonconforming structures. (*Ord. No. 876, 8-2-94*)

(h) Single family dwelling uses rendered nonconforming through a rezoning from a residential district to a commercial zoning district shall be permitted to continue if destroyed (unless destroyed intentionally by the owner) notwithstanding the provisions of this Section. Such nonconforming single family dwelling uses shall be subject to all other provisions of this Section. (*Ord. No. 906, 12-19-95*)

Section 25.810.3 NONCONFORMING STRUCTURES.

Where at the effective date of adoption (July 19, 1966) or amendment of this Chapter, a lawful structure exists that could not be built under the terms of the current provisions of this Chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such structure may be enlarged, expanded or altered in a way which increases its nonconformity.

(b) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its market valuation at the time of the damage, or at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.

(c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(d) Mobile Homes/Manufactured Homes. Mobile and/or manufactured homes not located in mobile/manufactured home parks in a R-MFA (Alternate Multi-Family Residential) or E-I (Educational-Institutional) zoning district which were legally established at their existing location either immediately prior to the adoption of Section 25.525 of this Chapter or annexation into the City, may remain in place as lawful structures subject to the provisions of this Section 25.810.3 and Section 25.810.2 of this Chapter. (*Ord. No. 877, 8-2-94*)

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Section 25.810.4 NONCONFORMING USE OF STRUCTURES.

Where at the effective date of adoption (July 19, 1966) or amendment of this Chapter, a lawful use of a structure, or of a structure and premises, or a combination thereof, exists that could not be allowed in the zoning district under the terms of the current provisions of this Chapter, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

(a) No existing structure devoted to a use not permitted by this Chapter or an amendment thereto in the district in which it is located shall be enlarged, expanded, extended, constructed, reconstructed, moved, or structurally altered except to change the use of the structure to a use permitted in the district in which it is located.

(b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Chapter, but no such use shall be extended to occupy any land outside such building.

(c) Any structure, or structure and land in combination, in or on which a nonconforming use is superceded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.

(d) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, or for eighteen (18) months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(e) In any residential district, any nonconforming use of a conforming building, which is permissible only in a commercial office, commercial general, or similar district, shall be discontinued within seven (7) years of the effective date of July 19, 1966 or amendments to this Chapter which causes a nonconformity.

(f) Where nonconforming use status applies to a structure and premises in combination, upon removal or destruction of the structure, the nonconforming use shall be discontinued.

(g) A nonconforming use of premises or structures shall not be continued if by reason of unsafe conditions, odors, noxious fumes, smoke, traffic, congestion, noise, unsightly appearance, or otherwise, it becomes a public nuisance to residents in residential districts.

Section 25.810.5 OTHER NONCONFORMING REPAIRS AND MAINTENANCE.

(a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repairs or replacement on nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty-five (25) percent of the market value of the structure for that year, provided that the cubical content of the building as it existed at the time of passage or amendment of this Chapter shall not be increased.

(b) Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any City official charged with protecting the public safety, upon order of such official.

Section 25.810.6 ILLEGAL USE.

The casual, temporary or illegal use of land or a building shall not be sufficient to establish the existence of a nonconforming use or to create any rights in the continuance of such a use.

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Section 25.810.7 REDUCTION OR CHANGE IN LOT SIZE.

No lot, yard, setback, clearance, parking area, or other space shall be reduced in area or dimension so as to make said area or dimension less than the minimum required by this Chapter; and if already less than the minimum required thereby for a new building, structure, or use, said area or dimension shall not be further reduced. No part of a required yard, setback, clearance, parking area, or other space provided about, or for any building, structure or use for the purpose of complying with the provisions of this Chapter shall be included as part of the yard, setback, clearance, parking area or other space required under this Chapter for another building structure, or use, unless specifically authorized herein. No lot shall be reduced in size so as to produce an additional land parcel which is not in conformity with the provisions of this Chapter unless said land parcel is combined with other land to produce a conforming lot or unless said land parcel is dedicated and accepted for public use. (*Ord. No. 796, 12-3-91*)

Section 25.815 NONCONFORMING LOTS – INFILL DEVELOPMENT.

