

CHAPTER 14
NON-CONFORMING USES OF LAND AND STRUCTURES,
NON-CONFORMING STRUCTURES AND NON-CONFORMING LOTS OF RECORD

Section

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11-1400. **Purpose.** The purpose of this Section is to establish regulations and limitation on the continued existence of uses, lots and structures established prior to the effective date of this ordinance and which do not conform to the provisions herein.

11-1401. **Continuation of Non-Conforming Uses of Land and Structures.** Any existing non-conforming use of part or all of a structure, or any existing non-conforming use of land not involving a structure or involving a structure which is necessary to such use of land, may be continued, so long as it remains otherwise lawful, subject to the provisions of this Section.

A. **Ordinary Repair and Maintenance**

1. Normal maintenance, incidental alterations, and replacement of fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a non-conforming use; provided, however, that any such normal maintenance, incidental alterations, or replacement shall not be deemed to authorize any violation of this Section.
2. As used herein, incidental alterations shall mean any changes or replacements in the parts of a building or other structure, limited to the following examples;
 - a. Alteration of interior partitions to improve livability in a non-conforming residential building, provides that no additional dwelling units are created;
 - b. Alterations of interior non-load-bearing partitions in all other types of buildings or other structures.
 - c. Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits, or
 - d. Changes or replacements in the structural parts of a building or other structure, limited to the following examples;
 - 1) Making windows or doors in exterior walls;
 - 2) Replacement of building facades having nonload-bearing capacity;

- 3) Strengthening the floor load-bearing capacity, in not more than ten (10) percent of the total floor area, to permit the accommodation of specialized machinery or equipment.
- B. Extensions. A non-conforming use shall not be extended, expanded, or enlarged except as provided herein. However, any industrial, commercial, residential, or other business establishments made non-conforming by the application of this ordinance which were either conforming to past regulations or under no regulation shall be allowed to expand operations and construct additional facilities with the following limitations. (Ord. # 920, 09/02/97).
1. There must be reasonable amount of space for such expansion on the property where the industry or business is located.
 2. All area requirements for the district where it is located must be met.
 3. This shall only apply to land owned and in use by such affected business and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land.
- C. Relocation. No structure that is devoted in whole or in part to non-conforming use shall be relocated in whole or in part to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all the regulations of the zoning district in which such structure and use are located after being so relocated. No non-conforming use of land shall be relocated in whole or in part to any other location on the same or any other lot, unless such use shall thereafter conform to all the regulations of the zoning district in which such use of land is located after being so relocated.
- D. Change in Use. A non-conforming use of land or of a structure shall not be changed to any use other than a use permitted in the zoning district in which such land or structure is located. When such non-conforming use has been changed to a permitted use, it shall only be used thereafter for a use permitted in the zoning district in which it is located.
- E. Abandonment or Discontinuance.
1. Except as otherwise provided herein, when a non-conforming use of part or all of a structure is discontinued or abandoned for a period of 365 consecutive days such use shall not thereafter be re-established or resumed. the resumption or re-establishment of any such non-conforming use shall only be permitted when the structure has been occupied or the establishment has been in operation for at least 30 days prior to the expiration of the 365 consecutive days. Any subsequent use or occupancy of such land or structure shall comply with the regulations of the zoning district in which such land or structure is located.
 2. When a non-conforming use of land or a non-conforming use of part or all of a structure in a R-1 Low density residential District is discontinued or abandoned for a period of 180 consecutive days, such non-conforming use or structure shall not thereafter be re-established or resumed.
- F. Damage or Destruction. In the event that any structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to the extent of 75% (seventy-five percent) or more of the fair market value of such

structure immediately prior to such damage, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which such structure and use are located. When such damage or destruction is less than 75% (seventy-five percent) of the fair market value of the structure immediately prior to such damage, such structures may be repaired and reconstructed and used for the same purposes as it was before the damage or destruction, provided that such repair or reconstruction is commenced and completed within twelve (12) months of the date of such damage or destruction.

