

SECTION 20

NON-CONFORMING BUILDINGS AND USES

20.1 GENERAL PROVISIONS:

This Section 20 regulates and limits the continued existence of uses, structures and lots established prior to the effective date of this Zoning Code that do not conform to the applicable regulations of this Zoning Code.

The continued existence of nonconformities is frequently inconsistent with the purposes for which the zoning districts of this Zoning Code are established and thus, the gradual elimination of such nonconformities is generally desirable.

20.2 CONTINUANCE OF USE:

20.2-1 *Non-Conforming Use:* A nonconforming use may be continued only in strict compliance with all provisions of this Section 20.

20.2-2 *No Physical Change:* No non-conforming structure may be physically changed other than necessary maintenance and repair, except as otherwise permitted herein.

20.2-3 *Completion of Permitted Building:* Any building for which a permit has been lawfully granted prior to the effective date of this Zoning Code or of amendments hereto, may be completed in accordance with the approved plans; provided that construction is commenced within six months after issuance of the permit therefor and diligently prosecuted to completion. Such building shall thereafter be a lawfully established non-conforming building.

20.3 DISCONTINUANCE OF USE:

20.3-1 *Changing, Replacing Non-Conforming Use:* Whenever any part of a building, structure or land considered a non-conforming use is changed or replaced by a use conforming to the provisions of this Zoning Code, such premises shall thereafter be used only in conformance with this Zoning Code, and no such building shall thereafter be used or

occupied in a manner not conforming to this Zoning Code, notwithstanding a circumstance where such building may have been originally designed and constructed for the prior non-conforming use.

- 20.3-2 *Discontinuing Non-Conforming Use:* Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued for a period of six consecutive months, or for a consecutive period of 12 months if the building was originally designed and constructed for a non-residential use, or whenever there is evidence of an intent by the owner to abandon a non-conforming use, such use shall not, after being discontinued or abandoned, be re-established; the use of the premises thereafter shall be in conformity with the provisions of this Zoning Code.
- 20.3-3 *Abandoning Non-Conforming Use:* Where no enclosed structure is involved, discontinuance of a non-conforming use for a period of six months shall constitute abandonment.
- 20.3-4 *Discontinuing Non-Conforming Use:* Any non-conforming use that was not authorized by Village codes and regulations in effect at the time the use was established shall be discontinued and shall not be re-established, except only if such use complies with all provisions of this Zoning Code.

20.4 CHANGE OF USE:

- 20.4-1 *More Restricted Use Permitted:* A non-conforming use of a building or structure, or part thereof, may be changed to a use of the same or of a more restricted character, but may not thereafter be changed to any less restrictive use.
- 20.4-2 *Changing, Replacing to Conforming Use:* Any part of a building, structure or land occupied by a non-conforming use that is changed or replaced by a use conforming to the provisions of this Zoning Code shall not thereafter be used or occupied by a non-conforming use.

20.5 TERMINATION AND REMOVAL OF NON-CONFORMING BUILDINGS, STRUCTURES OR USES:

The period of time during which the non-conforming buildings, structures or uses of land listed below in items A. and B. may continue or remain shall be limited to two years after the effective date of this Zoning Code, or of any amendments hereto, which cause the use to be non-conforming. Every such non-conforming building, structure or use shall be brought into compliance with this Zoning Code or completely removed from the premises on or before the expiration of the two-year period.

- A. *Assessed Valuation:* Any non-conforming building or structure having an assessed valuation not in excess of 1,000.00 on the effective date of this Zoning Code.
- B. *Accessory, Incidental Building or Use of Land:* Any non-conforming use of land when no enclosed building is involved, excluding gravel driveways, or when the only buildings employed are accessory or incidental to such use, or when such use is maintained in connection with a conforming building.

