

## **CHAPTER 420 NONCONFORMING USES AND STRUCTURES**

### **Section 420.01 Purpose**

The purpose of this Chapter is to recognize the existence of uses, buildings, lots and structures which lawfully existed at the time of this Zoning Code's enactment, or amendment thereto, but which do not conform with one or more of the regulations contained in this Code. However, such nonconforming status shall be continued only in compliance with this Chapter.

### **Section 420.02 Buildings Under Construction**

No change is required by this Zoning Code in the plans, construction or designated uses of a building which does not conform to the regulations of this Zoning Code for the district in which its premises are located, provided the zoning permit for such building was issued and construction on it was begun prior to the enactment of this Zoning Code, or amendment thereto, that construction is carried on diligently, and that the entire building is completed within one (1) year after the issuance of such permit. For the purposes of this Zoning Code, such construction shall be deemed an existing nonconforming use.

### **Section 420.03 Nonconforming Lots of Record**

A lot of record that does not comply, on the effective date of this Zoning Code or any amendment thereto, with the lot area or width regulations in which the lot is located may be used as follows:

#### *A. Residential Lots*

If occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this Zoning Code, with the exception of the lot area and lot width regulations.

#### *B. Single Nonconforming Lots of Record*

If a nonconforming lot is in separate ownership and not of continuous frontage with other lots in the same frontage, the following provisions shall apply.

1. Any lawfully existing lot recorded prior to the enactment of this Code, or amendment thereto, that does not comply with the minimum area requirements, may be developed provided that the proposed use can be located on the lot in compliance with the front, side and rear yard setbacks, and all other requirements of the district, except those that pertain to the lot area and lot width requirements.

2. The Board of Zoning Appeals shall review and approve uses, buildings and structures proposed for single vacant nonconforming lots that do not meet the criteria set forth in Subsection 1 above.

*C. Lots in Combination*

If a vacant nonconforming lot adjoins one or more lots in common ownership on the effective date of this Code, or amendment thereto, such lots shall be combined to create conforming lots as a prerequisite to development.

**Section 420.04 Nonconforming Building or Structures**

A nonconforming building or structure may continue to be used or occupied by a use permitted in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions.

*A. Maintenance and Repair*

A nonconforming building or structure may be maintained and repaired provided that no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition or to make the building or structure conform to the regulations of the district in which it is located.

*B. Additions, Alterations and Reconstruction*

No additions, alterations or other significant structural changes shall be made to a nonconforming building or structure unless those changes bring the structure into conformity or unless the Board of Zoning Appeals specifically approves the change. Such changes, additions and/or improvements shall upgrade the activity and make the resulting development more compatible to the district in which it is located and more compatible with adjacent uses.

*C. Change in Principal Use of Building*

The principal use in a nonconforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all of the regulations of this Zoning Code specified for such use, except the regulations to which the building did not conform prior to the change in use.

*D. Restoration of Damaged Building or Structure*

If a nonconforming building or structure is damaged or destroyed by any means, it may be restored or reconstructed to the original footprint and floor area of the building or structure at the time such damage occurred.

**Section 420.05            Nonconforming Use of Buildings and Land**

A nonconforming use may continue in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions.

*A. Alteration, Reconstruction, Expansion of Nonconforming Use*

No additions, alterations, reconstruction, enlargements, and extensions shall be made to the nonconforming use of a building or land unless those changes bring the use into conformity or unless the Board of Zoning Appeals specifically approves the change. No nonconforming use shall be physically enlarged or extended to displace a conforming use.

*B. Change of Use*

A nonconforming use of a building, structure or land shall not be changed or substituted to another nonconforming use unless the Board of Zoning Appeals decides that the proposed nonconforming use is in less conflict with the character and use of the applicable zoning district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this Code.

*C. Abandonment of Nonconforming Uses*

A nonconforming use that has been abandoned shall not be replaced by a nonconforming use. A nonconforming use of a building or land shall be deemed abandoned when it has been replaced by a conforming use or when the nonconforming use has ceased for a continuous period of two (2) years.

*D. Damage or Destruction*

In the event a building or structure that is occupied by a nonconforming use is damaged or destroyed by any means, it shall not be rebuilt, restored or reoccupied for any use unless such use conforms to the regulations of the district in which the building or structure is located.

**Section 420.06            Change From Nonconforming Use**

A nonconforming building or use shall cease to be considered as such whenever it first comes into compliance with the regulations of the district in which it is located. Upon such compliance, no previous nonconforming use shall be made, resumed or reinstated.

**Section 420.07            Certificate of a Nonconforming Use**

If a use of property was legally created or established and has since become nonconforming because of the establishment of or amendment to this Zoning Code, the Zoning Inspector shall issue a Certificate of Nonconforming Use to all known owners.

- A. No use of land, buildings or structures shall be made other than that specified on the Certificate of Nonconforming Use unless the use shall be in compliance with the regulations of the zoning district in which the property is located.
- B. A copy of each Certificate of Nonconforming Use shall be retained by the Zoning Inspector and a copy shall be filed in the office of the Village Clerk.