

CHAPTER 8: NONCONFORMITIES

SECTION 801: NON-CONFORMING USES. Any use of land or buildings legally existing on the effective date of this Code which has become non-conforming as a result of this Code shall be considered as a Non-Conforming Use and may be maintained subject to the provision of this Section.

A. Expansion of Non-Conforming Uses. Except as may be provided in this Section, a non-conforming use shall not be expanded or extended to occupy more floor area than it occupied on the effective date of this Code, and shall not be expanded to displace a conforming use.

B. Change of Use. A non-conforming use may be changed to a permitted use or conditional use for the district in which it is located. A non-conforming use shall not be changed to another non-conforming use unless the change is specifically approved as a Conditional Use.

C. Discontinuation of a Non-Conforming Use. If a non-conforming use is discontinued or abandoned for a period of one hundred eighty (180) consecutive days, including any period of discontinuation prior to the effective date of this Code, that use shall not be renewed or re-established, and any subsequent use of the lot or structure shall be in conformance with all provisions of this Code.

1. If a non-conforming use is discontinued because the structure in which it is located is destroyed or damaged by fire, flood, windstorm or similar abnormal event, that use may be re-established in the structure when and if it is rebuilt, provided that the structure complies with all provisions of this Code and that the non-complying use occupies no more floor area than it did prior to the event.

SECTION 802: NON-COMPLYING STRUCTURES. Any structure, existing on the effective date of this Code, which does not conform to the dimensional requirements of this Code shall be considered as a non-complying structure. Such structure may continue to be occupied, subject to the following:

A. Disclaimer. Nothing in this Section shall be construed as permitting the use of a structure declared unsafe or to be a fire hazard by any appropriate governmental authority.

B. Maintenance, Repair and Expansion.

1. Ordinary repairs and maintenance may be made to a non-complying structure, provided that the structure is not made more non-conforming. Staff shall determine what constitutes "ordinary repairs and maintenance". Appeals of such determinations shall be in accordance with Section 1701.

2. A non-complying structure may be enlarged or expanded provided that the following conditions are met:

(a) The enlargement or expansion, itself, conforms to all provisions of this Code except setbacks.

(b) The structure, as enlarged, does not diminish any required yard or setback areas except a setback line encroachment equal to the existing building line.

(c) The expansion does not exceed any maximum density, lot coverage, intensity or height limitations.

C. Reconstruction.

1. If a non-complying structure is destroyed or damaged by fire, flood, windstorm or similar abnormal event, and the cost of restoring the structure to its condition immediately prior to the event exceeds fifty (50) percent of the value of the structure immediately prior to the event, the structure may be restored or reconstructed, upon Conditional Use and Site Plan approval (when site plan approval is applicable), provided that the following conditions are met:
 - (a) The structure, as restored or reconstructed shall not be more non-complying than the original structure prior to the event.
 - (b) Except as specified in Section 801 C 1 of this Code, the uses of the restored or reconstructed structure shall conform to all provisions of this Code.
2. Non-conforming structures on properties with one single family dwelling may be rebuilt as long as the new structure is not more non-conforming than the existing structure. However, if staff determines the structure could reasonably be rebuilt in conformance with the existing regulations the applicant will be required to comply with the existing regulations. Appeal of staff decisions may be made in accordance with Section 1701. Also, any non-complying structure may be declared conforming with conditional use approval in accordance with Section 803.

SECTION 803: TERMINATION OF NON-CONFORMING OR NON-COMPLYING STATUS.

The provisions of Sections 801 and 802 regarding the continuation, restoration, reconstruction, expansion or extension of non-conforming uses or non-complying structures notwithstanding, a non-conforming use or non-complying structure may be formally declared to be conforming or complying upon Conditional Use approval.

SECTION 804: EXISTING SMALL LOTS. Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Code may be developed for the purposes permitted in the District in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area and has a minimum width or depth dimension of forty feet. This provision shall not exempt development on such lots from other provisions of this Code.

SECTION 805: NON-CONFORMING SIGNS

1. Subject to the remaining restrictions of this section, non-conforming signs that were otherwise lawful on the effective date of this article may be continued until they are required to be removed under Section 714 of this Code.
2. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign.
3. A non-conforming sign may not be moved, replaced, enlarged, redesigned or altered in any way, (except repainting), without bringing the sign into complete conformity with this Code. Illumination shall not be added to any nonconforming sign.
4. If a non-conforming sign is destroyed by fire or other natural causes, it may not thereafter be repaired, replaced or reconstructed, except in conformity with all the provisions of this Code, and the remnants of the former sign structure shall be removed. A non-conforming sign shall be considered "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature, or replacing it with an equivalent sign,

would exceed thirty-five (35) percent of the value of the sign prior to the destruction.

5. The message of a non-conforming sign may be changed if it does not create any new non-conformities.

SECTION 806: REMOVAL OF NON-CONFORMING SIGNS

1. If a non-conforming sign advertises a business, service, commodity, accommodation, attraction, or activity that is no longer operating or being offered or conducted on the premises, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment.

2. The following types of non-conforming signs shall be altered to comply with the provisions of this article or removed within 90 days after the effective date of this Code:

(a) Portable signs and temporary signs.

(b) Signs that are in violation of Section 714-N.

3. If the message portion of a sign is removed, leaving only the supporting "shell" of a sign (or the supporting braces, anchors, or similar components) the owner of record shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of Section 806.1, above which restricts the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.