

SEC. 154.030 GENERAL PROVISIONS.

154.031 APPLICATION.

(A) Minimum Requirement. The provisions of this Section shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

(B) Supremacy. When any condition imposed by any provision of this Section is either more restrictive or less restrictive than similar conditions imposed by any provision of any other applicable law, City Code provision, statute, resolution or regulation of any kind, the more restrictive one which imposes higher standards or requirements shall prevail. This Section is not intended to abrogate any easements, restrictions, or covenants relating to the use of land or imposed on lands within the community by private declaration or agreement, but where the provisions of this Section are more restrictive than any such easement, restriction, or covenant, or the provision of any private agreement, the provisions of this Section shall prevail.

(C) Conformity to Section. Except as specifically provided for herein, no structure or land shall be used for, nor shall any structure be erected, converted, enlarged, reconstructed or altered in any manner for any purpose which is not in conformity with this Section.

154.032 EXISTING LOTS.

(A) Any lot or parcel of land in a residential district which was of record on or before the effective date of this Section in the Scott County Recorder's office as a separate lot or parcel may be used for single-family detached dwelling purposes provided that (1) the area and width of said lot are larger than 60 percent of the minimums set by this Section; (2) all setback requirements can be met; and (3) City sewer, City water and all other necessary public services and utilities can be provided.

(B) No lot or parcel of land in a residential district shall be split or subdivided so as to render the original lot non-conforming subject to the provisions of this Section. No building permit shall be issued on a lot so conveyed.

153.033 EXISTING NONCONFORMING USES.

Any non-conforming structure or use existing upon the effective date of this Section may be continued, subject to the following:

(A) Any nonconformity including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Section may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless:

- (1) The non-conformity or occupancy is discontinued for a period of more than one year; or
- (2) Any non-conforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly-created impact on adjacent property or water body.

- (3) When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(B) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters or similar adults-only businesses, as defined by Ordinance.

(C) The City is required to regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway. The following shall apply to non-conforming uses and structures within the Floodway District (F-1) and Flood Fringe District (F-2).

- (1) No structural alteration or addition to any non-conforming structure over the life of the structure shall exceed 50 percent of its assessed value at the time of its becoming a non-conforming use, unless the entire structure is permanently changed to a conforming use or unless the alteration or addition would substantially reduce potential flood damages for the entire structure. OR replacement is allowed at the same size or smaller.
- (2) Any alteration or addition to a non-conforming use which would result in substantially increasing the flood damage potential of that use shall be flood-proofed in accordance with the State Building Code.
- (3) If any non-conforming use is destroyed by any means, including floods, to an extent of 50 percent or more of its assessed value, it shall not be reconstructed *except in conformity with the provisions of this Section*. However, the Council may issue a Conditional Use Permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately flood-proofed, elevated or otherwise protected in conformity with this Section.
- (4) The enforcing officer shall conduct periodic inspections of non-conforming uses and structures and report to the Council.

153.034 ZONING COORDINATION.

Any zoning district classification change to land adjacent to or across a public right-of-way from an adjoining county or community shall be referred to that county/community's governing unit for review and comment prior to final action by the Council. A period of at least ten days shall be provided for receipt of comments; such comments shall be considered as advisory only.

153.035 ZONING AND THE COMPREHENSIVE PLAN.

In considering amendments to this Section including amendments to the text and amendments to the zoning district lines, the Council and Planning Commission shall give due regard to the Comprehensive Plan.