

ARTICLE 6
NON-CONFORMING USES AND STRUCTURES

§ 6.1 Rights to Continue Non-conforming Uses

1. A use, building, or structure lawfully in existence as of the effective date of this Law and non-conforming with it or any subsequent amendment may be continued, except as otherwise provided herein with respect to specific uses. Upon request, the Building Inspector may issue Certificates of Non-conformance to owners or operators of bona fide non-conforming uses, building, or structures who desire confirmation of their rights hereunder.
2. It is the purpose of this Article to limit the injurious impact of non-conforming uses, building, lots, and structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations, and extensions of non-conforming uses, building, or structures may not be contrary to the public interest or the general purpose of this Zoning Law, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration.
3. It is further the purpose of this Article to set forth those standards which are to be applied by the Town in determining the reasonableness of proposals to alter, continue or extend a non-conforming use and to establish when Town review and approval shall be required for such actions.
4. The protections extended by this Article to existing non-conforming uses, buildings, lots, or structures, commonly known as “grandfathering”, shall not extend to any non-conforming activity occurring subsequent to the effective date of this Law, as amended.

§ 6.2 Normal Maintenance and Repairs

1. Normal maintenance and repair activities, such as painting, replacing a roof, or fixing gutters, shall be permitted. Also permitted are alterations, such as adding or removing windows, and interior renovations that do not structurally alter buildings, add living areas or result in extended or increased non-conforming use of a building, lot, or structure.
2. Increases in outside storage or display of retail or wholesale inventory, which in the ordinary course of business would be sold within one (1) year, shall be permitted, providing they do not eliminate parking spaces, unoccupied open spaces, or accesses required by this Law. Notwithstanding this provision, however, the Planning Board, in reviewing any Special use application for expansion or upon determining, with respect to any present use, that a condition exists which requires remedies, may establish limits on such storage or display or require removal of inventory (altogether or to another location on the site) to preserve adequate sight distances and residential buffers or otherwise protect public health, safety, and welfare.

§ 6.3 Restoration, Reconstruction, or Re-establishment

1. If less than 75% of the floor area of any non-conforming use, building, or structure is damaged, it may be restored or reconstructed by building permit issued within twelve (12) months of the date of the damage. If more than 75% is affected, then the replacement or reconstruction shall be permitted by Special Use permit. Single-family dwellings shall be exempt from this requirement provided a building permit is obtained.

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2. A non-conforming use, building, or structure may be re-established within a period of twelve (12) months after it has been discontinued or vacated, with an extension of up to twelve (12) months allowable where proven necessary to the Building Inspector.
3. A non-conforming use, building, or structure shall be considered abandoned under any one of the following circumstances:
 - a. The intent of the owner to discontinue the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending.
 - b. The building has not been occupied for twelve (12) months or more.
 - c. The non-conforming use has been replaced by a conforming use or changed to another use under permit from the Town.
 - d. The equipment and furnishings used in furtherance of the non-conforming use have been removed from the premises.
4. The Building Inspector, on determining these circumstances exist, shall, by certified mail, so notify the property owner of record informing the owner the use is considered abandoned and may not be re-established once a period of twelve (12) additional months has expired. If an owner cannot be reached through the mail, the Building Inspector shall publish the notice once in a newspaper of general circulation in the Town and/or post the property and the owner shall be presumed to have been notified.

§ 6.4 Changes and Additions

Excepting for activities provided for in § 6.3 above and accessory uses, all changes and additions to non-conforming uses shall be considered Special Uses, and permits for alterations, changes in use, or additions shall be granted only after a determination by the Planning Board that the following conditions have been, or will be, satisfied:

1. There shall be no expansion in the amount of land area outside a non-conforming facility (outdoor area) used for storage of materials, supplies and/or products, excepting with respect to those types of uses outlined in § 6.2.2 above and § 6.4.3 below.
2. Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a lumberyard), the Planning Board may require dense evergreen screening sufficient to shield all such materials from the view of adjacent landowners and/or the traveling public.
3. No addition, change, or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located. Moreover, no change of use shall be to one of a more intensive classification (e.g. one with more employees, more traffic, more parking). A non-conforming retail enterprise could be converted to a barber shop, for example, but not to an industrial use.
4. There shall be no increase in the amount of storm water runoff for the site over what was existing as of the date of the enactment of this Law. The U.S.D.A. Soil Conservation Service, a Professional Engineer, NYSDEC, or other appropriate professional may be relied upon to recommend appropriate measures to control storm water runoff. Such measures shall be attached as conditions of approval by the Planning Board.
5. In no case will a change, addition, or extension of a non-conforming use be allowed which would result in a traffic increase that would decrease the Level of Service for the highway, the diversion of traffic closer to a nearby residence or a reduction of any of the parking and unloading requirements of this law where additional parking or loading would otherwise be required due to

the change, addition, or expansion. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of this law, the Planning Board may require vegetative screening of the parking area from nearby residential areas.

6. The use may only be expanded or extended onto another property of record if that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this law, or amendments hereto and the use is not one which has been altogether prohibited as a new use under this law.
7. Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Town or is determined by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety, or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this law, the requested expansion or extension shall be denied.

§ 6.5 Use of Existing Non-conforming Lots of Record

A structure may be erected on any existing lot of record, providing the owner does not own adjoining property; no front yard is reduced in size and no side yard is reduced to less than fifty (50%) percent of the requirement for the district in which it is located or twenty (20) feet, whichever is greater; and a sewage disposal system meeting New York State standards, including well and septic isolation distances, can be placed on the lot should public facilities be unavailable.