

CHAPTER 5 NONCONFORMITIES

Within the districts established by this Zoning Code or amendments that may later be adopted there exist lots, structures and uses of land and structures which were lawful before this Zoning Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Zoning Code or future amendment, it is the intent of this Zoning Code to permit these nonconformities to continue so long as it remains otherwise lawful or they are removed.

SECTION 5.1 – GENERAL PROVISIONS

The following provisions shall apply:

A. Existing Land Or Buildings

1. Any use of land or building(s) existing on the effective date of this Zoning Code may be continued, even though such use does not conform to the provisions herein, so long as such use was in conformity with the zoning code in effect in the Village at the time that the use or structure was established. No nonconforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as specifically provided in this Zoning Code.

B. Construction Commenced

1. Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Zoning Code, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Zoning Code, may be used for the nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within two (2) years from date of adoption of this Zoning Code or amendment thereto making said use nonconforming.

C. Exceptions To The Regulations On Nonconformities

1. Isolated commercial uses in residential areas with a record of performance over the years have proven to be the exception to the general rule. Certain commercial uses, although generators of blight, should be given recognition for such performance and proven service to the neighborhood. Examples of such include:
 - a. The use has been in continuous operation for ten years or more.
 - b. The building or structure is in sound, well-maintained condition.
 - c. Such use has no more than four full-time employees.
 - d. The structures containing such uses continue to be well maintained, yards kept clean and refuse kept in enclosures so as to be out of sight from adjoining residential properties.

2. No application for a permit by exception shall be considered until proof of compliance with the requirements listed in items a-d above have been furnished to the Enforcing Officer.

D. Substitutions

The Enforcing Officer may allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided no structural alterations except those required by law or ordinance are made. No additional signs or sign area intended to be viewed from off the premises shall be allowed for any nonconforming business which would be prohibited in the district involved.

E. Extension

No nonconformity shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

1. No nonconforming building or structure shall be moved in whole or in part to any other location unless such building, structure, and yard requirement setbacks are made to conform to all regulations of the district in which such building or structures to be located.
2. Such uses are declared by this Zoning Code to be incompatible with permitted uses in the districts involved. It is further the intent of this Zoning Code that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except by application to the Enforcing Officer for approval of specific plans.
3. Expansions of existing nonconforming uses, where allowed by the Enforcing Officer may be made only on property owned by the applicant as of the effective date of this Zoning Code.
4. Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate residential district.

F. Discontinuance

A nonconforming use which has been abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever any one of the following conditions exist:

1. When the use has been voluntarily discontinued for a period of two (2) year; or
2. when the nonconforming use has been replaced by a conforming use.

G. Damage and/or Destruction Of A Nonconforming Building Or Use

When a building or structure, the use of which does not conform to the provisions of this Zoning Code, is damaged by fire, explosion, act of God, or

the public enemy, it may be restored or rebuilt and continued in such nonconforming use, provided that the restoration or rebuilding is commenced within six (6) months of the time of damage, that construction is completed within one (1) year, and that such restoration or rebuilding would not extend or expand the existing footprint, and cannot adversely affect or interfere in anyway, with the public health, welfare and safety of the surrounding residents.

H. Maintenance And Repair

Nothing in this Chapter shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use as follows:

1. When required by law.
2. To convert to a conforming use.
3. A building or structure containing residential nonconforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.

I. Nonconforming Lots Of Record

In any district in which single-family dwellings are permitted, notwithstanding other limitations imposed by other provisions of this Zoning Code, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Code subject to the following conditions: If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Zoning Code, and if all or part of the lots do not meet the requirements for lot width and area as established by this Zoning Code, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Code, and no portion of such parcel shall be used or sold which does not meet lot width and area requirements established by this Zoning Code, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Zoning Code.

J. Violations Not Rendered Nonconforming

A use, structure or lot which was in violation of the provisions of the ordinance which this Zoning Code amends shall not be validated or become nonconforming upon the adoption of this Zoning Code. Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

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