

## ARTICLE XVII

### NON-CONFORMING USES, NON-CONFORMING BUILDINGS AND STRUCTURES AND NON-CONFORMING LOTS

#### Section 1701 - Non-Conforming Uses

1. The following provisions shall apply to all buildings and uses existing on the effective date of this Ordinance which do not conform to the requirements set forth in this Ordinance and to all buildings and uses that become non-conforming by reason of any subsequent amendment to this Ordinance.

2. Expansion of Non-conforming Uses.

A non-conforming use may be expanded by up to a cumulative increase of fifty (50) percent of the area occupied by the use at the time at which it became non-conforming. No expansion of a non-conforming use in excess of the cumulative fifty (50) percent unless such expansion has been approved as a Conditional Use by the Board of Supervisors. In addition to the qualifications for a Conditional Use enumerated in this Ordinance, the Board shall apply the following criteria:

a. Area.

The proposed expansion shall be conditional within the lot limits that existed for the property in question at the effective date of this Ordinance.

b. Changes.

The proposed expansion shall include the following changes over existing conditions, wherever possible:

- (1). Improvement of building exterior.
- (2). Improvement of landscaping.
- (3). Elimination or reduction in noise, smoke, dust and/or odors, if present.

c. Parking.

Off-street parking facilities shall be provided in accordance with Article XIV of the Ordinance.

3. Continuity of Use.

a. Non-conforming use must be continuous. No non-conforming use may be reestablished after it has been discontinued for two (2) years and all reasonable efforts for sale or lease have been exhausted. Vacating the premises or building or nonoperative status shall be evidence of a discontinued use. If a property has been

vacated for more than two (2) years and the owner can show that an effort was taken in selling the property, the owner can request permission as a Conditional Use to reestablish said use.

- b. Any structure or premises damaged or destroyed by a windstorm, fire, flood, explosion, or other causes which involves a non-conforming use may be rebuilt and occupied for the same use as before the damage or destruction provided that an application for a building permit is submitted within two (2) years from the date of damage or destruction, or within six (6) months of insurance settlement if such settlement date exceeds the two (2) years.

4. Substitution of Non-conforming Uses.

No existing or discontinued non-conforming use may be changed to any other non-conforming use unless approved as a Conditional Use by the Board of Supervisors. In evaluating the application for a Conditional Use, the Zoning Officer shall find that the proposed non-conforming use is not more detrimental to the district than the existing or discontinued non-conforming use of the property. The Board of Supervisors may specify such appropriate conditions and safeguards as may be required in connection with such change.

**Section 1702 - Non-Conforming Buildings and Structures**

1. A non-conforming building or structure is any building or structure which does contain a use permitted in the District in which it is located, but does not conform to the District regulations for: front, side or rear yards; maximum height; lot coverage; or minimum habitable floor area per dwelling unit, as per the Uniform Construction Code.
2. Where a residential or non-residential building or structure is non-conforming as to the required front, side, or rear building setback, the non-conforming setback may be continued, and any extension or enlargement of the non-conforming building or structure shall not intrude into the required building setback any greater than the existing structure does. Nothing in this Article shall be deemed to prevent normal maintenance and repair, structural alteration in, or reconstruction of a non-conforming building or structure provided that such action does not increase the degree of or create any new non-conformity.
3. A non-conforming building or structure that has been destroyed by reason of windstorm, fire, flood, explosion, or other causes may be reconstructed provided that the reconstructed structure does not exceed the height, area, or volume of the destroyed structure. An application for building permit must

be submitted within two (2) years from the date of destruction, or within six (6) months of insurance settlement if such settlement date exceeds the two (2) years, or the nonconforming structure shall not be restored except in conformity with this Ordinance. In addition, the ground story framework, including the second tier of beams, shall be completed within twelve (12) months of the date of the permit and the entire building shall be completed according to such plans as filed within eighteen (18) months from the date of said permit.

**Section 1703 - Non-Conforming Lots of Record**

Where there is a vacant lot of official record, which lot at the time of the adoption of this Ordinance does not include sufficient land to conform to lot area, width or depth; required yards, or other requirements of this Ordinance, said lot may be developed for a use permitted by right in the zoning district in which it is located, provided, however, that the minimum lot area or other dimensional requirements are not reduced by greater than a maximum of twenty (20) percent. If dimensional reduction(s) in excess of twenty (20) percent are necessary to develop said lot, an application shall be submitted to the Zoning Hearing Board by the owner of said lot for a variance from the terms of this Ordinance in accordance with the provisions of Article XVIII.

**Section 1704 - Construction Approved Prior to Ordinance**

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has heretofore been issued and the construction of which shall have been diligently prosecuted within one (1) year of the date of the permit and which the entire building shall be completed according to such plans as filed within eighteen (18) months from the date of this Ordinance.