

CHAPTER 13

NONCONFORMING BUILDINGS AND USES

SECTION:

- 6-13-1: Statement of Purpose**
- 6-13-2: Authority to Continue Nonconforming Buildings, Structures and Uses**
- 6-13-3: Elimination of Nonconforming Buildings and Structures**
- 6-13-4: Elimination of Nonconforming Uses**
- 6-13-5: Restrictions on Nonconforming Buildings and Structures**
- 6-13-5A: Restrictions on Nonconforming Uses**
- 6-13-6: Nonconforming Uses of Land**
- 6-13-7: Repealed 1/25/10; replaced by Chapter 17 of Title 6**

6-13-1: STATEMENT OF PURPOSE: The purpose of this Chapter is to provide for the regulation of nonconforming buildings, structures and uses to specify those circumstances and conditions under which nonconforming buildings, structures and uses which are incompatible with the character of the districts in which they are located shall be eliminated upon reaching the age of their normal useful life, in accordance with the authority granted by the Illinois Revised Statutes.

6-13-2: AUTHORITY TO CONTINUE NONCONFORMING BUILDINGS, STRUCTURES AND USES:

A. Any nonconforming building, structure or use which exists lawfully at the time of the adoption of this Zoning Code and which remains nonconforming, and any building, structure or use which shall become nonconforming upon the adoption of any subsequent amendment of this Zoning Code may be continued but only for such periods of time and/or under such conditions as are required or permitted under this Chapter; provided, however that no building, structure or use existing on the effective date of this Zoning Code shall be subject to the elimination provisions herein, solely by reason of being nonconforming with respect to any of the standards prescribed in this Zoning Code for any of the following:

1. Bulk;

2. Ground floor area per dwelling;
3. Yards; front, side and rear;
4. Gross floor area;
5. Off-street parking and loading spaces,
6. Impervious Surfaces. (Amd. Ord. 07-2973-01B, eff. 1/22/07)

- B. Except as hereinafter provided in Section 6-13-4H, no building, structure, use or sign, existing on the effective date of this Zoning Code, shall be subject to the elimination provisions of this Zoning Code if it is a permitted building, structure, use or sign or if it is allowed as a special use in the use district in which it is established.

No residential building lawfully exists on the effective date of this Zoning Code shall be subject to the elimination provisions of this Chapter.

For the purposes of this Chapter, a building or structure lawfully existing on the effective date of this Zoning Code shall be deemed to include any building or structure not erected for which a building permit has been lawfully issued prior to such date and on which construction is begun within one hundred eighty (180) days from the date of issuance of the permit.

6-13-3: ELIMINATION OF NONCONFORMING BUILDINGS AND STRUCTURES:

- A. In farming districts, any building or structure, including a sign, all or substantially all of which is designed or intended for a use which is not permitted in any district or is permitted only in a business, residence or manufacturing district shall be removed or it shall be altered, remodeled, or converted to a building or structure designed for a use permitted in the district in which it is located within one hundred eighty (180) days after the termination of the respective periods of time set forth in subsection D which are fixed as the normal useful life of said buildings and structures.
- B. In residence districts, any building or structure, including a sign, all or substantially all of which is designed or intended for a use which is not permitted in any district or is permitted only in a business, farming or manufacturing district shall be removed or it shall be altered, remodeled, or converted to a building or structure designed for a use permitted in the district in which it is located within one hundred eighty (180) days after the termination of the respective periods of time set forth in subsection D which are fixed as the normal useful life of said buildings and structures.

C. In a business district, any building or structure except a sign, all or substantially all of which is designed or intended for a use which is not permitted in any district or permitted only in a manufacturing district shall be removed or it shall be altered, remodeled, or converted to a building or structure designed for a use permitted in the district in which it is located within one hundred eighty (180) days after the termination of the respective periods of time set forth in subsection D which are fixed as the normal useful life of said buildings and structures.

D. Elimination Schedule:

1. Buildings or structures and all improvements having an assess valuation after equalization on the effective date of this Zoning Code of more than five thousand dollars (\$5,000.00), in accordance with the following types of construction classification set forth in the Basic Building Code, Building Officials Conference of America, Inc.

Type 1, Fireproof Construction - 40 years from date of the building permit for the construction of either the entire structure or the initial part thereof, or 25 years from date of this Zoning Code, whichever last occurs.

Type 3, Exterior Masonry Wall Construction - 30 years from date of the building Exterior permit for the construction of either the entire structure or the initial part thereof, or 20 years from effective date of this Zoning Code, whichever last occurs.

Type 2, Noncombustible Construction & Type 4, Frame Construction - 20 years from date of the building permit for the construction of either the entire structure or the initial part thereof, or 10 years from the effective date of this Zoning Code, whichever last occurs.

