

## **Section 160-020      Nonconforming Uses**

1. No Extension or Enlargement. Any nonconforming use, as defined by these regulations, shall be permitted to continue, notwithstanding any other provision of these regulations or any amendment hereof, provided, however:
  - a. Such use was lawfully existing at the time of its establishment, and has not been abandoned, as defined herein.
  - b. Such use shall not be enlarged or extended as defined by these regulations.
  - c. Such use shall not be altered in such a manner as to increase the nonconformity of such use (see section 3 regarding substitution).
  - d. No nonconforming use shall be moved to any portion of a building, structure, or any part of a parcel of land where such use did not previously exist.
  - e. A nonconforming use, if changed to a use in conformance with these regulations shall not thereafter be changed back to a nonconforming use.
2. Restoration and Repair of Buildings Containing Nonconforming Use. A building or structure containing a nonconforming use may be altered or improved, but may not be extended or enlarged, and may be repaired or reconstructed as made necessary by normal wear and tear or deterioration.

Any building or structure containing a nonconforming use, which has been destroyed or damaged by fire, explosion, flood or any act of God or public enemy may be restored to the same dimensions, floor area and cubic volume lawfully existing immediately prior to such damage or destruction, provided such restoration is commenced within 2 years of such damage or destruction. Failure to commence construction within such time frame shall be construed as an intention by the owner to abandon the nonconforming use.

3. Substitution. Any nonconforming use may be replaced with a use less nonconforming than its present use, following acquisition of a Special Permit by the Zoning Commission in accordance with Chapter 180 of these regulations, provided that such replacement use is consistent with the public health, safety and welfare; with the character of the neighborhood, adjacent properties and zones; with the appropriate and orderly development of the neighborhood, adjacent properties, and zones; and provided, further that such replacement use creates no greater impact on the property, the neighborhood, adjacent properties and zones, in terms of parking, volumes and types of traffic, property values, hours of operation, exterior appearance of the building, structure or lot, and any other factors considered by the commission, pursuant to chapter 180 of these regulations.
4. Abandonment by Non-Use or Change of Use. Any nonconforming use shall lose its nonconforming status and shall thereafter conform to these regulations if a) said use ceases for a period of 24 consecutive months and b) the owner does not

intend to reestablish the nonconforming use or the nonconforming use is changed to a conforming use. For any nonconforming use which has ceased operation or existence for any period of time, the Zoning Enforcement Officer may require evidence that there was no intent to abandon the nonconforming use prior to issuance of a certificate of zoning compliance or issuance of a cease and desist order. Refusal or granting of such a certificate or issuance of a cease and desist order may be appealed by any aggrieved party to the Zoning Board of Appeals.