(a) Notwithstanding limitations imposed by other provisions of this Chapter, a single residentially-zoned lot of record existing as of July 19, 1966, not meeting the applicable minimum area and/or width requirements of this Chapter, may be used as a building site for a single-family dwelling and customary accessory uses under the following circumstances:

- (1) Where a residential building is currently located provided the building was constructed in compliance with all regulations in effect at the time the structure was built.
- (2) Where an existing vacant lot of record which is being proposed to be developed was not in the same ownership of any abutting vacant lot of record prior to July 19, 1966.

(b) Development or redevelopment of nonconforming lots of record pursuant to this Subsection shall comply with all land development regulations including applicable setbacks, height requirements, etc.

(c) Said nonconforming lot(s) of record shall be within single-family zoning districts.

(*Ord. No. 164, 7-19-66; Ord. No. 735, 5-1-90*)

Section 25.820 ADULT BOOKSTORES, ADULT THEATERS AND SPECIAL CABARETS.

Adult bookstores, adult theaters, or special cabarets which were established at their existing locations in unincorporated Hillsborough County prior to the effective date of annexation of property into the municipal limits of the City of Temple Terrace, may continue to operate for a period of one (1) year from the effective date of annexation. Thereafter, unless such adult bookstore, adult theater, or special cabaret conforms to the requirements of this Chapter, it shall not be allowed to continue to operate.

Section 25.825 OTHER NONCONFORMING STRUCTURES.

Section 25.825.1 NONCONFORMING BUFFERS.

(a) Buffer walls constructed of block, stucco or poured cement walls, or combinations thereof, which were in existence and conforming as of July 21, 1987, may continue in existence so long as said buffers conform to the City's construction design criteria and are maintained in accordance with acceptable maintenance standards as outlined in subsection (c) below.

(b) Buffer fences constructed of chain link, wood or other like materials, which were in existence and conforming as of June 2, 1987, shall be modified by June 2, 1989, to conform to the provisions of this Chapter, or the current minimum construction design criteria for wood fence buffers and subject to the maintenance standards, as outlined in subsection (c) below.

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- (c) Acceptable maintenance standards:
 - (1) Buffers shall remain structurally sound at all times as determined by the City Manager or his designee.
 - (2) At all times, buffers shall remain in aesthetically good condition and shall be kept free from graffiti, undergrowth, weeds and other unsightly matter.
 - (3) Perimeter buffers constructed in residential zoning districts such as buffers surrounding apartment complexes, condominiums, and subdivisions, shall remain uniform in design and color.
- (d) Landscaped buffers which were in existence and conforming as of June 2, 1987, shall be brought into full compliance with the provisions of this Chapter related to landscape buffers no later than June 2, 1989.
- (e) No buffer may be enlarged or altered in a way which increases its nonconformity.
- (f) If any nonconforming buffer is destroyed to an extent of more than fifty (50) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Chapter.

Section 25.825.2 NONCONFORMING SIGNS.

A nonconforming sign, defined as any sign within the City/County legally permitted before December 3, 1985, or any sign existing within any area annexed to the City after the effective date of this Chapter which does not conform to the requirements of this Chapter, is declared to be a nonconforming sign. However, signs that are within ten (10) percent of the height and size limitations of this Chapter and in all other respects conform to the requirements of this Chapter, shall be deemed to be in conformity with this Chapter.

- (a) Amortization of nonconforming signs.
 - (1) A nonconforming sign upon permanent mountings may be continued in use until December 3, 1990, or ten (10) years from the issuance of the sign permit therefor, whichever date is later; provided, however, that the maintenance and safety requirements of this Chapter shall be met.
 - (2) A nonconforming sign shall be required to be in conformance with all provisions of this Chapter within thirty (30) days after a change in any of the following: name, site or nature of the business.
 - (3) Upon expiration of the amortization period for any nonconforming sign, the City Manager shall give notice to the owner of the property on which the sign is located, to remove the sign within fifteen (15) days from the receipt of said notice. Said notice shall be by certified mail to the owner of the property as reflected on the current Hillsborough County tax roll.
 - (4) A nonconforming sign which constitutes a hazard or danger to persons or property shall be removed immediately, without notice, by the City Manager or his designee.
 - (5) No additions, repairs and/or alterations to a nonconforming sign shall be permitted except as may be required and approved by the City Manager or his designee to meet safety requirements.

