

ARTICLE IX. NON-CONFORMING STRUCTURES AND USES

SECTION

- 150.901 General Provisions
- 150.902 Nonconforming Uses of Land and Nonconforming Uses in Structures
- 150.903 Nonconforming Structures other than Signs

Sec. 150.901 General Provisions.

(A) Purposes. This Article regulates and limits the continued existence of uses and structures established prior to the effective date of this Code that do not conform to the applicable regulations of this Code.

(B) General Scope and Scheme of Regulation. Separate restrictions are established for nonconforming uses of land and nonconforming uses of structures, and nonconforming structures. Nonconforming signs are regulated separately, pursuant to Chapter 110, Article VI of the Highland Park Code of 1968, as amended. The degree of restriction made applicable to each category of nonconformity is generally related to the degree of incompatibility with permitted uses and the amount of investment typically associated with nonconformities of that type.

(C) Exception for Repairs Pursuant to Public Order. Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided such restoration is not otherwise in violation of the various provisions of this Article prohibiting the repair or restoration of partially damaged or destroyed structures or signs.

(D) Nonconforming Accessory Uses and Structures. No use or structure that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have been terminated, unless it shall thereafter conform to all the regulations of the zoning district in which it is located.

Sec. 150.902 Nonconforming Uses of Land and Nonconforming Uses in Structures.

(A) Authority to Continue. Except as provided in Subsection I of this Section, any lawfully existing nonconforming use, whether or not it involves the use of a principal or accessory structure, may be continued so long as it remains otherwise lawful, subject to the regulations contained in Subsections B through H of this Section and Subsection D of Section 150.901. No change to any structure or building accessory to a nonconforming use of land or that is devoted in whole or in part to a nonconforming use shall be authorized, including, without limitation, any structural alteration, improvement, enlargement, or restoration of such structure or building, that would create any new bulk regulation nonconformity or increase the degree of any existing bulk regulation nonconformity.

(B) Ordinary Repair and Maintenance. Normal maintenance and incidental repair or replacement, and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring, or plumbing may be performed on any structure that is accessory to a nonconforming use of land or that is devoted in whole or in part to a nonconforming use; provided, however, that this Subsection shall not be deemed to

authorize any violation of Subsections C through I of this Section.

(C) Structural Alterations. A structure that is accessory to a nonconforming use of land or that is devoted in whole or in part to a nonconforming use may be structurally altered, including interior and exterior improvements to such structure; provided, however, that this Subsection shall not be deemed to authorize any violation of Subsection D through I of this Section.

(D) Enlargement of Structure. No structure that is accessory to a nonconforming use of land or that is devoted in whole or in part to a nonconforming use shall be enlarged or added to beyond the exterior limits of the existing structure in any manner unless the use of such structure shall thereafter conform to the use regulations of the district in which it is located.

(E) Extension of Use. A nonconforming use of land or of a structure that is accessory to a nonconforming use of land or a nonconforming use in any other structure shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activity shall include, without limitation, an extension of such use, including its accessory uses, to any structure or land area other than that occupied by such nonconforming use on the effective date of this Code or any amendment hereto that causes such use or land area to become nonconforming, except that a nonconforming use may be extended, expanded, or enlarged within a building or other structure to any portion of the floor area that is vacant, otherwise not occupied by a legal conforming use, or newly created within the existing building or structure.

(F) Moving. No structure that is accessory to a nonconforming use of land or that is devoted in whole or in part to a nonconforming use shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

(G) Change in Use. A nonconforming use of land not involving a structure or involving only a structure that is accessory to a nonconforming use of land or a nonconforming use in a structure shall not be changed to any use other than a use permitted in the zoning district in which the use or structure is located, except that a nonconforming use may be replaced by an equal or less intense nonconforming use as may be authorized by a special use permit issued pursuant to the standards set forth in Subsections (1), (4) and (9) of Section 150.1404 (A) of Article XIV of this Code. When such a nonconforming use has been changed to a permitted use, it shall not thereafter be changed back to any non-permitted use. For purposes of this Subsection, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a permitted use shall have commenced and continued for a period of five days. Any change of use in violation of this Subsection shall be deemed to be an abandonment of the lawfully existing nonconforming use. **(Ord. 77-07, J. 33, p. 649-651, passed 10/22/07)**

(H) Damage or Destruction. Any structure that is accessory to a nonconforming use of land or that is devoted in whole or in part to a nonconforming use and that is

damaged or destroyed to any extent, by any means not within the control of the owner thereof, may be repaired or restored to its original condition and the nonconforming use may continue subject to the regulations of this Title IX. Notwithstanding the foregoing, all such repairs and restorations shall be in strict conformity with the applicable zoning district regulations unless a building permit is fully applied for within six months after the date of such damage or destruction and restoration is actually begun within one year after the date of such damage or destruction and is diligently pursued to completion within a maximum of two years from the time restoration is initiated.

(I) Termination by Abandonment.

(1) When a nonconforming use of land not involving a structure or involving only a structure that is accessory to the nonconforming use of land or when a nonconforming use of a principal structure is discontinued for a period of two years, regardless of any intent to resume or not to terminate such use, such use shall be deemed abandoned and shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.

(2) Any period of such discontinuance caused by government action, strikes, material shortages, or acts of God, and without any contributing fault or action by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this Subsection.

Sec. 150.903 Nonconforming Structures other than Signs.

(A) Authority to Continue. Any nonconforming structure, other than a sign, that is devoted to a use that is permitted in the zoning district in which it is located may be maintained and replaced so long as it remains otherwise lawful, subject to the restrictions in Subsections B through D of this Section and Subsection D of Section 150.901 of this Code. No change to any nonconforming structure or building shall be authorized, including, without limitation, any structural alteration, improvement, enlargement, or restoration of such structure or building, that would create any new bulk regulation nonconformity or increase the degree of any existing bulk regulation nonconformity.

(B) Repair, Maintenance, Alterations, and Enlargement. Any nonconforming structure, other than a sign, may be repaired, maintained, altered, or enlarged; provided, however, that no such repair, maintenance, alteration, or enlargement shall either create any new bulk regulation nonconformity or increase the degree of the existing bulk regulation nonconformity of all or any part of such structure.

(C) Moving. No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being so moved.

(D) Damage or Destruction. Any nonconforming structure, other than a sign, that is damaged or destroyed to any extent, by any means not within the control of the owner thereof, may be repaired or restored to its original condition. Notwithstanding the foregoing, all such repairs and restorations shall be in strict conformity with the applicable zoning district regulations unless a building permit is fully applied for within six months

after the date of such damage or destruction and restoration is actually begun within one year after the date of such damage or destruction and is diligently pursued to completion within a maximum of two years from the time restoration is initiated. (Article IX amended in toto by Ord. 78-2000, adopted 11/13/00)