



# Planning Commission Memorandum

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**To:** Karla Richards, Clerk of Council  
**From:** Pat Ryan, Interim Boards & Commissions Secretary *PR*  
**Date:** 11-15-2010  
**Re:** Approved/Signed Planning Commission Minutes:  
Wednesday, October 13, 2010

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Attached you will find a copy of the approved/signed Planning Commission minutes from Wednesday, October 13, 2010.

The original document has been forwarded to, and will be on file with the Clerk of Council as the official record.

**E-mail:** Mayor (per Admin. Sec.)  
Administrative Officer  
Finance Director  
Planning Commission  
Fire Chief  
Council  
Engineer  
Capital One  
Supt. of Building & Zoning

**cc:** App. File/Posting



# Planning Commission Memorandum

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**To:** Karla Richards, Clerk of Council  
Council

**From:** Pat Ryan, Interim Boards & Commissions Secretary

**Date:** 10-14-2010

**Re:** PC Resolution No. 15-2010

**Text Amendment**

**Proposing a Text Amendments to the following:**

- 1) Title Six - Index, change "Chap. 1292. Sexually Oriented Businesses" to "Chap. 1292. Adult Use Regulations"**
- 2) Chapter 1278.02 – Permitted Uses, delete "(o) Sexually Oriented Businesses, provided such businesses are located only in accordance with the restrictions set forth in Section 1292.03"**
- 3) Chapter 1280.02 – Permitted Uses, add "Adult Use Regulations, in accordance with Chapter 1292"**
- 4) Chapter 1282.02 – Permitted Uses, add "Adult Use Regulations, in accordance with Chapter 1292"**

Attached you will find a copy of PC Resolution No. 15-2010 Approving the above Amendment.

The original resolution has been forwarded to, and will be on file with the Clerk of Council as the official record.

E-Mail: Mayor (per Admin. Sec.)  
Administrative Officer  
Planning Commission  
Board of Zoning & Building Appeals  
Municipal Engineer  
Supt. of Building & Zoning  
Council

cc: PC Minutes  
File

# PLANNING COMMISSION RESOLUTION

October 13, 2010

PC RESOLUTION NO.: 15-2010

RE:

Text Amendment

Proposing a Text Amendments to the following:

1) Title Six - Index, change "Chap. 1292. Sexually Oriented Businesses" to "Chap. 1292. Adult Use Regulations"

2) Chapter 1278.02 - Permitted Uses, delete "(o) Sexually Oriented Businesses, provided such businesses are located only in accordance with the restrictions set forth in Section 1292.03"

3) Chapter 1280.02 - Permitted Uses, add "Adult Use Regulations, in accordance with Chapter 1292"

4) Chapter 1282.02 - Permitted Uses, add "Adult Use Regulations, in accordance with Chapter 1292"

The Planning Commission does hereby make the following recommendations on the above:

Recommend approval.

Vote on Motion: FOR 5 AGAINST 0 ABSTAIN    

Therefore PC Resolution No. 15-2010 has been:

APPROVED   X   DENIED     TABLED    

This resolution shall be sent to:

Administration for     it's action or for   X   it's information, and

Council for   X   it's action or for     it's information.

  
Planning Commission Chair/Vice-Chair

  
Planning Commission Vice-Chair/Member

10/13/10  
Date

## TITLE SIX - Zoning

- Chap. 1250. General Provisions and Definitions.
- Chap. 1252. Administration, Enforcement and Penalty.
- Chap. 1254. Board of Zoning and Building Appeals.
- Chap. 1256. Amendments.
- Chap. 1257. Site Plan Review.
- Chap. 1258. Districts Generally and Zoning Map.
- Chap. 1260. RU-1 Rural Residential Districts.
- Chap. 1262. R-1 One-Family Residence Districts.
- Chap. 1264. R-2 One-Family Residence Districts.
- Chap. 1266. R-3 One-Family Residence Districts.
- Chap. 1268. R-4 Multifamily Residence Districts.
- Chap. 1270. R-5 Multifamily Residence Districts.
- Chap. 1272. R-PC Planned Cluster Residence Districts.
- Chap. 1274. B-1 Central Business Districts.
- Chap. 1276. B-2 Neighborhood Business Districts.
- Chap. 1278. B-3 Highway Business Districts.
- Chap. 1280. I-1 Light Industrial Districts.
- Chap. 1282. I-2 Heavy Industrial Districts.
- Chap. 1284. Public Recreation District.
- Chap. 1286. C-REC Commercial Recreation Districts.
- Chap. 1288. Special Planned Development.
- Chap. 1289. Signs.
- Chap. 1290. Non-Conforming Uses.
- Chap. 1292. ~~Sexually-Oriented Businesses.~~ **Adult Use Regulations.**
- Chap. 1294. Wireless Telecommunications Facilities.
- Chap. 1296. Supplementary Regulations.
- Chap. 1298. Conditional Uses.

