
Chapter 3

Non-Conforming Lots, Buildings, Structures and Uses

Article 3.1

Purpose

The purpose of this Chapter is to regulate and limit the development and continued existence of uses, structures, and lots legally established prior to the effective date of this Title that no longer conform to the Village’s zoning regulations. All such situations are collectively referred to as “non-conformities.” A non-conformity may also occur as a result of any subsequent rezoning or amendment to the text of the Unified Development Ordinance. Any non-conforming use, structure, or lot that lawfully existed as of the effective date of this Title and that remains non-conforming, and any uses, structure, or lot that becomes non-conforming as a result of any subsequent rezoning or amendment to the text of this Title, may be continued or maintained only in accordance with the terms of this Chapter.

Article 3.2

General Provisions

- 3.2.1. Authority to Continue Non-Conforming Buildings, Structures and Uses.** Any non-conforming building, structure or use which was non-conforming on or before July 17, 1990 and which remains non-conforming, and any building, structure or use which shall become non-conforming upon the effective date of this Title or the adoption of any subsequent amendments thereto, may be continued, some for specified periods of time, subject to the regulations which follow.
- 3.2.2. Enlargement of Expansion of Non-Conforming Buildings, Structures and Uses.** Enlargement, expansion or alteration of an existing non-conforming building, structure or use of land shall not be permitted except where such changes result in bringing the non-conformity into compliance with the requirements of this Ordinance. Non-conforming uses shall not be changed to any use other than one permitted in the district in which it is located.
- 3.2.3. Maintenance and Repair of Non-Conforming Lots, Buildings, Structures and Uses.** Normal maintenance and incidental repair or replacement of fencing, non-bearing walls and partitions, fixtures, wiring, plumbing, parking, landscaping and mechanical equipment may be performed on any non-conforming lot, building, structure or use. Nothing in this Chapter shall be deemed to prevent the strengthening or restoration of an unsafe structure in accordance with any order of a public official charged with protecting public safety, and who finds such building or structure is unsafe in its then-present condition, and that repair or restoration is not in violation of the provisions of this Chapter governing the restoration of partially damaged or destroyed buildings, structures and signs.
- 3.2.4. Accessory Uses.** No new accessory use added to a lot which is non-conforming or to a lot containing a non-conforming building or structure shall increase the degree of non-conformity of said non-conforming lot or lot containing a non-conforming building or structure.
- 3.2.5. Previous Non-Conforming Lots, Buildings, Structures and Uses.** Any non-conforming lot, building, structure or use which existed prior to the effective date of this Title which is made lawful and conforming as a result of the provisions of this Title shall be considered as conforming.
- 3.2.6. Determination of Non-Conforming Status.** In all cases, the burden of establishing that a non-conformity is legal shall rest solely upon the owner of such nonconformity and not upon the Village.

- 3.2.7. Change of Ownership or Tenancy.** Changes of ownership, tenancy, or management of an existing non-conformity may occur, however, such non-conformities shall continue to be subject to the terms of this Chapter.

Article 3.3

Additional Regulations, Standards and Criteria.

- 3.3.1. Non-Conforming Lots.** A non-conforming lot is a lot on a duly recorded subdivision plat or deed or by other lawful means which has less than the minimum lot area or dimensions prescribed for the development district in which the lot is located. A non-conforming lot is one which was conforming at the time it was recorded, but which has become non-conforming as a result of changes in the zoning regulations or by reclassification of the property. A non-conforming lot is subject to the following requirements:

- A. A vacant non-conforming lot may be used for any use permitted in the development district in which the lot is located provided that all required building setbacks are provided as required for the applicable building typology as prescribed in Section 6.5.
- B. Where an existing structure occupies a non-conforming lot, all building setbacks shall meet at least seventy-percent (70%) of each of the required setbacks required for the applicable building typology as prescribed in Section 6.5.
- C. No side yard, however, need be greater than that required in the development district in which the lot is located.
- D. **NON-CONFORMING CORNER LOTS.** On a non-conforming corner lot, the corner side yard shall not be less than fifteen (15) feet.