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- (6) A nonconforming sign may not be:
 - a. Structurally altered to prolong the life of the sign, except to meet safety requirements.
 - b. Altered in any manner that increases the degree of nonconformity.
 - c. Expanded.
 - d. Re-established after damage or destruction if the estimated cost of the reconstruction exceeds fifty (50) percent of the appraised replacement cost as determined by the City Manager.
 - e. Continued in use when the structure housing the occupancy is demolished or requires renovations, the cost of which exceeds fifty (50) percent of the assessed value of the structure.
 - f. Continued in use after the structure housing the occupancy has been vacant for six (6) months or longer.

- (b) Nonconforming signs along federal highways.

If it is determined that nonconforming signs along a federal interstate or primary aid highway may not be removed pursuant to the above provisions, the City Council shall develop a plan for their expeditious removal in accordance with state and federal law. (*Ord. No. 566, 12-3-85; Ord. No. 735, 5-1-90*)

Section 25.825.3 NONCONFORMING BUFFERING AND LANDSCAPING.

(a) The purpose of this Section is to provide for bringing existing properties into compliance with the buffering and landscaping standards and regulations of this Chapter. Current standards and regulations:

- (1) Shall be applicable to all new construction.
- (2) Shall be applicable, to the maximum extent possible, to all existing facilities which are altered, enlarged or remodeled to a degree requiring site plan approval, realizing that the physical constraints of the property may render total compliance impossible. Where standards and regulations cannot be satisfied due to physical constraints, they may be waived as part of the site plan review and approval process.
- (3) Shall be implemented and incorporated into existing properties/sites to the maximum extent possible prior to January 1, 1994.

(b) Properties/sites whose buffering and landscaping remain nonconforming as of January 1, 1994 shall be referred to the Municipal Code Enforcement Board unless a waiver of standards and/or regulations has been approved by the City Council pursuant to site plan approval, an administrative waiver due to site limitations approved by the Director of Community Services, or a waiver/variance granted by the City Council. Decisions of the Director of Community Services may be appealed to the City Manager. (*Ord. No. 1161, 2-21-06*)

(c) Where buffering or landscaping features of a property were not in conformance with standards and/or regulations in force on February 1, 1991, those properties must be brought into compliance with either the aforementioned standards and regulations, or applicable parts of current standards and regulations no later than July 1, 1992. (*Ord. No. 420, 4-7-81; Ord. No. 735, 5-1-90; Ord. No. 797, 2-4-92*)

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Section 25.825.4 NONCONFORMING OFF-STREET VEHICLE USE AND PARKING AREAS.

(a) Compliance upon replacement or resurfacing. In addition to the maintenance activities required for off-street vehicle use and parking areas under this Chapter, an area existing prior to February 1, 1990 must be brought into full compliance as it relates to the dimensional requirements of this Chapter when twenty-five (25) percent or more of the area is replaced or resurfaced.

(b) Compliance upon expansion. When the square footage of a vehicle use and parking area is increased or enlarged, compliance with this Chapter is required as follows:

Expansion by ten (10) percent or less – when a vehicle use and parking area is expanded by ten (10) percent or less, only the expansion area must be brought into compliance with the dimensional provisions of this Chapter.

Expansion by more than ten (10) percent – when a vehicle use and parking area is expanded by more than ten (10) percent because the seating capacity or other factor controlling the number of spaces is increased, the entire vehicle use area shall be brought into full compliance with the provisions of this Chapter.

(c) Repeated expansions. Repeated expansions, or resurfacing (black top seal or additional asphalt) or replacement of paving of a vehicle use area over a period of time shall be combined in determining whether the above threshold has been reached.

(d) Increased intensity of use. When a replacement or new use of a structure results in an increase in parking requirements thereby increasing the nonconformity, the additional parking requirements must be provided for or the new or replacement use will be denied.

