

ARTICLE 19

NON-CONFORMING USES, BUILDINGS AND STRUCTURES

§ 19.01. NONCONFORMING LOTS. [Amended 09-29-09 by Ord. No. 1950]

No lot, yard, parking area or other open space which is already less than the minimum required under this ordinance shall be further reduced in area or dimension.

§ 19.02. CONTINUANCE OF NON-CONFORMING USES, BUILDINGS OR STRUCTURES.

Any non-conforming use, building or structure which lawfully existed at the time of the passage of this ordinance may be continued and any such existing non-conforming building or structure may be reconstructed or structurally altered provided it shall meet the requirements of this article.

§ 19.03. ALTERATION, CONVERSION, EXTENSION OR ENLARGEMENT OF NON-CONFORMING USES, BUILDINGS OR STRUCTURES.

Non-conforming uses, buildings or structures in all zone districts shall conform to the following requirements.

- A. Any building, structure or use of land which is non-conforming because of use shall not be enlarged, extended or changed to another non-conforming use in any manner whatsoever.
- B. There shall be no structural alterations made to any non-conforming building or structure that is non-conforming because of use. Structural alterations may be made in a building or structure which is non-conforming because it fails to comply with height, area, yard, off-street parking or other like requirements of this ordinance, so long as the structural alteration does not extend or enlarge the non-conformance.
- C. In the event that there shall be a cessation of operation of any non-conforming use for a period of twelve (12) consecutive calendar months, the same shall be presumed an abandonment of such non-conforming use. Any subsequent attempt to rely upon, exercise or reinstate such abandoned non-conforming use, § 19.02 notwithstanding, shall be a violation of the terms of this ordinance.
- D. Nothing in this ordinance shall require any change in plans, construction or designated use of a structure or building for which a building permit has been heretofore validly issued if construction has been started and diligently prosecuted at the time of the adoption of this ordinance.

- E. Nothing in this ordinance shall be construed as authorization for or approval of the continuance of the use of a building, structure or lot in violation of any zoning ordinances, rules or regulations in effect immediately preceding the time of the effective date of this ordinance.
- F. A non-conforming use changed or altered to a conforming use may not thereafter be changed back to a non-conforming use. Nothing herein before stated shall prevent the strengthening or restoring to a safe and lawful condition part of any building or structure declared unsafe by the Construction Official or the Town Engineer.
- G. The conversion of an existing building or buildings, structure or structures from a non-conforming use to a use permitted in the zone district in which such building or structure is located shall be subject to the same regulations as are new buildings or structures constructed in such zone district; except, that a non-conforming building or structure or use may not be converted in such a way as to enlarge or extend the non-conformance.

§ 19.04. RESTORATION OF EXISTING BUILDINGS OR STRUCTURES WHICH ARE NON-CONFORMING BECAUSE OF USE.

Nothing in this ordinance shall prevent the restoration or continuance of a non-conforming building or structure which is non-conforming because of its use and which is partially destroyed by fire, explosion, act of God, or of any public enemy, or the like, if the extent of the destruction be not more than fifty (50) percent of either the true value or cubical contents of the whole building or structure at the time of the partial destruction, provided that all required repairs or restoration shall be commenced within two (2) years after the damages occur and shall be completed within four (4) years of such date of the damage occurring. Failure to comply within these time limits shall require the rebuilding and use to be conforming in all respects. If, however, any such building or structure shall be destroyed in the manner aforesaid to an extent exceeding fifty (50) percent of either the true value or cubical contents of the whole building or structure at the time of such destruction, then the same may only be reconstructed and thereafter used in such a manner as to conform to all the requirements, terms and conditions of this ordinance.

§ 19.05. RESTORATION OF EXISTING BUILDINGS OR STRUCTURES WHICH ARE NON-CONFORMING BECAUSE OF REASONS OTHER THAN USE.

Nothing in this ordinance shall prevent the restoration continuance of a non-conforming building or structure which is non-conforming because it fails to comply with any height, area, yard, off-street parking or other like requirements of this ordinance, and which is partially destroyed by fire, explosion, act of God, or of any public enemy, or the like; provided, however, that any restoration of any such building

or structure shall not enlarge the previously existing non-conformance.

§ 19.06. CERTIFICATION THAT A NON-CONFORMING USE, BUILDING OR STRUCTURE IS LAWFUL.

The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a non-conforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure non-conforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the Zoning Official within one year of the adoption of the ordinance which rendered the use or structure non-conforming or at any time to the Board of Adjustment. The Zoning Officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in R.S. 54:5-14 and R.S. 54:5-15. The fees collected by the official shall be paid by him to the Town. Denial by the Zoning Official shall be appealable to the Board of Adjustment. Section 59 through 62 of P.L. 1979, c. 291 (C.40:55D-72 to C.40:55D-75) shall apply to applications or appeals to the Board of Adjustment.