**CHAPTER 1278**  
**B-3 Highway Business Districts**

**1278.02 PERMITTED USES.**

Permitted uses in B-3 Highway Business Districts are:

- (a) Building supplies and service facilities.
- (b) Plumbing and electric supplies and service facilities.
- (c) Automotive parts stores.
- (d) Upholstery and furniture repair shops.
- (e) Restaurants, drive-in restaurants or refreshment stands.
- (f) Animal hospitals and boarding kennels.
- (g) New car showrooms and service facilities and used car sales facilities, provided they are an adjunct use thereto.
- (h) Motels.
- (i) Bowling alleys and miniature golf courses.
- (j) Dairies, bottling plants and similar establishments.
- (k) Marine sales, storage, supplies and services facilities.
- (l) Gasoline filling stations, exclusive of auto repair garages, provided that all operations are in accordance with Section 1250.04(21) and other provisions of this Zoning Code, except that the servicing of automotive equipment with gasoline, oil, air and water need not be conducted within an enclosed building.
- (m) Auto repair garages.
- (n) Mortuaries.
- ~~(o) Sexually oriented businesses, provided such businesses are located only in accordance with the restrictions set forth in Section 1292.03.~~

**CHAPTER 1280**  
**I-1 Light Industrial Districts**

**1280.02 PERMITTED USES.**

Permitted uses in an I-1 Light Industrial District are:

- (a) Administrative offices, but not including those of doctors, dentists or others that require personal visits of clients or patients.
- (b) The manufacturing, processing, assembling or storage of products and materials, including institutes and laboratories.
- (c) Business and mechanical service uses providing the display, repair, storage and off-premises installation of various products, materials and appliances, where on-premises retail sales to customers are incidental and customer presence is primarily for the purpose of pre-installation inspection or the delivery or pick-up of articles for repair.
- (d) Research laboratories, provided that such uses are not or will not be offensive by reason of the emission of dust, gas, smoke, noise, fumes, odors or vibrations, and provided further that the Building and Zoning Inspectors may require evidence that adequate controls, measures or devices have been provided to insure and protect the public interest, health, comfort, convenience, safety and general welfare.
- (e) No retail business, service, manufacturing or industrial use shall be permitted as a lawful or accessory use if such business, service, manufacturing or industrial use unit pumps in excess of 1,000 gallons of underground water per day.
- (f) Adult Uses, in accordance with Chapter 1292.**

**CHAPTER 1282**  
**I-2 Heavy Industrial Districts**

**1282.02 PERMITTED USES.**

Permitted uses in an I-2 Heavy Industrial District are:

- (a) All uses permitted in an I-1 Industrial District.
- (b) Plaster manufacture and emery cloth and sandpaper manufacture.
- (c) Boiler shops, machine shops and structured steel fabrication.
- (d) Brick, pottery, tile and terra cotta manufacturing.
- (e) Cooperage works.
- (f) A forge or foundry.
- (g) Meat packing, but not the slaughtering of animals or stockyards.
- (h) Stone quarry or rock crushing.
- (i) Sandblasting and cutting.
- (j) Sewage disposal plants.
- (k) Shoe and stove polish manufacture.
- (l) Steam plants.
- (m) Stone and monument works employing power-driven tools.
- (n) Wireless communications facilities, subject to Chapter 1294.
- (o) Other uses of a similar character, subject to such conditions as the City Council may impose.
- (p) Adult Uses, in accordance with Chapter 1292.**



# Planning Commission Memorandum

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**To:** Karla Richards, Clerk of Council  
Council

**From:** Pat Ryan, Interim Boards & Commissions Secretary *PR*

**Date:** 10-14-2010

**Re:** PC Resolution No. 16-2010

**Text Amendment**  
**Proposing a Text Amendments to**  
**Chapter 1290-Non-Conforming Uses**

Attached you will find a copy of PC Resolution No. 16-2010 Approving the above Amendment.

The original resolution has been forwarded to, and will be on file with the Clerk of Council as the official record.

