

**AN ORDINANCE AMENDING APPENDIX A THE UNIFIED DEVELOPMENT CODE OF THE CITY OF PEORIA RELATING TO ZONING REVIEW AND NONCONFORMITIES**

**WHEREAS**, the City of Peoria is a home rule municipality pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule municipality, the City may exercise any power and perform any function pertaining to its government and affairs including zoning regulations and uses; and

**WHEREAS**, the City of Peoria desires to amend Appendix A, the Unified Development Code;

NOW, AND THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

Section 1: Appendix A of the Peoria City Code, being Ordinance No. 17,403 as adopted on October 11, 2016, is hereby amended by deleting the following stricken words and adding the following underlined words:

**2.0 ADMINISTRATION**

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**2.2 ZONING REVIEW**

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**2.2.2 Transfer of Property Certificate**

- A.** No instrument which immediately conveys or provides for the future conveyance of the fee interest in any property within the City of Peoria including an Agreement for Warranty Deed shall be recorded and no beneficial interest in a land trust which holds title to property within the city shall be transferred (except for a transfer of an interest, solely to secure performance of an obligation) until a Certificate has been issued for the property which is to be conveyed, or in the case of an interest in a land trust, until a Certificate has been issued for any property held by the trust which is located within the City of Peoria. The following transfers are exempt from the requirements of this paragraph provided that a Certificate for Exemption in the form provided by the Zoning Administrator is signed by the owner; beneficial interest holder, if a land trust; or an attorney at law or in fact:
1. Deeds to or trust documents relating to property acquired by any governmental body or from any governmental body or deeds to property between governmental bodies, or by or from any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes.
  2. Deeds or trust documents which secure debt or other obligation.
  3. Deeds or trust documents which, without additional consideration, confirm, correct, modify, or supplement a deed or trust document previously recorded.
  4. Reserved.
  5. Tax deeds.
  6. Deeds or trust documents of release of property which is security for a debt or other obligation.
  7. Deeds of partition.
  8. Deeds or trust documents made pursuant to mergers, consolidations or transfers or sales of substantially all of the assets of corporations pursuant to plans of reorganization.
  9. Deeds or trust documents made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.

10. Deeds for a single family dwelling, including residential condominium units.
11. Deeds representing transfers subject to the imposition of a documentary stamp tax imposed by the government of the United States.
12. Deeds issued to a holder of a mortgage, as defined in Section 15-103 of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure.
13. Undeveloped parcels of land.
14. Deeds delivered, without regard to whether the Agreement for Warranty Deed was recorded, pursuant to an Agreement for Warranty Deed entered into prior to June 1, 1990.
15. Deeds delivered, without regard to whether the Agreement for Warranty Deed was recorded, pursuant to an Agreement for Warranty Deed on or after June 1, 1990, for which a zoning certificate has previously been issued by the Zoning Administrator.
16. Non-residential uses in the B-1; O-1; O-2; C-N, C-1; C-G, C-2; I-1; I-2; I-3; N-1 and P-1 districts.

**B. Non-Exempt Properties must obtain a Transfer of Property certificate through one of the following methods:**

- a. The structure was originally built for the current use and number of dwelling units.
- b. The structure was legally converted for the current use and number of dwelling units at such time as was allowed by the zoning regulations. This requires proof of continuous use per 9.5.2.
- c. Special use pursuant to the process in Section 2.9 only if a and b above are not applicable to the property. Such application shall be for existing dwelling units at the time of passage of this ordinance. The special use approval is subject to the property meeting all applicable building and life safety codes.

Transfer of Property Certificates shall be issued pursuant to rules adopted by the Zoning Administrator, and shall state whether the property which is the subject of the certificate is in compliance with the provisions of this ordinance. Notwithstanding the foregoing, the Zoning Administrator may adopt rules permitting a certificate to be issued based on information supplied by the applicant for certain classes of property or by inspection by the City or its agents. Any Certificate which is issued as a result of information supplied by the applicant and not on the basis of a property inspection by the City shall state that it has been issued in reliance upon information supplied by the applicant, and that it is not valid if it has been issued in reliance on information provided by the applicant which is not true and correct. In any case where a Certificate has not been acted upon within one year of the date of its issuance, or any City license or permit resulting from its issuance, then, without further action by the Zoning Administrator, said Certificate shall be null and void.

