

ARTICLE 3.16 – NONCONFORMING USES

SECTION 3.16.001 - PURPOSE

The purpose of these regulations is to control, improve, or terminate uses which do not conform to the Land Development Code.

SECTION 3.16.002 - NONCONFORMING USE DEFINED

Nonconforming use includes any of the following which were lawfully established before the effective date of this Code:

- A. A building, structure (including signs), land use, or activity which was established or is conducted in a manner which does not conform with one or more standards or permit requirements of this Code.
- B. A use of land established in a location where such use is not identified as allowable by this Code.

SECTION 3.16.003 - RIGHT TO CONTINUE NONCONFORMING USE

A nonconforming use established prior to the effective date of this Code, or prior to any subsequent amendment which creates such nonconformity, may be continued and maintained, except as otherwise provided by this chapter. Continuation of a nonconforming use may include a change of ownership, tenancy or management where the previous line of business or other function is substantially unchanged.

SECTION 3.16.004 - ISSUED BUILDING PERMIT

Nothing contained in this Code shall be deemed to require any change in the plans, construction, or designated use of any building for which a Building Permit has been issued and for which substantial site work has been lawfully completed prior to the effective date of this Code.

SECTION 3.16.005 - PRE-EXISTING CONDITIONAL USES

In the event the La Grande Urban Growth Boundary or City limits are expanded to include a pre-existing Conditional Use approved by the Union County Planning Commission or Union County Commission, the conditions imposed by the County shall continue in full force and effect until such time as the use is discontinued or changed through a lawful planning process. Failure to meet the conditions of approval by the County may cause revocation of the Conditional Use Permit by the City.

SECTION 3.16.006 - NONCONFORMING USES OF LAND

Any nonconforming use of land may be continued as follows:

- A. Expansion - The use may not be enlarged, increased, or extended to occupy a greater area of land than that occupied by such use on the effective date of this Code.
- B. Discontinued Use - If the nonconforming use of land is discontinued for a period of one (1) year, any following use is to be in conformity with all applicable requirements of this Code.

In the case of mineral and aggregate extraction sites, if the nonconforming commercial mining activity is discontinued for a period of one (1) year, a resumption of mining activity shall be subject to review by the Community Development Director/Planner. The Community Development Director/Planner shall approve the resumption of mining upon a finding that residential development in the area would not result in conflicts with mining. If nonconforming mining activities

are discontinued for a period of one (1) year, the use shall cease to be allowed. This also includes the keeping of livestock.

- C. Single Family Residential Use - A detached single family residential structure existing as a principal use may be continued as a residential use and not subject to Subsection A of this section, and may be altered, provided that no increase in the number of dwelling units, or increase greater than twenty-five percent (25%) in the usable floor area occurs. Any expansion pursuant to this standard is to be in accordance with all applicable provisions of this Code and is limited to one (1) time only for reconstruction.

SECTION 3.16.007 - NONCONFORMING USES OF A CONFORMING BUILDING

The use of a building which is in conformity with the provisions of this Code for a nonconforming use may be continued as follows:

- A. Extension of Use - The use may be extended throughout the building provided no structural alterations to the building are made except those required by law or Ordinance.
- B. Discontinued Use - If the nonconforming use of the building is discontinued for a period of one (1) year or more, any following use of the structure is to be in conformity with all applicable requirements of this Code.

SECTION 3.16.008 - NONCONFORMING STRUCTURES

Any structure which does not conform to the development requirements specified in this Code may continue to be used provided that:

- A. Alterations and Expansions - The structure was established and has been maintained in a lawful manner and condition and is not altered or expanded except for minor alterations necessary to improve or maintain the health and/or safety of the occupants or if required by law or Ordinance. Should alterations or expansions exceed fifty percent (50%) or more of the assessed value of the improvements, according to the Union County Assessor's records, the entire structure and site shall be brought into compliance with this Code.
 - 1. Residential Uses – A residential structure may be altered and expanded and not subject to Subsection A of this Section only when increasing the number of dwelling units as allowed by this Code. Any alteration or expansion pursuant to this standard shall be in accordance with all applicable provisions of this Code and shall not result in an increase in any nonconforming elements.
- B. Damaged or Destroyed Structures - If a nonconforming structure is damaged or destroyed by an occurrence beyond the property owner's control, causing direct physical loss, the damaged or destroyed structure may be repaired or replaced provided that the original nonconforming yards are not reduced and the original nonconforming heights or land coverage are not increased. There shall be a one (1) year time limit for receiving a Building Permit to reconstruct a Nonconforming Use, and two (2) years maximum from the date of issuance of the Building Permit to complete construction.
- C. Flood Hazard Areas – The provisions of this Article shall not relieve owners of property within mapped special flood hazard areas from complying with the flood hazard zoning provisions of Article 3.12 of this Code.