**E-Mail:** Mayor (per Admin. Sec.)  
Administrative Officer  
Planning Commission  
Board of Zoning & Building Appeals  
Municipal Engineer  
Supt. of Building & Zoning  
Council

**cc:** PC Minutes  
File

# PLANNING COMMISSION RESOLUTION

October 13, 2010

PC RESOLUTION NO.: 16- 2010

RE: Text Amendment  
Proposing a Text Amendment to  
Chapter 1290-Non-Conforming Uses.

The Planning Commission does hereby make the following recommendations on the above:

Recommend approval.

Vote on Motion: FOR 5 AGAINST 0 ABSTAIN    

Therefore PC Resolution No. 16-2010 has been:

APPROVED   X   DENIED     TABLED    

This resolution shall be sent to:

Administration for     it's action or for   X   it's information, and  
Council for   X   it's action or for     it's information.

  
\_\_\_\_\_  
Planning Commission Chair/Vice-Chair

  
\_\_\_\_\_  
Planning Commission Vice-Chair/Member

10/13/10  
Date

**CHAPTER 1290**  
**Non-Conforming Uses**

1290.01	Purpose
1290.02	General Provisions
1290.03	Non-Conforming Uses
1290.04	Non-Conforming Lots
1290.05	Non-Conforming Structures
1290.06	Non-Conforming Signs

**1290.01        PURPOSE.**

In the provisions established by this Code, there exist uses of land, structures, lots of record, towers, and signs that were lawfully established before this Code was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this section is to regulate the continued existence of those uses, structures, and lots of record that do not conform to the provisions of this Code, or any amendments thereto.

**1290.02        GENERAL PROVISIONS.**

(a)    Authority To Continue. The lawful use of any dwelling or structure and of any land or premises existing and lawful at the time of the enactment of this Code, or any amendment thereto, may continue, although such use does not conform to the provisions of this Code or amendment thereto. Nevertheless, while it is the intent of this Code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded or used as grounds for any other use or structure prohibited elsewhere in the district, except as specifically provided for in this Code.

(b)    Conditional Uses. Any use which is permitted as a conditional use in a district under the terms of this Code shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use provided the use meets all approval criteria and conditions established by the Zoning Code, the Planning Commission, or the Board of Zoning and Building Appeals for the conditional use.

(c)    Accessory Uses. A nonconforming use that is accessory to a principal use shall not make the principal use nonconforming.

(d)    Determination Of Nonconformity Status. The burden of establishing that a nonconformity lawfully exists shall be on the owner of the land on which the purported nonconformity is located.

**1290.03        NON-CONFORMING USES.**

(a)    Substitution of Uses. A legal, non-conforming use of a building may be changed to another non-conforming use of the same or a less intensive and more restricted type or classification, as approved by the Board of Zoning and Building Appeals. The Board of Zoning and Building Appeals shall not authorize a change or substitution of use unless it determines that

the proposed use is more appropriate to the applicable zoning district than the existing nonconforming use and that the proposed use is less in conflict with the character of the uses permitted in the applicable zoning district than the existing non-conforming use. In permitting such a change, the Board of Zoning and Building Appeals may prescribe appropriate conditions and safeguards in accordance with other provisions of this Zoning Code. Violations of any conditions and/or safeguards prescribed by the Board of Zoning and Building Appeals shall be deemed a violation of this Zoning Code. Whenever a non-conforming use has been changed to a less intensive use under this sub-section, such use shall not thereafter be changed to a more intensive non-conforming use.

(b) Abandonment. A legal, non-conforming use may be continued as long as it remains otherwise lawful, provided, however, that if any legal non-conforming use of land ceases for any reason, for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Zoning Code for the district in which such land is located. When a legal, non-conforming use is replaced by a permitted use under terms of this Zoning Code, such permitted use shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.

(c) Expansion of Area of Use. Subject to approval of the Board of Zoning and Building Appeals, a legal non-conforming use may be extended, enlarged or altered so as to permit additions to such structure or land for the purpose of continuing the same non-conforming use as that carried on in such structure or on such land sought be to extended, enlarged or altered, provided, however, that no such extension, enlargement, alteration or addition shall exceed twenty-five percent (25%) of the existing square feet of such structure, or square feet of such land area, and provided further that only one such extension, enlargement, alteration or addition involving the same premises shall ever be permitted.

(d) Additional Structures. The existence of a nonconforming use shall not be grounds for the establishment of additional structures not otherwise permitted in the district in which the non-conformity is located, except that the owner of a non-conforming single-family residential use may construct an accessory structure relating to the residential use that conforms to the size limitations and other requirements for accessory structures in Section 1296.03.

