

ARTICLE 59

SEC. 21-59 NON-CONFORMING USES, BUILDINGS AND STRUCTURES.

59.1 Non-conforming uses of land, buildings or structures: Except as otherwise provided in this section, the lawful use of land, buildings or structures existing at the time of the adoption of any zoning district may be continued, although the particular use, building or structure does not conform to the regulations specified by this Chapter for the district in which the particular use, building or structure is located. No such use or building shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use at the time of adoption of this Ordinance.

59.2 Non-conforming dwellings:

- (a) Single-family dwellings, mobile homes, and trailer coaches of two hundred and forty (240) square feet or more may be replaced by a single-family dwelling which meets the single-family residential development standards of Sections 10.14 through 10.21. Single-family dwellings may be replaced, provided they are substantially replaced or rebuilt within two (2) years of their removal or destruction, or enlarged in compliance with other provisions of this Chapter.
- (b) Single-family dwellings that do not conform to current setback or coverage requirements may be permitted to be reconstructed in the same location and configuration upon securing a minor use permit, provided that the replacement structure is found to be compatible with other development in the vicinity.
- (c) Non-conforming single-family dwellings that are repaired, reconstructed, enlarged, or remodeled equivalent to fifty-one (51%) percent or more of the replacement value, or additions or cumulative additions equivalent to fifty (50%) percent or more of the size of the original dwelling, as determined by the Director of Building and Safety, must meet all of the criteria of Sections 10.14 through 10.21.

59.3 Non-conforming signs: Every non-appurtenant, off-premise sign or other advertising structure in existence at the time of adoption of any zoning district which does not conform to the provisions of this Chapter shall be removed to conform with the provisions of this Chapter as provided for in Article 45.

59.4 Non-conforming keeping of animals: The keeping of types or numbers of animals not allowed in a particular zoning district may be continued provided that:

- (a) The number of animals existing on the effective date of this Article shall not be increased except as provided in Subsection (b) of this Section.
- (b) New offspring of existing animals may be retained on-site until four months of age or until weaned, after which the new animals are to be removed.
- (c) Deceased animals that are not replaced within 90 days, or animals that are relocated for a period greater than 90 days, are not to be replaced.

59.5 Alterations:

- (a) If no structural alterations or enlargements are made, a non-conforming use of a building may, upon obtaining a major use permit in each case, be changed to another non-conforming use of the same or more restrictive use classification.
- (b) A legal non-conforming use of land may be enclosed by a building upon obtaining a major use permit in each case, provided that the use area of the non-conforming use is not expanded, and additional uses are not initiated. The Review Authority shall make the following additional findings in each case:
 - 1. The major use permit has been conditioned so that the non-conforming use more closely meets applicable performance standards for the particular use in relationship to other permitted uses of the district.
 - 2. The visual appearance of the site will be improved by landscaping, screening or enclosure of existing outdoor use area.
 - 3. The overall effect of granting the major use permit will result in a non-conforming use that is more compatible with other uses of the district in which it is located.
- (c) A non-conforming use, building or structure for which a major use permit has been granted pursuant to Subsections (a) and (b) of this Section shall remain non-conforming.

59.6 Abandonment: Except as set forth in Sections 59.2 and 59.4, if any non-conforming use is abandoned for a period of two (2) years or more after the effective date of the zoning district, then any subsequent use of the property shall conform to the regulations of the particular zoning district in which the property is located. **(Ord. No. 2961, 10/25/2011)**

59.7 Repair and maintenance: Any building or structure existing at the effective date of the zoning district which is non-conforming in use, design or arrangement shall be allowed to be repaired and maintained if not enlarged to occupy a greater area; provided for in Section 59.5.

59.8 Replacement: Any non-conforming building or structure destroyed by fire, explosion or other casualty or act of God to the extent of fifty (50) percent or less of its replacement value, as determined by the Director of Building and Safety, may be rebuilt.

59.9 Major destruction of a non-conforming building or structure or use: Except as set forth in Section 59.2, whenever a non-conforming building or structure is destroyed by fire, explosion or other casualty or act of God to the extent of fifty-one (51) percent or more of the replacement value of the building or structure, as determined by the Director of Building and Safety, the structure may be restored or reconstructed to allow continuation of the same non-conforming use only upon first securing a major use permit in each case.

NOTE: Ord. No. 2128, effective 1/14/1993, amended Article 59 in its entirety as herein setout. Formerly Article 59 contained similar provisions and was derived from Ord. No. 1602, 11/13/1986 and amended by Ord. No. 1749, 7/7/1988 and Ord. No. 1897, 12/7/1989.