

ORDINANCE NO. 1669 - 2015

AN ORDINANCE OF THE CITY OF ROCKLEDGE, BREVARD COUNTY, FLORIDA, AMENDING THE ROCKLEDGE LAND DEVELOPMENT REGULATIONS BY DELETING SECTION 60.05 AND REPLACING IT SO AS TO BETTER DEFINE AND IMPLEMENT REGULATIONS FOR PRE-EXISTING NONCONFORMING PROPERTIES; DECLARING THAT INVALIDITY OF ANY PORTION HEREOF SHALL NOT AFFECT THE REMAINING PORTIONS OF THIS ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE HEREOF AND FOR OTHER PURPOSES.

WHEREAS, the Rockledge Land Development Regulations, which define and establish the regulations for nonconforming property within the City, require changes to better define and regulate such properties; and

WHEREAS, over time, the application of the present regulations have caused some inequitable results to such properties; and

WHEREAS, the Rockledge City Council has received a recommendation from the Rockledge Planning Commission to make changes to Section 60.05 of the Rockledge Land Development Regulations to better define and implement the regulations regarding properties that have pre-existing nonconforming uses; and

WHEREAS, the Rockledge City Council finds that such changes would be in the interest of the citizens of Rockledge in general;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKLEDGE, FLORIDA, AS FOLLOWS:

SECTION 1. That Section 60.05 of the Rockledge Land

Development Regulations is deleted in its entirety and replaced with the following:

60.05. Nonconforming uses of land.

(A) *Generally.* Where, at the time of adoption of this part, lawful uses of land exist which would not be permitted by the regulations imposed by this part, the uses may be continued so long as they remain otherwise lawful, provided:

(B) *Nonconforming Uses.*

(1) No such nonconforming uses shall be enlarged or increased, nor intended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this part.

(2) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this part.

(3) If any such nonconforming uses of land are discontinued or abandoned, either voluntarily or in accordance with the amortization requirements for that use, for a period of at least six (6) months, any subsequent use of such land shall conform to the regulations specified by this part for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this part shall be erected in connection with such nonconforming use of land.

(C) *Reversion.* A nonconforming use which is changed to a conforming use shall not be permitted to revert to any nonconforming use.

(D) *Nonconformance not grounds for variance.* The presence of a nonconforming use or structure in a zoning district shall not in and of itself be allowable as legal grounds for granting of variances for other surrounding properties.

(E) *Nonconforming Commercial/Industrial Structures.*

- (1) Unsafe buildings or structures. Any structure or building or portion thereof declared unsafe may be restored to a safe condition provided that restoring it to a safe condition does not exceed more than sixty (60) percent of the market value of the structure on the date in which it was declared unsafe.
- (2) Alterations. A nonconforming building may be maintained, and repairs and alterations may be made, except that no structural alterations shall be made except those required by law including eminent domain proceedings. Repairs, as plumbing, electrical or changing of partitions or other alterations, are permitted.
- (3) Any portion of a structure that encroaches into the setback is considered a non-conforming building and will not be permitted to expand. Non-conforming buildings which do not encroach into current setbacks may be expanded.
- (4) No nonconforming building or structure may be reconstructed when sustaining substantial damage, which shall be defined as damage of any origin sustained by a structure whereby the cost of restoring the structure to its original pre-damaged condition would equal or exceed Sixty (60) percent of the market value of the structure (from the date on which it was damaged).

(F) *Nonconforming Residential Structures.*

- (1) Alterations. A nonconforming building or structure may be maintained, and repairs and alterations may be made, except that no structural alterations shall be made except those required by law including eminent domain proceedings.
- (2) Any portion of a structure that encroaches into the setback is considered a non-conforming residential building and will not be permitted to expand, with the following exception: expansion is permitted if the expansion complies with the current setback.

(3) Any nonconforming residential structure which has been damaged may be reconstructed provided that the cost of restoring the structure to its original condition would not exceed sixty (60) percent of the market value of the dwelling from the date in which the damage occurred.

(a) Market Value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both have reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

(4) Any residential duplex that was lawfully in existence on December 5th, 1957, and located on property that first became zoned in an R2 (Single Family Dwelling) zoning district of the City of Rockledge by Rockledge City Ordinance No. 60-57 adopted by the Rockledge City Council on December 4th, 1957, and which duplex was rendered a preexisting nonconforming use in an R2 (Single Family Dwelling) district by virtue of the enactment of said Ordinance No. 60-57, and has continuously been used as a residential duplex at all times since the property on which it is located was zoned R2 (Single Family Dwelling) zoning district by Ordinance No. 60-57 aforesaid, may, in the event of the partial or total destruction of said duplex, be repaired or reconstructed in whole or in part, in accordance with the following terms and conditions:

(a) The building permit for the repair or reconstruction work is applied for within one year after the damage to or destruction of the duplex, and such work is progressed to completion with reasonable diligence after issuance of the building permit; and

(b) Such repair or reconstruction work results in the restoration of the duplex in

substantially the same structural plan and configuration as the preexisting duplex, in the footprint of the preexisting duplex, and without enlargement or expansion of the preexisting duplex; and

- (c) Such repair or reconstruction work conforms to all applicable building codes in effect at the time the repair or reconstruction work is performed.

SECTION 2. The provisions of this Ordinance are severable, and if any section, sentence, clause, or phrase hereof is for any reason held to be unconstitutional, invalid, or ineffective, such holding shall not affect the validity of the remaining portions of this Ordinance, it being expressly declared to be the City Council's intent that it would have passed the valid portions of this Ordinance without the inclusion therein of any invalid portion or portions.

SECTION 3. This Ordinance shall become effective ten (10) days following its adoption and signed by the Chairman of the City Council.

ADOPTED at a regular meeting of the City Council of the City of Rockledge, Florida, this ____ day of _____, 2015.

Chairman, City Council of the
City of Rockledge, Florida

ATTEST:

City Clerk

1st Reading: 04-01-15_____

2nd Reading: _____