(e) Vehicle use areas with excess capacity. Any vehicle use and parking in existence on February 1, 1990, with area in excess of the minimum necessary and which must be brought into conformity due to the conditions of Subsections (a) and (b) above, and/or which has more than the minimum number of parking spaces required by this Chapter, shall be required to bring the vehicle use and parking area into full compliance with the provisions of this Chapter.

Section 25.825.5 STORM WATER MANAGEMENT.

A development existing prior to February 1, 1990, which does not comply with the storm water management requirements of this Chapter, must be brought into full compliance with the storm water requirements of this Chapter when the use of the development is intensified resulting in an increase in storm water runoff or added concentration of pollutants in the runoff.

Section 25.825.6 NON-CONFORMING FENCES AND WALLS ON RESIDENTIAL PROPERTY.

(a) As a result of amendments to Section 25.750.5 of Chapter 25 (Land Development Code), entitled “Fences, Walls and Hedges on Residential Property,” the following non-conforming uses are established:

(1) Standard Lots:

a. Except on “deep lots” (a lot where the front yard is seventy-five (75) feet or more in depth), or on corner lots, a chain link fence located along a front property line, or across the front yard, or along the side property lines of the front yard, which was in existence on or before the date of adoption of this Section (May 5, 1992); provided that no part of the fence along the property line

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or across the front yard is more than four (4) feet in height and provided further that the chain link fence is landscaped by self-supporting plant material or ivy, vines, or similar materials in such a manner so as to attain screening of the fence with eighty (80) percent opacity within two (2) years of planting. Landscaping must be in place prior to December 1, 1992, and reach the maximum height of the fence at maturity prior to July 1, 1994. All chain link fences located along front property lines or across the front yard exceeding four (4) feet in height shall be removed, modified, or replaced with a chain link fence four (4) feet or less prior to December 1 1992. Landscaping as above is required.

- b. Chain link fences along the side property line of the front yard of a standard lot which were in existence on or prior to the date of adoption of this Section (May 5, 1992) are not subject to the above four (4) foot height restrictions; however, landscaping is required as in (1) a. above.
- c. Other types of fences and walls located along front property lines, or across the front yard, or along the side property lines of front yards in standard lots which were in existence on or prior to the date of adoption of this Section (May 5, 1992) are not subject to the above four (4) foot height restrictions and landscaping is not required.

(2) Corner lots:

- a. A chain link fence which is visible from a street, and is located in a rear or side yard of a corner lot, and which fence, or section of fence, is between the house and the street, or is forward of the front of an adjacent residence; which was in existence on or before the date of adoption of this Section (May 5, 1992), provided said fence or section of fence shall be landscaped by self-supporting plant material or ivy, vines, or similar materials in such a manner so as to attain screening of the fence with eighty (80) percent opacity within two (2) years of planting. Height restrictions do not apply to these sections of fence; however, landscaping must be in place prior to December 1, 1992, and reach the maximum height of the fence at maturity prior to July 1, 1994.
- b. A chain link fence located along the front property line or across the front yard, or along the side property lines of the front yard of a corner lot, and where those sections of the fence are between the house and the street, or are forward of the front of an adjacent residence, which were in existence on or before the date of the adoption of this Section (May 5, 1992), provided said fence or section of fence shall be landscaped by self-supporting material or ivy, vines, or similar materials in such a manner so as to attain screening of the fence with eighty (80) percent opacity within two (2) years of planting. Height restrictions do not apply to these sections of fence; however, landscaping must be in place prior to December 1, 1992, and reach the maximum height of the fence at maturity prior to July 1, 1994.
- c. Where other types of fences or walls in existence on or before the date of adoption of this Section (May 5, 1992) are sited on corner lots as per a. or b. above, neither height restrictions nor landscaping requirements apply.

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(3) Deep Lots:

- a. A chain link fence located along the front property line or across the front yard of a deep lot which was in existence on or before the adoption of this Section (May 5, 1992); provided the fence is not more than six (6) feet in height and provided further that the chain link fence is landscaped by self-supporting plant material or ivy, vines, or similar materials in such a manner so as to attain screening of the fence with eighty (80) percent opacity within two (2) years of planting.