Notwithstanding Subsection A above, an existing single-family dwelling or accessory building nonconforming as to yard requirements may be extended in depth along the nonconforming building line to a maximum of one-half the length of the existing structure provided that such enlargement does not increase any other nonconformity which may exist and conforms to all other regulations of the zone in which it is located. Such authorizations shall be granted by the Community Development Director/Planner only after receipt of a written consent from the property owner(s) abutting the nonconforming yard. Nonconforming structures with front or rear yards less than ten feet (10') in depth or side yards less than three feet (3') in depth shall not be eligible for the expansion allowed by this Subsection.

SECTION 3.16.009 - SUBSTITUTION OF USE

A nonconforming use may be replaced with another use even though the building or site does not meet the standards of this Code. However, such substitution is to occur only when the new use is designated as permitted for the zone in which the property is located.

- A. The new use constitutes a conversion, as provided in Section 3.16.010.
- B. Any modifications or alterations to the structure occur as provided by Section 3.16.008; and,
- C. Where a building or site does not conform with the parking standards of Article 5.7 of this Code, substitution shall not occur unless:
 - 1. The new use is required to provide the same number of parking spaces as the existing use, in which case no additional parking is required; or
 - 2. Where new use is required to have a greater number of spaces than the existing use, the number of spaces provided is to be the difference between those required for the new use and those required for the existing uses.

SECTION 3.16.010 - CONVERSION OF USE

Any nonconforming use may be changed to an allowable use provided that all applicable permit requirements and standards of this Code are satisfied. If a nonconforming use is converted to a conforming use, the nonconforming use shall not be resumed and a Notice of Conversion, in a form approved by the Community Development Director/Planner, shall be recorded in the Union County Deed Records.

SECTION 3.16.011 - NONCONFORMING PARCELS

- A. Legal Nonconforming Parcel and Lot Defined - Any parcel or lot having an area less than the smallest minimum lot size required, or having a frontage, width, or depth less than the minimum prescribed by this Code or other Ordinances, is a legal nonconforming parcel or lot if:
 - 1. The parcel or lot is shown on a duly approved and recorded partition or subdivision map; or
 - 2. The parcel or lot was created by means which were consistent with applicable legal requirements at the time it was created.
- B. Use of Nonconforming Parcels or Lots - A legal nonconforming parcel or lot may be used as follows:
 - 1. Allowable Uses - A legal nonconforming parcel or lot may be used for any use permitted by the zone in which it is located, subject to all applicable requirements of the zone.
 - 2. Redivision - Any group of nonconforming parcels or lots may be redivided by partition or subdivision, provided that:

- a. Such division is in accordance with all applicable requirements of this Code.
 - b. No parcel or lot is less than the minimum area required.
3. In any zone in which single family dwellings are permitted, a single-family dwelling and accessory buildings may be erected on a legal nonconforming lot of record notwithstanding the limitations imposed by this Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for lot area applicable in the zone, provided that yard dimensions and requirements other than those applying to area of the lot conform to the regulations for the zone in which the lot is located. Variance of such requirements shall be obtained only in accordance with Article 8.4 of this Code.
4. If two (2) or more lots or combinations of lots with continuous frontage in single ownership are of record on the date of this Code, and if all or part of the lots do not meet the requirements established in this Code for lot area, the land involved shall be considered to be an undivided parcel for the purposes of this Code. No portion of the parcel shall be used or sold in a manner which diminishes compliance with lot size requirements established by this Code, nor shall division of any parcel be made which creates a lot with a size below the minimum requirements stated in this Code.