

TITLE X. NON-CONFORMING BUILDINGS, USES, AND LOTS

Section 10.01 Continuation:

Any building, structure, use of a building or other structure or land, and any lot lawfully established prior to the effective date of this Zoning Ordinance, or subsequent amendment, which does not conform with the provisions of this Ordinance, shall be considered a lawful non-conforming building, structure, use, or lot and may be continued, except as otherwise herein provided.

Section 10.02 Maintenance Permitted:

Any non-conforming building, structure, use or lot may be maintained, except as otherwise provided in this Title.

Section 10.03 Repairs and Alterations:

Routine repairs and minor alterations, such as painting, window replacement, roof repairs, and similar maintenance, may be made to a non-conforming building or structure; provided, no repair or alteration shall be performed that would increase the non-conformity of a building or structure or expand a non-conforming use.

Section 10.04 Additions, Enlargement or Moving:

- A. The expansion of a nonconforming building or structure shall be permitted; provided, the addition complies with all provisions of this Ordinance and does not increase the nonconformity.
- B. Wherever a non-conforming building, structure, use or lot has been changed to a conforming use, such conforming use shall not thereafter be changed to a non-conforming use.

Section 10.05 Restoration:

Any lawful non-conforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar active cause, may be reconstructed in the same location, provided that:

- A. The reconstruction does not increase the value of the building or structure (excluding the value of land) by more than forty (40) percent of its pre-damaged market value, unless the building or structure is permanently changed to a conforming building or structure.
- B. The reconstructed building or structure shall not exceed the height, area, or volume of the damaged or destroyed building or structure, except as provided in Section 10.04 of this Ordinance;
- C. Reconstruction shall begin within six (6) months from the date of damage or destruction and shall be carried on without interruption; and
- D. The reconstructed building or structure shall meet the minimum setback requirements of the Zoning District, except for that portion that may have previously been non-conforming.

Section 10.06 Abandonment:

- A. If a lawful non-conforming use of a building, structure, or land is abandoned or discontinued for a continuous period of six (6) months or more, subsequent use of such building, structure, or land shall be in conformance with the provisions of this Zoning Ordinance.
- B. Whenever a non-conforming use, dependent on seasonal trade, has been discontinued for a period of one (1) year, such use shall not thereafter be re-established; and any future use shall conform to the provisions of this Zoning Ordinance.
- C. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - 1. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - 2. The property, buildings, and grounds, have fallen into disrepair.
 - 3. Signs or other indications of the existence of the nonconforming use have been removed.
 - 4. Equipment or fixtures necessary for the operation of the nonconforming use have been removed.
 - 5. Inability to communicate with the owner, or lack of responsiveness by the owner.
 - 6. Other actions, which in the opinion of the Town Administrator constitute an intention on the part of the property owner or lessee to abandon the non-conforming use.

Section 10.07 Lots Non-conforming as to area and width regulations:

- A. A nonconforming lot may be used for the purposes for which it is zoned; provided, if already less than the minimum requirements of this Ordinance, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Further, in any Residential District, a non-conforming lot may only be used for dwellings if the lot has a width of at least fifty (50) feet, and an area of at least five thousand (5,000) square feet per dwelling unit.
- B. Non-conforming parcels or lots contiguous to one another and under common ownership shall be combined into a lot or lots complying as nearly as possible with the lot width and lot size requirements of this Ordinance. No portion of the lot shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

Section 10.08 Non-conformance due to re-classifications:

The provisions of this Title shall also apply to buildings, structures, land or uses which hereafter become non-conforming due to any re-classification of Zoning Districts under this Ordinance, or any subsequent change in the regulations of this Zoning Ordinance and any time periods specified for discontinuance of non-conforming uses shall be measured from the date of such re-classification or change.