Landscaping must be in place prior to December 1, 1992, and reach the maximum height of the fence at maturity prior to July 1, 1994. All chain link fences located along front property lines, or across the front yard of a deep lot, exceeding six (6) feet in height shall be removed, modified, or replaced with a similar fence six (6) feet or less prior to December 31, 1992. Landscaping as above is required.

- b. Chain link fences located along the side property line of the front yard of a deep lot which were in existence on or before the date of adoption of this Section (May 5, 1992) are not subject to the six (6) foot height restriction, nor is landscaping required; except, that portion of the fence along the side property line of the front yard which is forward of the front of an adjacent house shall be landscaped as in (3) a. above.
- c. Other types of fences and walls located along the front property lines, or across the front yard of a deep lot, or along the side property lines of front yards of a deep lot which were in existence on or before the date of adoption of this Section (May 5, 1992), are not subject to height restrictions, and landscaping is not required.

(b) Replacement of nonconforming fences and walls shall only be made concurrent with bringing the nonconformity into compliance with current standards.

(c) No “nonconforming” fence or wall may be enlarged, extended, or altered in any way which increases its nonconformity.

(d) If any nonconforming fence or wall is destroyed to an extent of more than fifty (50) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Chapter. (*Ord. No. 786, 9-3-91; Ord. No. 812, 5-5-92*)

Section 25.825.7 NONCONFORMING FENCING AND LANDSCAPING OF PUBLIC AND PRIVATE UTILITY STRUCTURES AND FACILITIES.

Where wet or dry retention and detention ponds existed prior to January 1, 1992, and those ponds have side slopes steeper than four-to-one (4:1) and are fenced, said fencing shall be deemed to be adequate, provided the fence is non-climbable (including chain link), landscaped on all exterior sides, and is at least four (4) feet high. The existing pond need not have a ten (10) foot wide maintenance area, and the existing fence need not be constructed of chain link. If existing fences and/or landscaping are nonconforming, said fences and/or landscaping shall be installed to conform to this Code no later than January 1, 1994. If existing ponds having vertical walls do not now have adequate means of ingress and egress, they shall be so modified prior to January 1, 1994.

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Where other public or private utility structures or facilities, including, but not limited to, sanitary sewer lift stations, water supply or irrigation wells, pumps or meters, telephone switching facilities and electric generation or transmission facilities, exist prior to January 1, 1992, and those structures or facilities require fencing and/or landscaping in accordance with current standards, and fencing and/or landscaping does exist, said fencing and/or landscaping shall be deemed “in compliance,” unless for reasons of health or safety the City Engineer rules them “not in compliance.” Utility structures and facilities ruled “not in compliance” shall be brought into compliance with current standards within one (1) year after being notified, in writing, by the City Engineer.

Decisions of the City Engineer may be appealed to the City Manager provided the appeal is submitted within thirty (30) days of notification of “not in compliance.” (*Ord. No. 797, 2-4-92*)

Section 25.830 VARIANCES.

Provisions for variances related to certain development regulations contained in this Chapter are further detailed in this Section.

Section 25.830.1 ZONING STANDARDS.

The Board of Adjustment may grant variances, in accordance with the procedures outlined in Article III of this Chapter, from the following Sections of Article VII of this Chapter:

- (a) Flood Plain Protection
 - (1) The Flood Control Board shall be the Board of Adjustment and shall hear and decide appeals and requests for variances from requirements of the flood plain protection Section of this Chapter and appeals when it is alleged there is an error in any requirement, decision or determination made by the Flood Damage Control Administrator in the enforcement or administration of this Chapter.
 - (2) Any person aggrieved by the decision of the Flood Control Board, or any taxpayer, may appeal such decision to the appropriate court of appropriate jurisdiction by petition for writ of certiorari.
 - (3) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
 - (4) In passing upon applications for variance, the Flood Control Board shall consider all technical evaluations, all relevant factors, all standards specified in this Section, and:
 - a. The danger that materials may be swept into other lands to the injury of others;
 - b. The danger of life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;

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- f. The availability of alternative locations, not subject to flooding or erosion damage for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for the area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) Upon consideration of the factors listed above, and the purposes of flood plain protection, the Flood Control Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
- (6) Variances shall not be issued within a designated floodway if an increase in flood levels during the base flood discharge would result.
- (7) Conditions for the granting of variances:
- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.
 - b. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in an unusual and unnecessary hardship relative to the land, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any applicant to whom a variance is granted shall be given written notice that when a structure is permitted to be built with the lowest floor elevation being lower than eighteen (18) inches above the base flood elevation, the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - d. The Flood Damage Control Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration on an annual basis.

