

CHAPTER 1329
NON-CONFORMING USES, BUILDINGS, AND LOTS

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CROSS REFERENCE

Standards for Special Permits - Zoning Chapter 1325

1329.01 GENERAL PROVISIONS

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

Except as provided hereinafter, non-conforming use of buildings or open land, regardless of change of title, possession, or occupancy or right thereof, may be continued indefinitely, except that such building or use:

1. Shall not be enlarged, altered, extended, reconstructed, or restored except as provided elsewhere in this section, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Zoning Ordinance, nor shall any external evidence of such use be increased by any means whatsoever.
2. Shall not be moved to another location where such use would be non-conforming.
3. Shall not be changed to another non-conforming use without approval by the Board of Appeals and then only to a use which, in the opinion of the said Board is of equal restriction to the prior use. No building or land changed to a more restricted non-conforming use shall be changed back to a less restrictive use.
4. Shall not be continued, re-established, or changed to another non-conforming use if such use has been discontinued for any reason for a period of six months. Intent to resume a non-conforming use shall not confer the right to do so.
5. Shall not be re-established if such use has been changed to, or replaced by, a conforming use.
6. Shall not be restored for other than a conforming use after damage for any reasons exceeding 50 percent of its market value. If the restoration of a building whose damage does not exceed 50 percent of its market value is not completed within a one year period, the non-conforming use of such building shall be deemed to have been discontinued.

1329.02 NON-CONFORMING BUILDINGS

1329.02-1 REPAIRS AND MAINTENANCE

Notwithstanding any of the foregoing regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any building, or the carrying out upon the issuance of a building permit of major structural alterations or demolitions necessary in the interest of public safety.

1329.02-2 REMODELING

Upon a finding by the Board of Appeals that a proposed remodeling of a non-conforming building (with a non-conforming use) including the improvement of its exterior appearance and of its grounds, would result in enhancing the compatibility of such building with its surroundings, said board may authorize the issuance of the necessary permits. For purpose of this section, the term "remodeling" may include enlargement of the building to an extent not exceeding 20 percent of its gross area on the effective date of this Zoning Ordinance, up to 50 percent shall be allowed with prior approval of the Board of Appeals, provided that the board shall find that such expansion will not diminish the compatibility of the said building with the existing or potential use of immediately adjacent properties.

1329.02-3 NON-CONFORMING BUILDINGS

In order to avoid the necessity to go to the Board of Appeals where there is a conforming use in a non-conforming building, nothing in this section shall be deemed to prevent the reconstruction or enlargement of a non-conforming building containing a conforming use provided that such action does not create any new noncompliance or increase the degree of noncompliance with regard to the regulations pertaining to such buildings.

1329.03 USE OF NON-CONFORMING LOTS

These Regulations shall not prohibit the construction of an otherwise permitted structure on, or an otherwise permitted use of, any lot, the area of width of which does not meet the minimum area or does not meet the minimum width requirements of the zoning district, in which it is located, provided:

- The lot was of legal size on the date it was created as a lot.
- The lot was owned separately and distinctly from any other adjoining lot having a common boundary line as evidenced by a deed recorded in the County Clerk's Office on or before the effective date of this Zoning Ordinance or any amendment thereto and has been continuously thereafter owned as a separate distinct lot from any other adjoining lot. All yard, coverage, and other zoning requirements can be met however, in those instances where the lot area or shape prevent conformance with one or more yard requirements, the requirements for that yard shall be the same as the most restrictive district to which the lot area most nearly conforms.
- The owner of the lot presents satisfactory evidence of compliance with this section.

1329.04 ADJOINING NON-CONFORMING LOTS

If two or more adjoining lots of record, one or both of which fail to meet the requirements of this Zoning Ordinance with regard to lot area and/or lot width, have continuous frontage and are in single ownership at any time after the application of the provisions of this Zoning Ordinance to such lots, and if such lots taken together would form one or more lots, each meeting the requirements of this Zoning Ordinance with regard to lot area and lot width, such lot or lots shall no longer be considered non-conforming, and must be used in compliance with the lot area and lot width requirements irrespective of subsequent changes in ownership.