

Article 3

Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, Non-Conforming Uses of Structures and Premises, and Non-Conforming Characteristics of Use

301. Intent.

Within the districts established by this Ordinance, or amendments that may later be adopted, there exist: (1) lots, (b) structures, (c) uses of land and structures, (4) characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

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 excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

302. Non-Conforming Building or Uses.

1. A Certification of Non-Conformance shall be issued by the Zoning Officer for all structures existing at the effective date of this amendment in conflict with the use designated for the zone in which they are situated.
2. **Continuation:** Any lawful use of a structure or land existing at the effective date of this Ordinance, may be continued although such use does not conform to the provisions of this Ordinance. Such uses may be sold or otherwise transferred to other owners and continued as non-conforming uses.
3. **Extensions:**
 - a. A non-conforming use of a building may be extended throughout the building if no structural alterations are made therein; provided that such extensions may include structural alterations when authorized as a special exception.

4. **Restoration.** A non-conforming building and/or structure which has been damaged or destroyed by fire or other causes to the extent that replacement cost will exceed seventy-five (75%) percent of its real value prior to damage, or a non-conforming building which has been legally condemned, may not be reconstructed and used for any non-conforming use unless authorized by special exception and subject to regulations designed to minimize any adverse affects on conforming uses.
5. **Abandonment.** If a non-conforming use of a building or land ceases for a period of one year or more, subsequent use of such building or land shall be in conformity with the provisions of this Ordinance.
6. The non-conforming controls as set forth herein shall not apply to agricultural structures when structures are part of an active agricultural program. An active farm group situated, through action of the Governing Body in enacting this Ordinance, in a zone where agricultural uses become non-conforming is exempt. It is not the intent of this Ordinance to hamper continued agricultural activities. However, should the agricultural use be abandoned, thereafter agricultural buildings damaged or destroyed in any manner shall be subject to the non-conforming rules and regulations.
7. Building Permits for uses that will be rendered Non-Conforming. In a case where a building permit has been issued prior to the effective date of this Ordinance and the proposed use of land and/or building does not confirm with this Ordinance, said proposed use shall be considered the same as a lawful non-conforming use if construction other than excavation and foundations, is undertaken within a period of thirty (3) calendar days after the issuance date of said building permit and construction thereof is completed within twelve (12) calendar months from the issuance date of the building permit.
 - a. In the event that building permits were not required prior to the effective date of this Ordinance, any construction initiated prior to the effective date of this Ordinance that will result in a non-conformance, such non-conformance shall be regulated by the requirements of this Ordinance. Any construction so initiated shall be completed within a reasonable period not to exceed eighteen (18) months from the effective date of this Ordinance.

(Ordinance No. 1974-2, approved February 4, 1974)