

Article IX Nonconforming Uses and Buildings

§ 245-32 Nonconforming uses.

- A. Continuance. Except as otherwise provided in this chapter, the lawful use of land or buildings existing on the date of the adoption of this chapter may be continued as a lawful use although such use or building does not conform to the regulations specified by this chapter for the district in which such land or building is located; provided, however:
- (1) That no nonconforming lot shall be further reduced in size.
 - (2) Nonconforming uses may be expanded by up to 25% of the existing floor area or land area occupied by the nonconforming use, whichever is greater, subject to the conditions outlined in this ordinance.
 - (3) Expansions that would increase nonconforming use to a degree that would create a new or more significant nonconformity are not permitted.
- B. Discontinuance. In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this chapter. Such discontinuance of the active and continuous operation of such nonconforming use, or a part or portion thereof, for such period of one year is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations. If actual abandonment is in fact evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed, and all rights to reestablish or continue such nonconforming use shall thereupon terminate.
- C. Automobile wrecking yards, junkyards, billboards and signs in residential districts. Notwithstanding any other provisions of this chapter, any automobile wrecking yard or other junkyard and any billboard, advertising structure or nonconforming sign in existence in any residential district on the date of enactment of this chapter shall, at the expiration of three years from such date, become a prohibited and unlawful use and shall be discontinued; provided, however, that lawfully existing signs accessory to a nonconforming business or industrial building shall not be subject to this subsection.
- D. Destruction or damage. No building damaged by fire or other causes to the extent of more than 75% of its true valuation shall be repaired or rebuilt except in conformity with the regulations of this chapter. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Code Enforcement Officer.
- E. Extension. A nonconforming use may be extended by 25% of total lot size, but the

extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this chapter shall not be deemed the extension of such nonconforming use.

- F. Unsafe structures. Any structure or portion thereof declared unsafe by a proper authority, but not ordered to be demolished, may be restored to a safe condition.
- G. Reconstruction or alteration. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 50% of the true value of the building, unless said building is changed to conform to the requirements of this chapter.
- H. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same classification upon approval of the Board of Appeals, or to a use of a more-restricted classification; and when so changed to a more-restricted classification, such use thereafter shall not be changed to a less-restricted classification.
- I. Amendments. Whenever the boundaries of a district shall be changed to transfer an area from one district to another district of a different classification, or whenever the text of this chapter shall be changed with respect to the uses permitted in a district, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§ 245-33 Nonconforming buildings.

Any building which is nonconforming due to insufficient yard distances or lot area shall not be considered a nonconforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this chapter. The use of any such nonconforming building may be changed to any other permitted use so long as the yard or lot area requirements are no greater.