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## **9.0 - NONCONFORMITIES**

### **9.1 - PURPOSE**

The purpose of this Chapter is to provide for the following:

- A. Continuing maintenance of nonconforming uses, buildings, structures and site elements, uses which do not conform to the provisions of this development code but which complied with applicable laws when established;
- B. Provide for the gradual replacement of nonconforming uses with uses that conform to the provisions of this development code;
- C. Provide for the expansion of nonconforming uses by the City Council;

- D. Provide for the continuance of nonconforming use of land; and
- E. Provide for the continuance and expansion of nonconforming buildings, structures and site elements.

**9.2 - GENERAL PROVISIONS**

**9.2.1 — Burden of Establishing Nonconformity**

The burden of establishing any nonconformity is to be met by the owner or party seeking to continue the use. Such persons shall provide sufficient proof in a form acceptable to the Zoning Administrator of the following:

- A. ~~Date of construction of the building or structure or date the use was established (proof may consist of a certified copy of the business license or building permit).~~
- B. ~~Continuous operation of the nonconforming use (proof may consist of affidavits signed by persons having personal knowledge of the use of the premises since the use was established).~~
- C. ~~Such other proof as may be deemed necessary by the Zoning Administrator.~~

**9.2.21 Relocation of Building or Structure**

No building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of such building or structure which is moved and the use made thereof is made to conform to all of the regulations of the district in which it is to be located.

**9.2.32 Exception for Repairs Pursuant to Public Order**

In order to accomplish the objectives of the Ordinance without posing any hazard to the public or occupants of buildings and structures, nothing in this Chapter shall be deemed to prevent the strengthening or restoration of an unsafe structure in accordance with any order of a public official who is charged with protecting the public safety, and who finds that the structure which is the subject of the order is unsafe in its then present condition, and that repair or restoration is not in violation of the provisions of this Chapter governing the restoration of partially damaged or destroyed structures and signs.

**9.3 - TYPES OF NONCONFORMITIES**

- A. Nonconforming Lot – Lots which do not meet minimum lot area or lot width.
- B. Nonconforming Structure – Structures which exceed maximum building height or do not meet build-to or minimum building setbacks or fenestration.
- C. Nonconforming Use – Uses which are not compliant with Section 5.2 Permitted Use Table and performance standards.
- D. Nonconforming Site Elements – Site elements including parking, landscaping, buffers, mechanical screening, or dumpster screening which are not compliant with the Unified Development Code.
- E. Signs – Signs which exceed maximum height, or size, or do not meet minimum setbacks.

**9.4 - ALLOWANCE FOR CONTINUATION, EXPANSION, REDUCTION, OR CHANGE OF A NONCONFORMITY**

<u>Type of Nonconformity</u>	<u>Continuation</u>	<u>Expansion</u>	<u>Reduction</u>	<u>Change</u>
Lot	<u>Nonconforming lots of record in existence at the time the Unified Development Code was adopted may be maintained subject to the general provisions of this chapter.</u>	<u>The expansion of a nonconforming lot shall be permitted if such expansion reduces the non-conformity. Any expansion which</u>	<u>A nonconforming lot may not be further reduced so as to increase its nonconforming features.</u>	<u>Not applicable</u>

