

PART E

Nonconforming Buildings And Uses

Introduction

All nonconforming uses, structures and lots may be continued, subject to the provisions set forth in Sections 2101 through 2110. The Zoning Officer shall identify properties and maintain a file for the registration of nonconforming uses, structures and lots. The owner of any nonconforming structure or lot, or the owner who maintains or allows any nonconforming use, may apply for a Certificate of Nonconformity on forms prepared by the Zoning Officer. The Zoning Officer shall investigate each request for a Certificate of Nonconformity to determine the existence and extent of the nonconformity. Upon determining that such nonconformity exists, the Zoning Officer shall prepare a report describing the nature and extent of the nonconformity. If no valid nonconformity is determined to exist, the Zoning Officer shall make a report of the results of his investigation. Such report shall constitute a Certificate of Nonconformity to the extent such a valid nonconformity is reported to exist and is described. A copy of such report and determination shall be sent to the applying owner and to any other interested party. A copy of such report shall be placed in the registration file, regardless of the determination. Any person aggrieved by the report shall have a right to appeal to the Zoning Hearing Board as from the decision of the Zoning Officer. (Ordinance 1079, April 11, 1984, Section 2.)

Section 2101. Lawful Use Register. The lawful use of any building, structure or land existing at the time of enactment of this ordinance may be continued, although such use does not conform with the provisions of this ordinance.

The Zoning Officer shall establish, maintain and, at all times, keep current a record identifying and registering all nonconforming uses and nonconforming structures in the Municipality.

(Ordinance 559, June 20, 1959, Sections 1601 and 1603, as amended by Ordinance 834, December 4, 1973, Section 4.)

Section 2102. Unsafe Building Structure. Any building or structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition. (Ordinance 559, June 20, 1959, Section 1601.)

Section 2103. Alterations. A nonconforming building may not be reconstructed or structurally altered, except when declared unsafe. Nonconforming covered porches attached to a building may be enclosed or rehabilitated, provided the enclosure or rehabilitation does not extend any portion of the porch farther into the required yard and the enclosure or rehabilitation does not constitute a structural alteration as defined in Section 201 of this Chapter. (Ordinance 559, June 20, 1959, Section 1601, as amended by Ordinance 1491, February 8, 1996.)

Section 2104. Extension. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building shall not be deemed the extension of such nonconforming use. (Ordinance 559, June 20, 1959, Section 1601.)

Section 2105. Restoration.

a. Intent. It is the intention of this Section to require replacement or restoration of nonconforming buildings and structures that are substantially damaged to be done in conformity whenever such replacement or restoration is necessitated by non-accidental causes, intentional acts committed by the owner such as demolition or arson, or by circumstances of neglect where the building runs down or becomes dilapidated. Alternatively, it is intended to allow replacement or restoration of nonconforming buildings to their pre-casualty size and footprint when replacement or restoration is necessitated by circumstances beyond the owner's control such as accidental fire, accidental explosion, accidental collision, wind storm, snow collapse, flood, or other natural calamities and acts of God.

- (1) No building or structure, except for manufactured homes as provided for in (4) below, damaged by non-accidental cause or by any intentional act of the owner or by circumstances of neglect to the extent of more than 50 percent of its structure shall be repaired, rebuilt, or replaced, except in conformity with all zoning regulations applicable at the time of repair or replacement.
- (2) Any building nonconforming as to area, height, size, number of dwelling units, lot coverage, or yards that is damaged to any extent by accidental cause, which shall not include any intentional act of the owner or circumstances of neglect, may be replaced, rebuilt, or reconstructed to its prior nonconforming size, footprint, height, or dimensions provided that:
 - (a) No portion of the rebuilt or new building extends further into any yard than did the prior building;
 - (b) No portion of the rebuilt or new building extends higher than did the prior building;
 - (c) All building and fire protection codes applicable at the time of reconstruction are met;
 - (d) Construction of the replacement, rebuilt, or reconstructed building commences within 3 years following the casualty and is substantially completed within 5 years of the casualty;
 - (e) Building floor area and footprint shall not exceed that of the prior building;

(f) All other regulations applicable in the zoning district are met.

(3) Whenever it is necessary to replace, rebuild, or reconstruct a nonconforming building damaged by accidental cause, which shall not include any intentional act of the owner or circumstances of neglect, the amount of parking required for the replacement building, providing the use is not changed, shall be the same amount that was provided on the site for the prior building and use. Any square footage of the new building that exceeds the size of the prior building shall meet current parking requirements as shall any change in use of the building.

(4) Any existing manufactured home located in a flood plain for which a certificate of nonconformity has been issued by the Zoning Officer, as provided for in this Part, may be replaced provided the replacement of said manufactured home complies with the requirements of 44 CFR Chapter 1, Part 60, or successor federal regulations.

(5) Whenever a Zoning Officer makes a determination with respect to substantial damage, its amount or its cause, and such determination authorizes rebuilding or replacing the nonconforming building to its pre-casualty footprint, the Zoning Officer shall provide written notice of such determination to all property owners within 200 feet of the subject lot containing the nonconforming building. The written notice shall be mailed by first class mail within 2 working days of the date of the determination. At a minimum the written notice shall describe the nature of the Zoning Officer's determination, provide the address and owner's name of the applicable property for which the determination was made, advise that any adverse determination by the Zoning Officer may be appealed by an effected property owner to the Zoning Hearing Board within 30 days from the date that the determination was made, and where such an appeal may be filed.

(Ordinance 559, June 20, 1959, Section 1601, as amended by Ordinance 1371, May 6, 1992, Section 8, Ordinance 1380, July 22, 1992, Sections 9 and 10, and by Ordinance 1588, February 18, 1999, Section 1.)

Section 2106. Abandonment. Whenever a nonconforming use has been discontinued for a period of 1 year, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this ordinance. (Ordinance 559, June 20, 1959, Section 1601.)

Section 2107. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. (Ordinance 559, June 20, 1959, Article XVI, as amended by Ordinance 929, February 6, 1978, Section 2.)

Section 2108. Displacement. No nonconforming use shall be extended to displace a conforming use. (Ordinance 559, June 20, 1959, Section 1601.)

Section 2109. Temporary Use Permit. See Section 304.d. (Ordinance 559, June 20, 1959, Section 1602, as amended by Ordinance 1450, September 8, 1994, Section 6.)