11-1402. Non-Conforming Structures.

- A. Continuation of a Non-Conforming Structure. Any non-conforming structure which is devoted to a use which is permitted in the zoning district in which such structure is located may be continued so long as it remains otherwise lawful, subject to the provisions of this Section.
- B. Enlargement, Repair, Alteration, or Replacement.
 - 1. Any non-conforming structure may be enlarged, maintained, repaired, or altered; provided, however, that no such enlargement, maintenance, repair, or alteration shall create an additional non-conforming or increase the existing non-conformity of all or any part of such structure.
 - 2. A mobile home located on an individual lot prior to the adoption of this ordinance may be replaced; provided, however, that no such replacement shall either create an additional non-conformity or increase the existing non-conformity of all or any part of such structure.
- C. Damage or Destruction. In the event that any non-conforming structure is damaged or destroyed, by any means, to the extent of seventy-five percent (75% or more of the fair market value of such structure immediately prior to such damage, such structure shall not be restored unless it shall thereafter conform to the regulations of the zoning district in which it is located. When such non-conforming structure is damaged or destroyed, by any means, by less than seventy-five percent (75%) of the fair market value of such structure, immediately prior to such damage, such structure may be repaired or reconstructed, provided that such repairs or restorations begin and are diligently pursued to completion within one (1) year of the date of such damage.
- D. Relocation. No non-conforming structure shall be located in whole or part to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which such structure is located.

11-1403. Authority to Utilize Non-Conforming Lots of Record. In any zoning district a lot of official record established prior to enactment of, or any subsequent amendment to, this ordinance which fails to meet the minimum requirements for area, width or both that are generally applicable to the district in which the lot is located may be allowed to be utilized provided that all the provisions of this section are met.

- A. A non-conforming lot of record may be utilized provided the intent of this ordinance is maintained and the health, safety and welfare of the citizenry are protected.

- B. The lot must represent a single lot of official record which is in separate ownership and not of continuous frontage with other lots in the same ownership at the effective date of adoption of amendment of his ordinance. Contiguous non-conforming lots of record under single ownership shall be combined for the purposes of this ordinance so that the requirements of the district may be more readily met.
- C. If such lot fails to meet the minimum requirements for area or width, or both, that are generally applicable in the district, the required area and width shall not apply to such lot; provided, however, that all yard, density or other requirements of the district in which the lot is located shall be met to the greatest reasonable degree.
- D. Compliance with this section shall be ensured by, and the approval for the utilization of the non-conforming lot of record shall be through action of the Board of Zoning Appeals in the consideration of variance as set forth in Section 11-1600 E. of this ordinance.

11-1404. Exception for Repairs Pursuant to Public Order. Nothing in this Section shall be deemed to prevent the strengthening or restoration to a safe condition of a building or structure in accordance with an order of a Public Official who is charged with protecting the public safety and who declares such structure to be unsafe and orders it to restoration to a safe condition, provided such restoration is not otherwise in violation of the various provisions of this Section prohibiting the repair or restoration of partially damaged or destroyed building, structures, or signs.

11-1405. Non-Conforming Accessory Uses and Structures. Non use or structure which is accessory to a principal non-conforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless such accessory use or structure shall thereafter conform to all the regulations of the zoning district in which it is located.

11-1406. Change of Tenancy or Ownership.

- A. There may be a change of tenancy, ownership, or management of any existing non-conforming use of land or structure, or non-conforming structures, provided there is no change in the nature or character of such non-conformity uses or non-conforming structures except as otherwise provided herein.
- B. In areas designed as R-1, Low Density Residential District on the Official Zoning Map of Paris, Tennessee, when a change of tenancy, ownership, or management occurs in a non-conforming use of and or a non-conforming use of part or all of a structure, such use shall not thereafter be re-established or resumed.