
CHAPTER 1187 NON-CONFORMING USES

1187.01 INTENT.

Within the districts established by this Ordinance or subsequent amendments, there exist lots, structures, and uses which were lawful before the Ordinance was passed or amended but which would be prohibited under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed voluntarily. The legitimate interest of those who lawfully established these non-conformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension, and substitution.

1187.02 AVOIDANCE OF UNDUE HARDSHIP.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction.

1187.03 CERTIFICATES FOR NON-CONFORMING USES.

The Zoning Inspector may, upon his or her own initiative, or shall, upon the request of any owner, issue a certificate for any property that certifies that the property is a valid non-conformity. The certificate shall specify the reason why the use is a non-conformity, the extent of the non-conforming use, structure, or non-conforming dimensional requirements. One (1) copy of the certificate shall be returned to the owner and one (1) copy shall be retained by the Zoning Inspector, who shall maintain as public record a file of all such certificates.

1187.04 SUBSTITUTION OF NON-CONFORMING USES.

So long as no structural alterations are made except as required by enforcement of other codes or Ordinances, any non-conforming use may, upon appeal to and approval by the Board of Zoning Appeals be changed to another non-conforming use.

1187.05 NON-CONFORMING USE MADE TO CONFORM.

Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a non-conforming use.

1187.06 NON-CONFORMING USES OF LAND.

Where, at the time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

- (a) The non-conforming use may not be enlarged or increased unless approval by the Board of Zoning Appeals has been granted to the applicant.

- (b) Upon Board of Zoning Appeals approval, a non-conforming use may be extended throughout a building which was designed and arranged for such use if no structural alterations are made, except those required by law.
- (c) All non-conforming uses of land not involving any building or structure may be continued for a period of two (2) years after the date of enactment of the Zoning Ordinance and at the end of which period such non-conforming use shall cease or shall be changed to a conforming use.
- (d) If a non-conforming use of land or any portion thereof is discontinued or abandoned for a continuous period of one (1) year (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

1187.07 NON-CONFORMING BUILDINGS AND STRUCTURES.

Where a lawful structure exists at the effective date of adoption of amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, build, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) The nonconforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of adoption of this Zoning Code.
- (b) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification
- (c) Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- (d) If a structure is non-conforming due to a yard requirement, the structure may be enlarged or increased provided it does not increase its non-conformity. For example, if a structure is non-conforming due to a front yard setback, the structure may be enlarged only to the extent that the previously established front yard setback is not further reduced.
- (e) Should a non-conforming structure be destroyed by any means to more than seventy-five percent (75%) of its fair market value (exclusive of foundation), the structure may be rebuilt on the same location, with construction beginning within six (6) months of its destruction. When damaged by less than seventy-five percent (75%) of its fair market value, a non-conforming building may be repaired or reconstructed and used as before the time of damage, provided such repairs or reconstruction are completed within one (1) year from the date of such damage.
- (f) Should such structure be removed for any reason for any distance whatever, it shall thereafter conform to the regulations for that district in which it is located after it is moved.

- (g) Whenever the use of a building becomes nonconforming through a change in the zoning regulations or in the district boundaries such use may be continued and if no structural alterations are made, may be changed to another non-conforming use which has no greater negative impact on the surrounding area than the use it replaces regardless of whether or not the uses are in the same zoning category.
- (h) Whenever a non-conforming use of a building or portion thereof is discontinued or a continuous period of two (2) years, such nonconforming use shall be abandoned, and any future use of such building or portion thereof shall be in conformity with the regulations of the district in which such building is located.

1187.08 REPAIRS AND MAINTENANCE.

Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof. Where appropriate, a building permit for such activities shall be required.