20.6 REPAIRS AND ALTERATIONS:

20.6-1 *Normal Maintenance:* Normal maintenance of a building or other structure constituting a non-conforming use is permitted, including necessary non- structural repairs and incidental alterations that do not extend or intensify the non-conforming use.

20.6-2 *Structural Alterations:* No structural alterations shall be made in a building or other structure constituting a non-conforming use, except in the following situations:

- A. When the alteration is required by law; or
- B. When the alteration will result in eliminating the non-conforming use.

20.7 DAMAGE AND DESTRUCTION:

If a non-conforming building or structure or a building or other structure containing a non-conforming use is damaged or destroyed

by any means to the extent of 50 percent or more of its replacement value at the time, the building or other structure shall be rebuilt or used thereafter only for a conforming use and in compliance with the regulations of this Zoning Code.

In the event the damage or destruction is less than 50 percent of its replacement value, based upon prevailing costs which existed at the time of such partial destruction, the occupancy or use of such building may be continued.

Restoration or repair of the building or other structure must be started within a period of one year after the date of damage and construction completed before the building permit expires.

20.8 ADDITIONS AND ENLARGEMENTS:

- 20.8-1 *No Addition Unless Conformance:* A non-conforming building may be enlarged or extended only if the entire building is thereafter devoted to a conforming use and is made to conform to all the regulations of the district in which it is located.
- 20.8-2 *No Enlargement or Expansion of Non-Conformity:* No building partially occupied by a non-conforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such non-conforming use.
- 20.8-3 *No Increase in Dwelling Units:* No non-conforming building in any residential district shall be so altered as to increase the number of dwelling units therein.
- 20.8-4 *No General Expansion of Non-Conforming Use:* No non-conforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed at the effective date of this Zoning Code, or to displace any conforming use in the same building or on the same parcel.

20.9 EXCEPTIONS:

Wherever a lawfully existing building or other structure otherwise conforms to the use regulations of this Zoning Code, but is non-conforming only in the particular manner hereinafter specified, the

building and use thereof shall be exempt from the requirements of Sections 20.5 and 20.6 of this Zoning Code.

A. *Residential Districts:* In any Residential District where a dwelling is non-conforming only as to the number of dwelling units it contains, provided no such building shall be altered in any way so as to increase the number of dwelling units therein.

B. *Business, Manufacturing and Special Districts:* In any Business or Manufacturing or Special District where the use is located at a point less distant from an Residential District than that specified in the regulations for the district in which it is located.

20.10 Non-Conforming Signs:

Any sign to be constructed on any building or parcel of land, the use of which does not conform to this Zoning Code for the zoning district in which such building or land is located, shall, nevertheless, comply with all the provisions of Section 16 - Signs.

Permanent signs existing at the time of the enactment of this Section 20, or any amendments, and not conforming to its provisions, but which were constructed in compliance with the previous regulations, shall be regarded as nonconforming signs. Such signs must be properly repaired and maintained as provided herein and must continue to be in conformance with other ordinances of the Village. Normal maintenance of legal non-conforming permanent signs, necessary structured repairs, and incidental alterations that do not extend or intensify the non-conforming features of the sign, shall be permitted.

Non-conforming permanent signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this Section 20.

If any legal non-conforming permanent sign is damaged or destroyed, by means whatsoever, to the extent that its repair or replacement cost exceeds 50 percent of its replacement cost as of the date it became non-conforming, the right to maintain the existence of a legal non-conforming sign shall be immediately terminated, and the sign may not be rebuilt or used thereafter. In the event the damage or deconstruction of the of the legal non-conforming sign is less than 50 percent of its replacement cost, the sign may be rebuilt to its original. The funds and effort expended on such

rebuilding, however, shall not be grounds to justify a waiver of the requirement for the sign to conform, or to extend the time that the sign may remain non-conforming.

Non-conforming temporary signs existing at the time of the enactment of this Section, or any amendments, shall be removed or brought into compliance within 30 days. Window signs shall be considered a temporary sign.