- 3.3.2. Non-Conforming Buildings and Structures.**

- A. **ALTERATION OF NON-CONFORMING STRUCTURES.** Enlargement, expansion or alteration of an existing non-conforming building, structure or use of land shall not be permitted except where such changes result in bringing the non-conformity into compliance with the requirements of this Ordinance.
- B. **RELOCATION.** No non-conforming building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of said building is made to conform to all of the regulations of the district in which it is to be relocated.
- C. **DAMAGE OR DESTRUCTION.**
 - 1. In the event that any non-conforming building or structure is damaged or destroyed, by any means, to the extent of more than seventy percent (70%) of the cost of replacement of that portion of the building or structure new which are above the average ground elevation, such building or structure shall not be restored unless it and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located, unless undue hardship is shown and in such cases the Village Board may allow replacement if such does not endanger public health and safety. When such damage or destruction is seventy percent (70%) or less of the cost of replacement, no repairs, or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
 - 2. If any residential building or structure is destroyed or in need of repair or remodeling for any reason, and said building or structure is located on property contiguous to US Route 12, Illinois Route 173, Walnut Street, Elm Street, Main Street, George Street, South Street, Market Street, or Mill Street, then said building or structure may be replaced, rebuilt, or remodeled as a residential building or structure as long as the use of the building and structure was a legal

non-conforming residential use as of January 1, 2002 or earlier. (*Ordinance No. 2002-30, 11.20.02*)

3.3.3. Non-Conforming Uses.

- A. CHANGE OF USE. A non-conforming use of land or a building shall not be changed to any use other than a use permitted in the zoning district in which the use is located. When a non-conforming use of land or a building has been changed to any permitted use, it shall not thereafter be changed back to a non-conforming use. For purposes of this Section, a use shall be deemed to have been so changed when an existing non-conforming use shall have been terminated and a conforming use shall have commenced and continued for a period of not less than seven (7) days.
- B. ALTERATION. Alterations designed to increase the intensity of a non-conforming use, or to introduce new non-conforming uses, are prohibited.
- C. DAMAGE OR DESTRUCTION. In the event that any building or structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to the extent of more than seventy percent (70%) of the cost of replacement of the structure new, such structure shall not be restored unless it and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is seventy percent (70%) or less of the cost of replacement new, no repairs, or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction is diligently pursued to completion.
- D. RELOCATION. No non-conforming use of land or building shall be moved in whole or in part of any distance whatsoever, to another location on the same lot or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after so moved.
- E. DISCONTINUATION OR ABANDONMENT.
 - 1. NON-CONFORMING USE OF LAND. When a non-conforming use of land, not involving a structure, is discontinued or accessory to the non-conforming use of land, is discontinued or abandoned for a period of thirty (30) consecutive days (regardless of any reservation of an intent not to abandon or to resume such use), such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
 - 2. NON-CONFORMING USE OF A BUILDING OR STRUCTURE. The abandonment or discontinuation of any non-conforming use of a structure for a period of two hundred seventy (270) days, regardless of any reservation of intent not to abandon or to discontinue such use, shall terminate any rights conferred by this Chapter to continue such non-conforming use. Any subsequent use or occupancy of such building or structures shall comply with the regulations of the zoning district in which such land is located.
 - 3. NON-CONFORMING ACCESSORY USES. No use, which is accessory to a principal non-conforming use, shall continue after such principal non-conforming use shall have been ceased or terminated.
 - 4. IN GENERAL BUSINESS DISTRICTS AND CENTRAL BUSINESS DISTRICTS. In existing GB, General Business Districts, and CB, Central Business Districts, where there were legal non-conforming residential uses which have been discontinued for a period of time in excess of twelve (12) months, said residential uses will be allowed to be resumed only after the Village Building Department inspects the premises for building code violations. If the premises can be brought into compliance with said building code requirements without structural changes, the legal non-conforming residential use may be continued. If the residential portions of the premises have been remodeled or converted to

business use requiring structural changes to convert back to residential use, the continued residential use will not be allowed unless a zoning amendment or variation is obtained providing for such. (07.17.90)