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(b) Historic properties

Notwithstanding the foregoing requirements related to nonconformity, special variances may be granted for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on, the National Register of Historic Places, the local register of historic places, or the State Inventory of Historic Places. The special variance shall be the minimum necessary to protect the historic character and design of the structure. No special variance shall be granted if the proposed construction, rehabilitation, or restoration will cause the structure to lose its historical designation.

(c) Design standards and development criteria – single-family homes

Those standards which apply to single-family residences in the following sections of Article VII of this Chapter:

Section 25.710.2	Schedule of Area, Height, Bulk and Placement Regulations.
Section 25.710.3	Building Standards Exclusive to Specific Zoning Districts.
Section 25.710.4	Accessory Uses, Buildings or Structures.
Section 25.710.5	Yard Encroachments.
Section 25.710.6	Exclusion from Height Limits.
Section 25.720.9	Environmentally Sensitive Lands.
Section 25.730.9	Wellfield Protection.
Section 25.750.5	Fences, Walls and Hedges.
Section 25.750.6	Radio, TV Antennae and Satellite Dishes.
Section 25.755.8	Swimming Pool Setbacks and Ground (Lot) Coverage.
Section 25.770.3	Standards for Over Water Structures – Maximum Width, Length and Position of Docks, Piers and Wharves.

(Ord. No. 779, 7-16-91)

(d) Where portions of lots or parcels have been or shall be taken by governmental agencies, leaving nonconforming areas, the Board of Adjustment shall be allowed to grant such variances as may be necessary to accommodate reasonable use of the said remaining property. *(Ord. No. 796, 12-3-91)*

Section 25.830.2 SIGNS AND BUFFERS.

(a) Requests for sign or buffer variances shall be made on forms provided therefor by the Director of the Department of Community Services. All information required for such forms shall be completed and the application fee shall be paid prior to consideration of any sign or buffer variance application. *(Ord. No. 1161, 2-21-06)*

(b) Before making its decision on any request for sign or buffer variances, the City Council shall consider said request at a public meeting.

(c) At least ten (10) days notice of the time and place of such meeting shall be sent to the petitioner and to the owners of all properties lying within one hundred (100) feet of the perimeter of the property on which the sign or buffer is to be located.

(d) Prior to granting any such sign or buffer variance, City Council must find that the proposed sign or buffer will not be contrary to the public interest; that owing to special conditions, a literal enforcement of this Chapter will, in the individual case, result in unnecessary hardship, and that the variance is within the spirit of these regulations, the public safety and welfare will be secured and substantial justice will be done. Sign and buffer variances may be granted only upon a finding by the Council that:

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- (1) The application of the provisions of this Chapter to the particular piece of property would create an unnecessary hardship; and
- (2) Such conditions are peculiar to the particular piece of property involved; and
- (3) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Chapter. In permitting any variance for signs and buffers from the terms of this Chapter, the City Council shall prescribe any conditions it deems to be necessary or desirable to promote the public interest and shall fully set forth, in its findings, the reasons for permitting any variance from the terms of this Chapter. Any variance which is granted shall be the minimum practicable variance.

(e) Consideration of any sign or buffer variance request may be continued from time to time and the time and place for the continued consideration shall be publicly announced at the time of adjournment. No further notice of such continued hearings shall be required.

(f) An application for reconsideration may be made in the same manner as provided for an original variance; provided, however, that an application for reconsideration shall be denied if City Council finds that there has been no substantial change in facts, evidence or conditions.

(g) If City Council has not acted finally upon a sign or buffer variance application within forty-five (45) days following the conclusion of the initial public meeting thereon, said application shall be deemed to have been denied.

(Ord. No. 609, 2-17-87; Ord. No. 618, 6-2-87; Ord. No. 732, 5-1-90)

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