(e) Completion. Any use for which zoning approval has been issued prior to the adoption of this Zoning Code or subsequent amendments, and which, when established, would not conform to the provisions of this Zoning Code for the district in which it is located, may be established and maintained as a non-conforming use provided that the use is established within twelve (12) months after the date of approval.

#### **1290.04 NON-CONFORMING LOTS.**

(a) Vacant Non-Conforming Lot In A Residential District. In any district in which one-family or two-family dwellings are permitted, a one-family dwelling or two-family dwelling, along with any customary accessory buildings, may be erected on any single lot of record which was made non-conforming by newly-enacted dimensional requirements on the effective date of adoption or any amendment of this Zoning Code, provided that such lot must be in separate ownership from contiguous lots and not of continued frontage with other lots in the same

ownership. If such permitted structures do not comply with minimum yard requirements for the district, then the yard requirements may be reduced in a manner approved by the Board of Zoning and Building Appeals. Variances and special exceptions to yard requirements shall be obtained only through action of the Board of Zoning and Building Appeals.

(b) **Vacant Non-Conforming Lots In Multi-Family and Non-Residential District.** A vacant non-conforming lot in a multi-family district or non-residential district may be used for any use permitted in the district in which it is located when the development of such lot meets all development requirements of the district in which it is located, except for the minimum lot area and lot width requirements.

(c) **Exception for Adjacent Vacant Lots Of Single Ownership.** A vacant lot of record shall not be deemed a non-conforming lot under this Zoning Code if, at the time when the vacant lot became not in conformance with the zoning regulations, or at any time thereafter, the vacant lot was adjacent to or abutted another lot, or any part of another lot, that was owned by the same property owner.

(d) **Existing Buildings on Non-Conforming Lots.** If a non-conforming lot is occupied by a building, such building shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) comply with all regulations of this Zoning Code, except the lot area and lot width regulations of the district in which the lot is located.

(e) **Prohibition Against Creation of Non-Conforming Lots.** No subdivision of any parcel or lot shall be made, which shall create a lot with frontage, width, depth or area below the requirements stated in this Zoning Code.

#### **1290.05 NON-CONFORMING STRUCTURES.**

(a) **Maintenance and Repair.** Routine maintenance and repair of non-conforming structures shall be permitted. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, on order of such official.

- (1) **Principal Building.** If a non-conforming structure, or use thereof, is damaged by fire or other causes to the extent of less than sixty percent (60%) of its replacement value at the time of the damage, then such non-conforming structure may be restored, repaired, or reconstructed and used as before the time of damage, provided that a building permit is obtained and work is commenced within six (6) months of the date of damage. All work must be completed within eighteen (18) months of the date of the damage. The repaired structure, when completed, shall not increase the size or change the location from the previously existing structure. If the damage or destruction to said structure is to the extent of sixty percent (60%) or more of its replacement value at the time of destruction or damage, it shall not be restored except in conformity with the regulations of the district in which the structure is situated.

- (2) **Accessory Structure.** Any accessory structure, except a sign (which is regulated by Section 1290.06), existing on or before the effective date of this Zoning Code and which does not conform to the provisions of this Zoning Code for the district in which it is located, and which has been or may hereafter be damaged by fire or other causes to the extent of less than sixty percent (60%) of its replacement value at the time of damage may be restored, repaired or reconstructed and used as before the time of damage, provided that such structure, when completed, will not differ in location or size from the previously existing structure (except to the extent that such difference may be in greater conformity with this Zoning Code) and provided that a building permit is obtained and work is commenced within six (6) months of the date of damage. All work must be completed within eighteen (18) months of the date of the damage. If the damage or destruction to said structure is to the extent of sixty percent (60%) or more of its replacement value at the time of destruction or damage, it shall not be restored except in conformity with the regulations of the district in which the structure is situated.
- (3) **One-Family or Two-Family Residential Dwelling.** If a non-conforming one-family or two-family residential dwelling is destroyed or damaged, in whole or in part, as a result of fire or other causes, then such non-conforming residential dwelling may be restored, repaired, or reconstructed and used as before the time of damage, provided that a building permit is obtained and work is commenced within six (6) months of the date of damage. All work must be completed within eighteen (18) months of the date of the damage. The repaired structure, when completed, shall not differ in location or size from the previously existing structure.