		<u>retains or increases the non-conformity will require a special use or variance as applicable.</u>		
<u>Structure</u> <sup>1,2</sup>	<u>A nonconforming structure in existence at the time the Unified Development Code was adopted may be maintained. A nonconforming building or structure, except one identified by City Council action as being of historic significance, which is destroyed or damaged by fire or other casualty or act of God may be restored only if the cost of reconstruction to a condition in which it was prior to the casualty does not exceed 50% of the replacement cost of the entire building, and further providing no restoration or reconstruction shall be undertaken unless it is started within one year from the date of notice by the Zoning Administrator of this provision or the date of partial destruction whichever is later and completed within 24 months from the date of partial destruction.</u>	<u>The expansion of a nonconforming structure shall be permitted if such expansion conforms to the provisions of the zoning district in which it is located. Expansion of a non-conforming structure which does not conform to the provisions of the zoning district will require a special use or variance as applicable.</u>	<u>Reduction of a non-conforming structure which increases a nonconformity will require a special use or variance as applicable.</u>	<u>Any change to a non-conforming structure that is not an expansion or reduction shall be permitted if such change conforms to the provisions of the zoning district in which it is located.</u>
<u>Use</u>	<u>A nonconforming use which has been legally established, may be continued until such use has been voluntarily abandoned for a period longer than 12 consecutive months.</u>	<u>Any expansion of a nonconforming use shall be permitted only after it has been approved as a special use.</u>	<u>The reduction of a nonconforming use is permitted.</u>	<u>A nonconforming use may be changed to another nonconforming use, provided that the new nonconforming use is less intense than the existing nonconforming use. Such change shall be permit after it has been approved as a special use.</u>

<p><u>Site Element</u></p>	<p><u>When a proposed or completed repair, change in use, expansion of use, or change in a building or structure already existing on the passage of this ordinance, occurs with or results in nonconforming elements of the site such as parking, yards or landscaping, on property that has an existing building or structure that will be retained as a part of the proposed or completed repair, change in use, expansion of use, or change in said building or structure, any person interested in the use or structure may petition for a waiver of any portion or all of the landscaping, yards or parking requirement resulting from such change or proposed change. Such waivers shall be granted by the Zoning Administrator or Development Review Board only when they are in the interest of the City, or when conformance with the parking, yards and landscaping requirements poses some practical difficulty or particular hardship. In determining whether there is a practical difficulty or hardship, the decision maker shall make findings of practical difficulty or particular hardship based upon the standards for variations (see 2.6, Variations). Conditions or restrictions may be imposed by the decision maker at the time any waiver is granted.</u></p>			
<p><u>Sign</u></p>	<p><u>Nonconforming signs may be continued until any of the following activities affect the subject sign, at which time the nonconforming sign must be removed or comply with the requirements of 8.3</u>  <u>a. Replacement or repair of any portion of the sign in excess of 50 percent of the replacement value, the addition of multiple message technology not being considered replacement or repair; or</u>  <u>b. Removal or replacement of the entire sign structure, except that replacement of the nonconforming off-premise sign at the same location, of the same dimensions, with a design known as uni-pole construction will be permitted, as will be all work related to the addition of multiple message technology, or c. Requirements of the Applicability Table in 2.16, and Chapter 5, Section 5-301 and Chapter 13, Section 13-13.</u></p>	<p><u>Expansion of a nonconforming sign shall be permitted only after it has been approved as a special use.</u></p>	<p><u>The reduction of a nonconforming sign is permitted upon approval by the Development Review Board.</u></p>	<p><u>Changes to the face of the sign only is permitted.</u></p>

<sup>1</sup> The requirements for nonconforming uses of nonconforming buildings, structures, or uses shall apply to all accessory buildings, structures, or buildings located on the same zoning lot.

<sup>2</sup> No accessory improvements which are 1) underground or substantially underground, 2) which have a current market value in excess of \$5,000.00, and 3) which comprise substantially all the improvements enjoyed in nonconforming use of land shall be deemed nonconforming structures and subject to the applicable provisions of this Article.

**9.5 - SPECIAL REGULATIONS FOR BUILT-AS STRUCTURES, LEGAL NON-CONFORMING USES, AND NEW CONSTRUCTION**

**9.5.1 Built-as Structures**

Any structure originally designed, intended and built-as any use may have its use continued provided the original structure has not been altered to increase the non-conformity. Additional dwelling units cannot be added to the original design of a residential structure.

**9.5.2 Legal Non-Conforming Uses**

The burden of establishing any nonconformity is to be met by the owner or party seeking to continue the use. Such persons shall provide sufficient proof in a form acceptable to the Zoning Administrator of the following:

- A. Date of construction of the building or structure or date the use was established (proof may consist of a certified copy of the business license or building permit).
- B. Continuous operation of the nonconforming use (proof may consist of affidavits signed by persons having personal knowledge of the use of the premises since the use was established).
- C. Such other proof as may be deemed necessary by the Zoning Administrator.

