

## CHAPTER 173: NON-CONFORMING SITUATIONS

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### **§ 173.01 NON-CONFORMING LOTS OF RECORD.**

Where a lot has less width or less area than herein required and was a lot of record prior to January 1, 2017, such lot may be occupied by any residential use permitted in the Residential District.

(Ord. 2017-02, passed 2-20-2018)

### **§ 173.02 NON-CONFORMING USES OF LAND.**

If at the effective date of adoption or amendment of this title, lawful use of land exists that is made no longer permissible under the term of this title as enacted or amended, such use may be continued subject to the following provisions:

(A) No non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied by such use at the effective date of adoption of this title.

(B) No non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this title.

(C) If any non-conforming use of land ceases for any reason for a period of more than 6 consecutive months, any subsequent use of land shall conform to regulations specified by this title for the district in which the land is located, except that a 12-month period of discontinuance shall apply to uses which are dependent upon seasonal trade and which are customarily closed for the greater portion of the years' time.

(Ord. 2017-02, passed 2-20-2018) Penalty, see § 175.99

### **§ 173.03 NON-CONFORMING STRUCTURES.**

Except for dwellings permitted pursuant to § 173.05, if a lawful structure exists at the effective date of adoption or amendment of this title that could not be built under terms of this title by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to the following provisions:

(A) No non-conforming structure may be enlarged or altered in a way which increases its non-conformity.

(B) If a non-conforming structure is destroyed by any means to an extent of more than 60% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.

(C) If a non-conforming structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. 2017-02, passed 2-20-2018) Penalty, see § 175.99

### **§ 173.04 NON-CONFORMING USES OF STRUCTURES.**

Except for dwellings permitted pursuant to § 173.05, if a lawful use of structure, or of structure and premises in combination, exists at the effective date of the adoption or amendment of this title that would not be allowed in the district under the terms of this title, that use may be continued subject to the following provisions:

(A) No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(B) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this title, but no such use shall be extended to occupy any land outside such building.

(C) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided the proposed use is equally appropriate to the district than the existing

non-conforming use.

(D) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

(E) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 6 consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(F) Where a non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

(Ord. 2017-02, passed 2-20-2018) Penalty, see § 175.99

#### **§ 173.05 DWELLINGS ON SMALL LOTS.**

Notwithstanding the limitations imposed by any other provisions of this title, a single-family dwelling may be erected on any lot described in a deed recorded prior to January 1, 1980, and containing a setback, area, or lot size smaller than that required for a single-family dwelling, so long as such dwelling and lot shall meet the following criteria:

(A) The lot size shall not be less than 40 feet in width and have at least 4,000 square feet in area.

(B) The minimum front yard and corner side yard setback shall be at least as large as 1/2 of the other residential dwellings on the same block as the non-conforming dwelling.

(C) The dwelling shall have a total floor area, exclusive of unenclosed porches, terraces, breezeways and garages, of at least 700 square feet.

(Ord. 2017-02, passed 2-20-2018) Penalty, see § 175.99

#### **§ 173.06 REPAIRS AND MAINTENANCE.**

On any building devoted in whole or in part to any non-conforming use, work may be done provided that the cubic content of the building as it existed at the time of passage or amendment of this title shall not be increased. Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. 2017-02, passed 2-20-2018) Penalty, see § 175.99

#### **§ 173.07 EXCEPTION USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NON-CONFORMING USES.**

Any use for which a special exception is permitted in this title shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

(Ord. 2017-02, passed 2-20-2018)