(c) **Completion.** Any partially completed building or structure, the actual construction of which has commenced on or before the effective date of this Zoning Code, which building or its intended use, when completed, would not conform to the provisions of this Zoning Code for the district in which it is located, may be completed and used as a non-conforming use only for the purpose for which it was originally designed and approved, provided that the building is completed and/or put to use within two (2) years after the adoption of this Zoning Code.

(d) **Alteration.** Except as provided in Section 1290.03(c), no nonconforming structure shall be extended or enlarged. Should such structure be moved for any reason, for any distance whatever, it shall thereafter conform to the yard and location regulations for the district in which it is located after it is moved.

#### **1290.06 NONCONFORMING SIGNS.**

(a) Except as provided herein, any sign legally existing on the effective date of this Zoning Code, and which remains or becomes non-conforming upon the adoption of this Code or any subsequent amendment hereto, may be continued as a matter of right provided that the sign complies with all requirements for safety, maintenance, and repair.

(b) Repairs. Ordinary repairs and non-structural alterations may be made to a nonconforming sign. No structural alterations shall be made in, to or upon such non-conforming sign or related support structures, except those required by law to make the sign conform to the provisions of this code.

(c) Additions and Enlargements. A non-conforming sign shall not be added to or enlarged in any manner, except to make the sign conform to the regulations of this Code.

(d) Moving. No non-conforming sign shall be moved in whole or in part to any other location unless the sign is made to conform to all regulations of this Code.

(e) Restoration of damaged non-conforming signs. A non-conforming sign which is destroyed or damaged by fire or other cause to the extent that the cost of restoration will exceed sixty percent (60%) of the value of the sign at the time of damage, shall not be restored unless it is made to conform to all the regulations of this Chapter, or any subsequent amendment thereto. In the event that such damage or destruction is less than sixty percent (60%) of the value of the sign at the time of damage, no repairs or construction shall be made unless such restoration is started within sixty (60) days from the date of the damage and is diligently pursued to completion.

(f) Removal of Abandoned Signs. All non-conforming signs shall be subject to the removal requirements of Section 1454.07 of the Building and Housing Code.



# Planning Commission Memorandum

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**To:** Karla Richards, Clerk of Council  
Council

**From:** Pat Ryan, Interim Boards & Commissions Secretary

**Date:** 10-14-2010

**Re:** PC Resolution No. 17-2010

*PR*

**Text Amendment**  
**Proposing a Text Amendments to**  
**Chapter 1454.07(a) REMOVAL OF ABANDONED SIGNS**  
**Of the Building and Housing Code**

Attached you will find a copy of PC Resolution No. 17-2010 Approving the above Amendment.

The original resolution has been forwarded to, and will be on file with the Clerk of Council as the official record.

**E-Mail:** Mayor (per Admin. Sec.)  
Administrative Officer  
Planning Commission  
Board of Zoning & Building Appeals  
Municipal Engineer  
Supt. of Building & Zoning  
Council

**cc:** PC Minutes  
File

# PLANNING COMMISSION RESOLUTION

October 13, 2010

PC RESOLUTION NO.: 17-2010

RE: Text Amendment  
Proposing a Text Amendment to  
Chapter 1454.07(a) REMOVAL OF ABANDONED SIGNS  
of the Building and Housing Code.

The Planning Commission does hereby make the following recommendations on the above:

Recommend approval.

Vote on Motion: FOR 5 AGAINST 0 ABSTAIN    

Therefore PC Resolution No. 17-2010 has been:

APPROVED   X   DENIED     TABLED    

This resolution shall be sent to:

Administration for     it's action or for   X   it's information, and  
Council for   X   it's action or for     it's information.

  
\_\_\_\_\_  
Planning Commission Chair/Vice-Chair

  
\_\_\_\_\_  
Planning Commission Vice-Chair/Member

10/13/10  
Date

**SECTION 1454.07(a) OF THE BUILDING AND HOUSING CODE SHALL BE AMENDED AS FOLLOWS:**

**1454.07      REMOVAL OF ABANDONED SIGNS.**

(a) Whenever a property owner or tenant or use vacates a premises or discontinues the use of the premises for any reason, ~~except for a gasoline station,~~ the owner of the property ~~such premise~~ shall, within ~~thirty ten~~ days after such vacation of the premises or discontinuance of use, remove all signs (including any poles or other structural elements) pertaining to or ~~that pertaining~~ ed to or relating to the former tenant or use. If the new tenant or use occupies or re-occupies the premises within the ~~thirtyten~~ day period, the signs may remain, provided a permit is secured to relate the sign to the new tenant or use in conformity with the Zoning Code.