**9.5.3 New Single-Family Dwellings in Residential Districts**

The erection of new single family dwellings in residential districts shall be permitted on nonconforming lots of record if the new single-family dwelling is placed on the lot so as to provide a yard on each side of the dwelling such that the sum of the widths of the two side yards shall be not less than the minimum required, or the greater of the following: 20% of the width of the lot or three feet.

The time and cost limitations set forth herein shall not apply to any single-family dwelling located in a residential district, provided reconstruction of the dwelling begins within two years from the date of partial destruction and is thereafter diligently pursued. A nonconforming building identified by City Council action as being of historic significance may be restored in conformance with these provisions without respect to cost or replacement cost.

**9.5.4 New Structures in Non-Residential Districts**

The erection of new structures or buildings in nonresidential districts shall be permitted on nonconforming lots of record if such proposed structure meets all of the requirements of the district in which it is sought to be located except for lot area.

~~9.3 – NONCONFORMING USE OF A BUILDING, STRUCTURE, LAND, LOTS OF RECORD~~

~~The nonconforming use of a building, structure, land or lots of record may be continued, subject to the provisions of this section.~~

<b>NONCONFORMING:</b>	<b>CONTINUANCE</b>	<b>DISCONTINUANCE</b>	<b>EXPANSION</b>	<b>CHANGE</b>
Use of				
Building or Structure <small>4,2</small>	Any structure originally designed and intended for more than one dwelling unit may have its use continued provided the original	Except as otherwise provided in this Article, the voluntary abandonment of any nonconforming use of a building, structure, or	Any expansion of a nonconforming use shall be permitted only after it has been reviewed by the reviewing body	A nonconforming use may be changed to another nonconforming use provided that the new nonconforming use is less intense than the

	<p>structure has not been altered to diminish the number of original dwelling units. Additional units cannot be added to the original design.</p>	<p>premises for a period longer than one year shall terminate any rights conferred by this Article to continue such use.</p>	<p>having jurisdiction and approved by the City Council as a special use.</p>	<p>existing nonconforming use. Such change shall be permitted only after it has been reviewed and approved by the City Council as a special use. The jurisdiction over such change, the review of proposals and approval standards and procedures shall be the same as those which are applied for special uses; however the proposed changed use need not be specifically listed as a special use in the district in which it is sought. For the purpose of this paragraph, the standards in 5.1.B, Uses Not Specifically Listed, shall be considered in determining whether or not a use is less intense.</p>
Land (No building)	<p>The nonconforming use of land which is accessory to the nonconforming use of a building or structure may be continued for such time as the nonconforming use of the building or structure is permitted under the provisions of this Article.</p>		<p>No changes or structural alterations shall be permitted which would increase the bulk of a building or structure housing a nonconforming use, unless such changes conform to all the provisions of the zoning district in which such building is located.</p>	
Lot of Record	<p>Structures and buildings on nonconforming lots in existence at the time this development code was adopted may be maintained as nonconforming uses subject to the general provisions of this Article.</p>		<p>A nonconforming use of land not involving a building or structure shall not be expanded or extended beyond the area it occupies at the time it became nonconforming</p>	

<sup>1</sup>—The requirements for nonconforming uses of nonconforming buildings, structures, or uses shall apply to all accessory buildings, structures, or buildings located on the same zoning lot.

<sup>2</sup>- No accessory improvements which are 1) underground or substantially underground, 2) which have a current market value in excess of \$5,000.00, and 3) which comprise substantially all the improvements enjoyed in nonconforming use of land shall be deemed nonconforming structures and subject to the applicable provisions of this Article.

#### 9.4 – NONCONFORMING BUILDING, STRUCTURE, OR SITE ELEMENTS

Nonconforming buildings, structures, or site elements may be continued, subject to the provisions of this section.

