
Article XVI Non-Conforming Situations

The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. However, this Article is also established to require that non-conforming situations be terminated under certain circumstances.

Section 16.1 Continuation of Non-Conforming Situations

Non-conforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 16.2 through 16.9 of this Article.

Section 16.2 Non-Conforming Lots of Record

Where the owners of a lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of Permitted and Conditional Uses and the Special Requirements.

Section 16.3 Extension or Enlargement of Non-Conforming Situations

- A. Except as specifically provided in this Section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation.
- B. Subject to Paragraph D. of this Section, a non-conforming use may be extended through any portion of a completed building that, when the use was made non-conforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a non-conforming use may not be extended to additional buildings or to land outside the original building.
- C. A non-conforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied by that use when it became non-conforming.
- D. The volume, intensity, or frequency of use of property where a non-conforming situation exists may be increased and the equipment or processes used at a location where a non-conforming situation exists may be changed if these or similar changes amount only to

changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Section occur.

- E. Physical alteration of non-conforming structures or structures containing a non-conforming use is unlawful if it results in:
 - 1. An increase in the total amount of space devoted to a non-conforming use.
 - 2. Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements.
 - 3. The enclosure of previously non-enclosed areas, even though those areas are or were used in connection with the non-conforming activity.
- F. Minor repairs to and routine maintenance of property where non-conforming situations exist are permitted and encouraged. Major renovation, (i.e., work estimated to cost more than ten percent (10%) but less than sixty percent (60%) of the taxed value of the structure to be renovated) may be done provided that the work will not result in a violation of any other paragraphs of this Subsection, particularly Paragraph E. In no case however shall work costing more than sixty percent (60%) of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

Section 16.4 Reconstruction Prohibited

Any non-conforming building or structure or any building or structure containing a non-conforming use for which major repair or reconstruction is proposed in any amount equal to sixty percent (60%) or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to sixty percent (60%) or more of its taxed value shall only be repaired and/or reconstructed and used as a conforming structure and a conforming use.

Notwithstanding the above, a non-conforming residence and its related accessory buildings, either jointly or singularly, may be reconstructed without regard to the extent of damage in any case where the damage is caused by fire, flood, act of nature or any other cause outside the control of the owner and provided that a permit for reconstruction is obtained within one-hundred and eighty (180) days of such damage.

Section 16.5 Change in Kind of Non-Conforming Use

- A. A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.
- B. A non-conforming use shall not be changed to another non-conforming use except upon a finding by the Board of Adjustment that the use is more in character with the uses permitted in the District than the previous use.

- C. If a non-conforming use and a conforming use, or any combination of non-conforming uses, exist on one lot, the use made of the property may be changed only to a conforming use.
- D. Conforming uses, except Adult Oriented Businesses, may be established or re-established in non-conforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

Section 16.6 Discontinuance of Non-Conforming Uses

- A. When active operation or occupancy of a non-conforming use is discontinued regardless of the purpose or reason for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming uses.
- B. For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-conforming apartment building or one space in a non-conforming mobile home park for one hundred eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the non-conforming use for the required period shall terminate the right to maintain it thereafter.

Section 16.7 Discontinuance of Non-Conforming Adult Oriented Businesses

Notwithstanding the provisions of Section 16.6 above, Adult Oriented Businesses shall be governed by the following:

- A. Any Adult Oriented Business that fails to comply with the use and location requirements of this Ordinance but which lawfully operating before the effective date of this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a nonconformity. Any such business which ceases active operation for a period of thirty (30) days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
- B. Any Adult Oriented Business lawfully operating as of the effective date of this Ordinance, but which subsequently fails to comply with the use and location requirements of this Ordinance as the result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of purpose

or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.

Section 16.8 Replacement of Non-Conforming Manufactured Homes

- A. Homes may be placed and replaced in non-conforming manufactured home parks so long as the manufactured home park retains its non-conforming status and so long as the space was designed and arranged as a manufactured home space prior to the adoption of this Ordinance. Any such manufactured home shall meet the definition of a Manufactured Home Class B.
- B. Individually established non-conforming manufactured homes may be replaced provided that a Class A or Class B Manufactured Home shall only be replaced with a Class B Manufactured Home.

Section 16.9 Non-Conforming Signs

Any sign which does not conform to the provisions herein on the date of enactment of this Article shall be considered legally non-conforming. Such signs shall not be enlarged or extended. Such signs may:

- A. be repaired;
- B. have their faces changed;
- C. be replaced or reconstructed with similar materials; and,
- D. be relocated to another portion of the lot provided appropriate standards are met.