

## CHAPTER 13

### NONCONFORMING USES, BUILDINGS OR STRUCTURES

**SECTION 13.01 CONTINUANCE OF NONCONFORMING USES, BUILDINGS OR STRUCTURES.** Except where specifically provided to the contrary, and subject to the provisions of this Chapter, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or any amendment thereto. In addition, except where specifically provided to the contrary and subject to the provisions of this Chapter, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

**SECTION 13.02 EXPANSION.** Structures, buildings or uses nonconforming by reason of height, area and/or parking and loading space provisions only may be extended, enlarged, altered, remodeled or modernized provided (1) there is compliance with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization; and (2) the Zoning Inspector shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure. Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.

No nonconforming use of any building or structure or of any land or premises which is nonconforming for reasons other than height, area and/or parking and loading space provisions shall hereafter be extended or enlarged (1) unless all extensions or enlargements do not exceed fifty (50) percent of the area of the original nonconforming use; and (2) unless such extensions or enlargement is authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the following standards: (1) whether the extension or enlargement will substantially extend the probable duration of such nonconforming use; and (2) whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned or with the use of such other properties in compliance with the provisions of this Ordinance.

**SECTION 13.03 RESTORATION AND REPAIR.** All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made but it shall not be structurally altered to permit the use of such building or structure beyond its natural life. In the event any nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, it may be rebuilt or restored if the cost thereof does not exceed one half (1/2) of the value of the nonconforming building or structure after the rebuilding or restoration is

complete. In the event any nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, and the cost of rebuilding or restoration exceeds one half (1/2) of the value of the building or structure after rebuilding or restoration is complete, then such rebuilding or restoration shall only be permitted when first authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the following standards: (1) whether such rebuilding or restoration will substantially extend the probable duration of the nonconforming use; and (2) whether or not the land previously occupied by the nonconforming use can be advantageously used for a use permitted in the applicable Zoning District. (Amended 7/28/93)

**SECTION 13.04 CHANGE OR DISCONTINUANCE.** The nonconforming use of a building or structure or of any land or premises shall not be:

- (a) Changed to any other nonconforming use.
- (b) Re-established after discontinuance, vacancy, lack of operation or otherwise for a period of nine (9) months.
- (c) Re-established after it has been changed to a conforming use.

**SECTION 13.05 BUILDING OR STRUCTURE UNDER CONSTRUCTION ON EFFECTIVE DATE OF ORDINANCE.** Any building or structure shall be considered existing and lawful and for purposes of Section 17.01, to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained there for, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion. (Amended 7/28/93)