1003.170 Non-Conforming Uses, Lands, and Structures.


The provisions of this section shall apply to all non-conforming uses, lands, and structures. A non-conforming land use or structure is one which existed lawfully whether by variance or otherwise, on the date this Zoning Ordinance or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations of the Zoning Ordinance or such amendment thereto, except minimum lot area, yard, and setback requirements.

Such non-conformities may be incompatible with and detrimental to permitted land uses and structures in the zoning districts in which they are situated; they inhibit present and future development of nearby properties; and they confer upon their owners and users a position of unfair advantage.

2. Statement of Intent.

Non-conformities are not to be expanded, and they should be abolished or reduced to conformity as quickly as the fair interest to the parties will permit.


(1) An existing non-conforming land use or structure shall not cause further departures from the Zoning Ordinance. An existing non-conformity may be continued except as hereinafter limited in this section. A non-conforming use may be changed to another use only in accord with the following:

(a) The new use may be one that is permitted in the underlying district governing the property in which the non-conformity is situated, provided that the new use complies with the regulations of that district; or

(b) The new use may be one that is permitted in the most restrictive district in which the non-conforming use is a permitted use, provided that the new use complies with the regulations of that district.

For the purpose of this paragraph, a permitted use means only a use listed as a Permitted Land Use and Development under one of the districts of this Chapter, excluding the "C-8", "M-3", or "MXD" Districts, and does not include a use or development which may be authorized by Conditional Use Permit under Section 1003.181 SLCRO.

(2) The existence of any present non-conformity anywhere in the County shall not itself be considered grounds for the issuance of a variance for other property.

(3) A non-conformity shall not be deemed to have existed on the date this Zoning Ordinance or any amendment thereto became effective; unless:

(a) It was in being on a continuous basis and to its fullest extent on such date.

(b) If such non-conformity is a use, such use had not been abandoned as hereinafter defined.

Provided however that nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction was lawfully begun in good faith prior to such date, if such construction is diligently prosecuted to completion within two (2) years following such date. Actual construction is hereby defined to include the placing of construction materials so that they are in a permanent position and fastened to the earth in a permanent manner.
(4) A non-conforming use of land shall not be enlarged, extended or altered and a structure or part thereof devoted to a non-conforming use shall not be enlarged, extended, constructed, reconstructed, or structurally altered, except:

(a) As may be required by law.
(b) In changing the use to one which is permitted in the district in which such use is situated.
(c) To the extent hereinafter permitted.
(d) To provide off-street parking or loading space.
(e) An existing legal non-conforming tavern or restaurant existing on December 1, 1975, or an existing tavern or restaurant which becomes non-conforming because of a subsequent change of zoning district classification, may be issued a liquor license in accord with the provisions of Chapter 801, SLCRO 1974, as amended, and such issuance and sale of liquor thereunder shall not be deemed an enlargement, extension or alteration of said use.
(f) An existing advertising sign which is legally non-conforming or would be legally non-conforming but for failure to have terminated such non-conformity within five (5) years as provided in Section 1003.260 of the Zoning Order of 1946 or Section 1003.170 of the Zoning Ordinance of 1965, may be repaired, reconstructed or structurally altered, but may not be enlarged or relocated.

(5) A non-conforming use of land shall not be moved to another part of a lot or outside the lot, and a non-conforming use of a structure shall not be moved to any part of the structure not manifestly arranged and designed for such use at the time the use became non-conforming except that in the case of extraction of raw materials from the earth, extraction operations and moving of related structures may occur on any part of the tract owned or leased by the operator at the time of becoming a non-conforming use.

(6) Where any change is proposed to be made to a use that is permitted in the district only by a Conditional Use Permit, such change may be made only through a Conditional Use Permit granted pursuant to the procedure delineated by Section 1003.181 of this ordinance.

(7) The number of dwelling units in a non-conforming residential structure shall not be increased over the number of dwelling units in the structure at the time of the structure becoming a non-conforming structure.

(8) Nothing in this ordinance shall be deemed to prohibit the restoration of any structure and its use where such structure has been destroyed by any means out of the control of the owner to an extent less than sixty (60) percent of its replacement value (excluding the value of the land, the cost of preparation of land, and the value of any foundation adaptable to a conforming use) at the time of destruction, provided the restoration of such structure and its use in no way increases any former non-conformity, and provided further that restoration of such structure is begun within six (6) months of such destruction and diligently prosecuted to completion within two (2) years following such destruction. Whenever such structure has been destroyed by any means out of the control of the owner to an extent of more than sixty (60) percent of its replacement value (excluding the value of the land, the cost of preparation of land and the value of any foundation adaptable to a conforming use) at the time of destruction, as determined by the Zoning Enforcement Officer, or by any means within the control of the owner to any extent whatsoever, the structure shall not be restored except in full conformity with all regulations of the district in which such structure is situated. When a structure is determined to be substandard by the proper administrative official of St. Louis County under any applicable ordinance of the County and the cost of placing the structure in condition to satisfy the standards under such ordinance shall exceed sixty (60) percent of the reconstruction cost of the entire structure, such non-conforming structure shall not be restored for the purpose of continuing a non-conforming use. However, none of the restrictions contained in this section shall limit the authority of the Board of Zoning Adjustment to grant relief for reconstruction of a non-conforming structure, as provided in Section 1004.070.
(9) Any non-conforming building existing lawfully in the "FP" Flood Plain District, which is destroyed by any means, including flood, shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred unless it is reconstructed in conformity with all provisions of the Zoning Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(10) Within five (5) years of the date of the adoption of this ordinance or the date of adoption of any applicable amendments to this ordinance, any use which is or becomes a non-conforming use, shall be brought into conformance with the zoning performance standards established in Section 1003.163 Zoning Performance Standard Regulations.

(11) The non-conforming use of open land for junk yards, storage (other than stockpiling of sand, gravel, and rock as an accessory operation to the extraction of raw material from the earth) and non-conforming structures containing 200 square feet of ground floor space or less shall be discontinued within five (5) years of the date of their becoming non-conforming uses by the adoption of this ordinance, amendments to this ordinance, or previous zoning ordinances. Any use listed in this paragraph need not be discontinued in the event that the adoption of this ordinance or amendments to this ordinance changes the status of such use from that of a non-conforming use to that of a permitted use in the district in which it is located.


(1) Any non-conforming use which has been abandoned shall not thereafter be re-established. Any structure or land, or structure and land in combination, which was formerly devoted to a non-conforming use which has been abandoned, shall not again be devoted to any use other than those uses which are permitted in the district in which the structure or land, or structure and land in combination, is situated.

(2) The term "abandonment," as used herein, shall mean the voluntary discontinuance of a use, when accompanied by an intent not to re-establish such use. Any one of the following shall constitute prima facie evidence of intent to abandon.

(a) Any positive act indicating such intent; or
(b) Any conscious failure to take all necessary steps to resume the non-conforming use with reasonable dispatch in the circumstances, including advertising of the property for sale or for lease; or
(c) In the case of a structure or of a structure and land in combination, discontinuance of the non-conforming use for six (6) consecutive months; or
(d) In the case of land only, discontinuance of the non-conforming use for ninety (90) consecutive days, or for a total of six (6) months during any one-year period. (O.No. 18019 Adopted 5/2/96).