NONCONFORMING:	CONTINUANCE	DISCONTINUANCE	EXPANSION	CHANGE
Building or Structure	<p>A nonconforming building or structure, except one identified by City Council action as being of historic significance, which is destroyed or damaged by fire or other casualty or act of God may be restored only if the cost of reconstruction to a condition in which it was prior to the casualty does not exceed 50% of the replacement cost of the entire building, and further providing no restoration or reconstruction shall be undertaken unless it is started within one year from the date of notice by the Zoning Administrator of this provision or the date of partial destruction whichever is later and completed within 24 months from the date of partial destruction.</p> <p>The time and cost limitations set forth herein shall not apply to any single-family dwelling located in a residential district, provided reconstruction of the dwelling begins within two years from the date of partial destruction and is thereafter diligently pursued. A nonconforming building, identified by City Council action as being of historic significance may be restored in conformance with these provisions without respect to cost or replacement cost.</p>			<p>Erection of new single-family dwellings in residential districts on nonconforming lots of record shall be permitted. The new single-family dwelling shall be placed on the lot so as to provide a yard on each side of the dwelling such that the sum of the widths of the two side yards shall be not less than the minimum required, or the greater of the following: 20% of the width of the lot or three feet.</p> <p>The erection of new structures or buildings in nonresidential districts shall be permitted on nonconforming lots of record if such proposed structure meets all of the requirements of the district in which it is sought to be located except for lot area.</p>
Site Elements	When a proposed or completed repair, change in use, expansion of use, or change in a building or structure already existing on the passage of this ordinance,			



	<p>occurs with or results in nonconforming elements of the site such as parking, yards or landscaping, on property that has an existing building or structure that will be retained as a part of the proposed or completed repair, change in use, expansion of use, or change in said building or structure, any person interested in the use or structure may petition for a waiver of any portion or all of the landscaping, yards or parking requirement resulting from such change or proposed change. Such waivers shall be granted by the Zoning Administrator or Development Review Board only when they are in the interest of the City, or when conformance with the parking, yards and landscaping requirements poses some practical difficulty or particular hardship. In determining whether there is a practical difficulty or hardship, the decision maker shall make findings of practical difficulty or particular hardship based upon the standards for variations (see 2.6, Variations). Conditions or restrictions may be imposed by the decision maker at the time any waiver is granted.</p>			
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**9.5 – NONCONFORMING SIGNS**

Nonconforming signs may be continued, subject to the provisions of this section.

<b>NONCONFORMING:</b>	<b>CONTINUANCE</b>	<b>DISCONTINUANCE</b>	<b>EXPANSION</b>	<b>CHANGE</b>
Signs				
Off-Premise	<p>Other types of nonconforming off-premise signs may be continued until any of the following activities affect the subject sign, at which time the nonconforming sign must be removed or comply with the requirements of 8.3</p> <p>a. Replacement or repair of any portion of the sign in excess of 50 percent of the replacement value, the addition of multiple message</p>	<p>Nonconforming off-premise signs that are nonconforming due to being located in a residential zoning district; or wall or roof construction, shall be removed within seven years of official notification of a nonconforming status by the Zoning Administrator.</p>		

	<p>technology not being considered replacement or repair; or</p> <p>b. Removal or replacement of the entire sign structure, except that replacement of the nonconforming off-premise sign at the same location, of the same dimensions, with a design known as uni-pole construction will be permitted, as will be all work related to the addition of multiple message technology.</p>		
	<p>All Other Signs</p>	<p>In addition to the above regulation for amortization of off-premise signs, other types of nonconforming signs may be continued until any of the following activities affect the subject sign or sign location, at which time the nonconforming sign must be removed or comply with the requirements of 8.3:</p> <ol style="list-style-type: none"> <li>1. As established in 2.16 Applicability Table;</li> <li>2. Replacement or repair of any portion of the sign in excess of 50% of the replacement value;</li> <li>3. Removal or replacement of the entire sign structure.</li> </ol>	

Section 2. This Ordinance shall be in full force immediately and upon passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_, 2021

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

EXAMINED AND APPROVED:

\_\_\_\_\_  
Corporation Counsel