2. Buildings or structures and all improvements having an assessed valuation after equalization on the effective date of this Zoning Code of at least two thousand dollars (\$2,000.00) but not more than five thousand dollars (\$5,000.00); ten (10) years from date of the building permit for the construction of either the entire structure or the initial part thereof or six (6) years from the effective date of this Zoning Code, whichever last occurs.
3. Buildings or structures and all improvements having an assessed valuation after equalization on the effective date of this Zoning Code under two thousand dollars (\$2,000.00): five (5) years from date of the building permit for the construction of either the entire structure or the initial part thereof, or three (3) years from the effective date of this Zoning Code, whichever last occurs.

- E. A nonconforming use of a building or structure subject to the elimination provisions of this Section shall be terminated and shall not thereafter be continued on the premises after the end of the normal useful life of said building or structure as set forth in this Section.
- F. In business districts any business or advertising sign which does not conform to all the provisions of this Zoning Code, shall be removed or it shall be altered to conform in all respects with the requirements of this Zoning Code not later than January 31, 1970.
- G. For any building or structure which becomes a nonconforming use due to an amendment of this Zoning Code, including the District Map, after the effective date of this Zoning Code and which thereby becomes subject to removal or alteration, remodeling or conversion as provided for in this Section, the normal useful life of said building or structure shall be computed from the effective date of such amendment and in accordance with other provisions of this Section. (Ord. 65-138-15)
- H. The elimination provisions of this Section shall not apply to detached garages located on lots of eighteen thousand (18,000) square feet or less. However, such a detached garage shall continue to be subject to the provisions of Section 6-13-5 of this chapter. (Ord. 89-1080-47)

6-13-4: ELIMINATION OF NONCONFORMING USES:

- A. In residence districts any use lawfully existing on the effective date of this Zoning Code which is not permitted in any district or is permitted only in a business, or manufacturing or farming district and which is located in a building all or substantially all of which is designed or intended for a use permitted in a residence district shall be eliminated within five (5) years from the effective date of this Zoning Code.

In R1 or R3 Districts any use of a single-family detached dwelling or other dwelling unit, including any accessory building, by more than two (2) roomers, boarders or permanent guests, or as a boarding house or nursing home or similar commercial use, shall be eliminated within eight (8) years from the effective date of this Zoning Code unless allowed as a special use pursuant to Section 6-5A-2 of this Code.

- B. In any district, any lodging room for roomers, boarders, servants or permanent guests located in a building which does not conform to the floor area requirements of this Zoning Code or located on a lot which does not conform to the lot area requirements of this Zoning Code shall be eliminated prior to December 31, 1973.
- C. In any district, any lodging room from roomers, boarders, or permanent guests located in an accessory building shall be eliminated prior to December 31, 1973.

6-13-5: RESTRICTIONS ON NONCONFORMING BUILDINGS AND STRUCTURES:

Any lawfully existing building or structure all or substantially all of which is designed or intended for a use permitted in the district in which it is located shall be subject to the provisions of this Section. (Ord. 97-1509-33, eff. 8/11/97)

A. Repairs and Alterations: Ordinary repairs, maintenance and alterations may be made to a nonconforming building or structure, except that no structural alteration shall be made in or to such building or structure except those required by law and except those making the building or structure and use thereof conform, or more closely conform, to the regulations of the district in which it is located.

1. Exceptions: The restriction on repairs and alterations to nonconforming buildings shall not apply to any nonconforming building which satisfies all of the following criteria:

- a. That is zoned O/I - Office/Industrial District; and
- b. That was erected prior to August 13, 1990 (adoption of Village Ordinance No. 90-1163-47); and
- c. That meets the base yard requirement set forth in Section 6-8-8(B), but is a nonconforming building solely because of noncompliance with any portion of Section 6-8-8(B) that requires increased yard setbacks as a function of building height.

B. Additions and Enlargements: A building or structure which is nonconforming as to bulk shall not be added to or enlarged in any manner unless such building or structure and the use thereof, including all additions and enlargements thereto, are made to conform to all the regulations of the district in which it is located.

1. Exceptions: This restriction on the enlargement of or additions to nonconforming buildings shall not apply to any nonconforming building which satisfies all of the following criteria:

- a. That is zoned O/I - Office/Industrial District; and
- b. That was erected prior to August 13, 1990 (adoption of Village Ordinance No. 90-1163-47); and
- c. That meets the base yard requirement set forth in Section 6-8-8(B), but is a nonconforming building solely because of noncompliance with any portion of Section 6-8-8(B) that requires increased yard setbacks as a function of building height.

