

1100 Non-Conforming Uses

A. Intent:

Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of non-conforming structures or buildings, or land uses are hereby established in order to achieve, among others, the following purposes:

1. To permit the continuance, but control non-conformity, so as to minimize any adverse effect on the adjoining properties and development;
2. To regulate their maintenance and repair;
3. To restrict their rebuilding if substantially destroyed;
4. To require their permanent discontinuance if not operated for certain periods of time; and
5. To require conformity, if it is discontinued, to bring about eventual conformity in accordance with the objectives of the Zoning Ordinance.

B. Lawful Non-Conformance:

The lawful use of any dwelling, building, or structure, and of any land or premises as existing and lawful at the time of enacting this Ordinance, may be continued, although such does not conform to the provision of this Ordinance. The completion, restoration, reconstruction, extension, or substitution of non-conforming uses shall be subject to the provision and conditions as set forth in this Section.

C. Discontinuance and Abandonment:

Any non-conforming use of land or building shall be considered abandoned when the owner, lessee or tenant has discontinued such use for two (2) consecutive years, or when the non-conforming use has been replaced by a conforming use.

D. Maintenance and Repair:

Any non-conforming building or structure may be continued to be used and normal repairs and improvements may be made. For the purpose of this Ordinance, normal repairs shall include the ordinary maintenance of a building or structure, and the replacement of equipment which is required for safety of operation, and the replacement or substitutions of machinery or equipment. It shall not include the replacement of the structure or structural parts in any non-conforming building or structure except when required by law to restore same to a safe condition, or to make the building use or structure conforming.

E. Restoration of Damaged Structure:

Any non-conforming building or structure which has been destroyed or damaged by fire, other casualty, act of God or by a public enemy to the extent of fifty (50) percent or more of its cost of restoration to the condition in which it was before the occurrence, shall thereafter conform to all the provisions of this Ordinance.

The total structural repairs, improvement, and alterations including repairs occasioned by fire, other casualty, act of God or by a public enemy to the extent of less than fifty (50) percent of the reproduction value of the structure or use be permanently changed to a conforming use.

Determination of the reproduction value shall be made by three (3) practicing building construction contractors, one (1) to be appointed by the owner, one (1) to be appointed by the Village and the third to be selected by the mutual consent of the two (2) parties.

In the case of repair or replacement of partial destruction of the structure, a building permit must be applied for within six (6) months of the issuance of the permit or the non-conforming structure or use shall be considered to be abandoned.

F. Extension Prohibited:

Any non-conforming building or structure shall not be enlarged or structurally altered except to make it a conforming building or structure. A non-conforming use may not be extended within a building or structure enlarged or added to in any manner.

G. Non-conforming Change Prohibited:

The use of a non-conforming building or structure may be changed only to a use conforming to the district in which the building or structure is located, and only if approved by the Planning Commission, after a public hearing. Thereafter it shall not be changed back to the former non-conforming use.

H. Moving A Non-conforming Structure:

A non-conforming building may be moved to a different location on the same lot or other parcel of land within the district, with approval of the Planning Commission, after a hearing, and provided proper adequate alterations are scheduled to make the building or structure conform to the regulations of the district where it is to be located.

I. Non-conforming Parking Facilities:

A building, use or structure existing lawfully at the time of this Ordinance or any amendment thereto becomes effective, but which does not conform with the off-street parking or off-street loading facilities being provided; however, any parking spaces that may be provided thereafter shall comply with the regulations set forth in Section 1300 of this Ordinance.

J. Non-conforming Due to Amendments

The foregoing provisions of this Section shall also apply to buildings, structures, land or other uses hereafter becoming non-conforming as a result of future reclassification of district or of other amendments made to this Ordinance.