

SECTION 7

NON-CONFORMING USES

7.1 Application

This zoning ordinance shall not apply to structures or uses lawfully in existence or lawfully begun or to a building permit or special permit issued before the first publication of notice of the public hearing on such ordinance or ordinance change as provided in Chapter 40A, but shall apply:

1. to any change or substantial extension of such use.
2. to a building permit or special permit issued after the first notice of said public hearing.
3. to any reconstruction, extension or structural change of such structure and
4. to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration, reconstruction, extension, or structural change to a single or two family dwelling does not increase the nonconforming nature of said structure.

AND shall not apply :

5. to any construction of a deck, stairs, bulkhead or porch for a single or two-family dwelling, in a residential zone, unless the same would conflict with the Table of Dimensional Regulations, Section 6, above, in which case a special permit shall be required pursuant to Section 7.3 herein, except for small-scale additions per new subsection 7. (amended 6/13/2005; amended 8/20/2009)
6. to any addition or renovation to a single or a two-family dwelling on a residentially-zoned lot, unless the same would conflict with the Table of Dimensional Regulations, Section 6, above, in which case a special permit shall be required pursuant to Section 7.3 herein, except for small-scale additions per new subsection 7 . (amended 6/13/2005; amended 8/20/2009)
7. to any small-scale alterations, additions, or renovations to a single dwelling on a residentially zoned lot, which does not cause an intensification of the existing non conformity. In addition, there must be no further reduction of any legally existing setbacks and no further conflicts with the table of dimensional regulations (excluding ground coverage and useable open space). Examples of said small-scale alterations, additions, or renovations that do not cause an intensification of the non-

conformity are; attached garages, enclosed porches, decks and family rooms. (added 8/20/2009)

(amended 9/25/90; amended 8/20/2009)

7.2 Purpose

It is the stated purpose of this Section that nonconforming uses and structures are to be strictly regulated, and that the provisions of this ordinance will be construed and interpreted in the light most favorable to limiting the continuation of nonconforming uses and structures.

7.3 Extension or Alteration of Non-conforming Uses

Preexisting non-conforming structures or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the special permit granting authority that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. In making the finding that the extension or alteration will not be substantially more detrimental, the special permit granting authority shall consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewerage capacity, noise, odor, scale, character and visual effects.

Pre-existing non-conforming structures or uses shall not be extended or altered unless the petitioner provides proof that the pre-existing non-conforming structure or use was validly and legally established. (amended 12/10/2007; amended 12/3/2013)

Application to the special permit granting authority for such extensions or alterations shall be made in accordance with Section 11 of this ordinance and approvals shall require a two-thirds vote of the special permit granting authority.

For all applications concerning a pre-existing non-conforming structure or use that is a single family dwelling or a two family dwelling that is not seeking to change its use, the special permit granting authority shall be the Board of Appeals, and for all other applications concerning a pre-existing non-conforming structure or use, the special permit granting authority shall be the City Council.
(amended 9/25/90; amended 6/13/2005)

7.4 Abandonment/Non-use

No nonconforming use or structure shall be reinstated once it is abandoned or once it is not used for a period of two (2) year. (amended 1/18/2013)

7.5 No nonconforming use, once changed to a use permitted in the district in which it is located, shall be changed back to a nonconforming use.

7.6 Reconstruction

1. No nonconforming use or structure which is damaged by fire or other natural cause to an extent of fifty (50) percent of its assessed value may be reconstructed except as a conforming structure or as a structure constructed on the same foundation as the damaged structure and of no greater height or exterior dimension than the damaged structure it replaces. However, if non-conforming structure is deemed a nuisance and ordered demolished by the City Council, a structure may be rebuilt on the property with the same dimensions, of no greater height and in the same place as structure being replaced, regardless of whether or not the foundation remains after structure is demolished; provided that the work be completed within eighteen (18) months of the declaration that the property is a nuisance by Order of the City Council. (amended 3/20/2003)
2. Reconstruction of a nonconforming use or structure which is damaged by fire or other natural cause to an extent of fifty (50) percent of its assessed value other than in a manner specified in Section 7.6.1 above shall require a special permit.

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