2. Any nonconforming building meeting the criteria in this Section 6-13-(B)(1)(a) through (c) may be enlarged only in accordance with the following:
 - a. The addition or enlargement shall not create any new nonconformity.
 - b. The addition or enlargement shall not increase the degree of the existing nonconformity or all or any part of the building - i.e., no addition shall encroach into a required yard further than the existing encroachment of the existing nonconforming building.
 - c. The addition or enlargement shall not exceed the width of the portion of the existing building which encroaches into the required yard along the same facade. For the purpose of this Section 6-13-5(B), width shall be measured parallel to the existing facade on which the addition or enlargement is proposed.
- C. Moving: A building or structure which does not conform to all of the regulations of the district in which it is located shall not be moved in whole or in part to any other location unless every portion of such building or structure which is moved and the use thereof are made to conform to all regulations of the district into which it is moved.
- D. Restoration of Damages Nonconforming Buildings and Structures:
 1. A nonconforming residential building shall not be restored if the costs of such restoration exceeds fifty percent (50%) of the cost of restoring the entire building new.
 2. In any district, a nonresidential building or structure which is destroyed or damaged by fire or other casualty or by an act of God shall not be restored if the cost of restoration to its condition prior to the occurrence exceeds fifty percent (50%) of the cost of restoring the entire building or structure new, unless said building or structure and the use thereof shall conform thereafter to all the regulations of the district in which it is located.
 3. In the event that such damage or destruction is less than fifty percent (50%) of the cost of restoration of an entire building or structure new, the building or structure may be restored to its original nonconforming condition only if such restoration is started within one hundred eighty (180) days from the date of the partial damage or destruction and is diligently prosecuted to completion.
- E. Discontinuance of Use of Nonconforming Buildings and Structures: A building, structure, or portion thereof, which is unoccupied or unused on the effective date of this Zoning Code or thereafter becomes unoccupied or unused and remains unoccupied or is not used during any continuous period of one hundred twenty (120) days, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

- F. Expansion of Use in a Nonconforming Building or Structure: A non-conforming use of a part of a building or structure shall not be expanded within that building or structure in which said use is located on the effective date of this Zoning Code.
- G. Change of Use in Nonconforming Building or Structure: If no structural alteration is made, a nonconforming use of a building or structure may be changed to a use permitted in the district in which the building or structure is located, or to a use permitted in a more restrictive district; provided, that no such change in use shall extend or otherwise modify any requirement in this Zoning Code for elimination of such nonconforming building or structure and the use thereof.

For the purpose of this Section only, the R1 District shall be considered the most restrictive and the Manufacturing District the least restrictive district.

6-13-5A: RESTRICTIONS ON NONCONFORMING USES (Ord. 97-1509-33, eff. 8/11/97)

- A. Expansion of a Nonconforming Use. Nonconforming uses shall not be expanded after the effective date of this Zoning Code.
- B. Change of a Nonconforming Use. Any nonconforming use of a building or structure may be changed to a use permitted in the district in which the building or structure is located, or to a use permitted in a more restrictive district; provided, that no such change in use shall extend or otherwise modify any requirement in this Zoning Code for elimination of such nonconforming building or structure and the use thereof. For the purpose of this Section only, the R1 District shall be considered the most restrictive and the Manufacturing District the least restrictive district.
- C. Discontinuance of a Nonconforming Use: If the nonconforming use of a building, structure or premises is discontinued for a continuous period of one hundred twenty (120) days or more, it shall not thereafter be afforded the protections extended to nonconforming uses as provided herein, and any subsequent use of the building, structure, or premises shall conform to the use regulations of the district in which such building, structure, or premises is located.

6-13-6: NONCONFORMING USE OF LAND: The nonconforming use of land not involving a building or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, may be continued subject to the following provisions:

- A. Expansion of a Nonconforming Use. A nonconforming use of land shall not be expanded or extended beyond the area it occupies on the effective date of this Zoning Code.

- B. Discontinuance of Use: If a nonconforming use of land is discontinued for a period of one hundred twenty (120) days, it shall not thereafter be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.
- C. Change of Use: A nonconforming use of land shall not be changed for any other use except to a use permitted in the district in which the land is located.
- D. Elimination of Nonconforming Uses of Land: A nonconforming use of land shall be eliminated in accordance with the following requirements:
 - 1. Where no building or structure is employed in connection with such use, eliminated within one hundred eighty (180) days;
 - 2. Where the only building, structure or other improvements employed have an assessed valuation before equalization of not more than two thousand dollars (\$2,000.00), eliminated within one year;
 - 3. Where the only building, structure or other improvements employed have an assessed valuation before equalization of more than two thousand dollars (\$2,000.00), eliminated within three (3) years;
 - 4. Where a nonconforming use of land is accessory to a nonconforming use of a building or structure which is subject to elimination, it shall be eliminated on the same date on which the nonconforming use of the building is eliminated. (Ord. 65-138-15)

6-13-7 Repealed by Ordinance 10-3124-01, effective 1/25/10.