

Chapter 3

Non-Conforming Lots, Buildings, Structures and Uses

Article 3.1

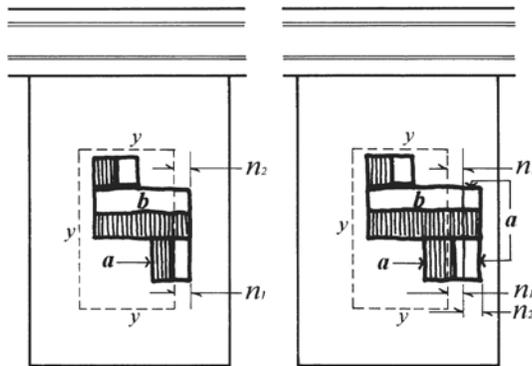
Purpose

The purpose of this Chapter is to provide for the regulation and short-term maintenance of those non-conforming building, structures, uses and lots which substantially and adversely affect the orderly development and taxable value of other conforming property in each district, and to provide for the gradual elimination of non-conforming buildings, structures, and uses to those that conform to the provisions of this Chapter by specifying the circumstances and conditions under which non-conforming buildings, structures, uses and lots shall be permitted with restriction in order to accomplish the objectives of the Municipal Code without undue burden to any single property owner, in accordance with the authority granted by Illinois Statutes.

Article 3.2

General Provisions

- 3.2.1. Authority to Continue Non-Conforming Buildings, Lots, Structures and Uses.** Any non-conforming lot, building, structure or use which was non-conforming at the time of the adoption of this Title and which remains non-conforming and any lot, building, structure or use which shall become non-conforming upon the adoption of this Title or of any subsequent amendments thereto, may be continued, some for specified periods of time, subject to the regulations which follow.
- 3.2.2. Enlargement or Expansion of Non-Conforming Buildings, Structures and Uses.** A non-conforming use of a building or structure, or a non-conforming building or structure shall not be added to, enlarged or expanded in any manner which increases the degree of the non-conformity.



Example of a Permitted Enlargement (a) of a Non-Conforming Building (b)

Where $\Omega_1 \geq \Omega_2$, and y = required building setback,

Ω_1 = the non-conformity

Ω_2 = the increase in the non-conformity

Example of a Prohibited Enlargement (a) of a Non-Conforming Building (b)

Where $\Omega_1 < \Omega_2$, and y = required building setback,

Ω_1 = the non-conformity

Ω_2 = the increase in the non-conformity

- 3.2.3. Maintenance and Repair of Non-Conforming Lots, Buildings, Structures and Uses.** Normal maintenance and incidental repair or replacement of fencing, non-bearing walls and partitions, fixtures, wiring, plumbing, parking, landscaping and mechanical equipment may be performed on any non-conforming lot, building, structure or use. Nothing in this Chapter shall be deemed to prevent the strengthening or restoration of an unsafe structure in accordance with any order of a public official charged with protecting public safety, and who finds such building or structure is unsafe in its then-present condition, and that repair or restoration is not in violation of the provisions of this Chapter governing the restoration of partially damaged or destroyed buildings, structures and signs.
- 3.2.4. Accessory Uses.** No new accessory use added to a lot which is non-conforming or to a lot containing a non-conforming building or structure shall increase the degree of non-conformity of said non-conforming lot or lot containing a non-conforming building or structure.
- 3.2.5. Previous Non-Conforming Lots, Buildings, Structures and Uses.** Any non-conforming lot, building, structure or use which existed prior to the effective date of this Title which is made lawful and conforming as a result of the provisions of this Title shall be considered as conforming.

Article 3.3

Additional Regulations, Standards and Criteria.

3.3.1. Non-Conforming Lots.

- A. CONTINUATION OF SUBSTANDARD LOTS OF RECORD. In a district, notwithstanding the regulations imposed by any other provision of this Chapter, a building which complies with the restrictions in Section 3.3.1(B) may be erected on a lot that is not less than fifty (50) feet in width and consisting entirely of one tract of land under single ownership that meets all of the following criteria:
1. Has less than the prescribed minimum lot area and/or lot width or depth or all three;
 2. Is shown by a recorded plan or deed to have been owned separately and individually from adjoining tracts of land at the time when the creation of a lot of such size or width at such location would not have been prohibited by this Title; and
 3. Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by this Title.
- B. YARD REQUIREMENTS FOR NON-CONFORMING LOTS. Construction permitted by Section 3.3.1(A) shall comply with all the regulations (except lot area, lot width and lot depth) applicable in the zoning district in which the lot is located, provided, however, that the following said yard requirements shall apply in place of the side yard requirements otherwise applicable:
1. A building shall be placed on the lot so as to provide a yard on each side of the dwelling building.
 2. Required side yards of main building shall not be less than ten percent (10%) of the width of the lot, and in no case shall required side yards be less than six (6) feet in width, and in no case shall a residential building be located less than ten (10) feet from a building on an adjoining lot.

3.3.2. Non-Conforming Buildings and Structures.

- A. ALTERATION OF NON-CONFORMING STRUCTURES. Any non-conforming building or structure may be altered or remodeled provided, however, that no such, alteration or remodeling shall either create any additional non-conformity or increase the degree of the exiting non-conformity of all or part of the building or structure, except that as to buildings or structures located on a lot that which does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Section 3.3.1(B). Nothing in this section shall permit the structural alteration of bearing walls and partitions of a non-conforming building or structure, which is devoted in whole or in part to a non-conforming use, except those structural alterations required by law, or except those necessary to make the building or structure, and use thereof, conform to the regulations of the district in which it is located.
- B. RESTORATION. In the event a non-conforming building or structure is destroyed or damaged by fire or other casualty or act of God, such building, may be restored only if the cost of reconstruction to its condition prior to the casualty does not exceed fifty percent (50%) of the replacement cost of the entire building, and providing no restoration or reconstruction shall be undertaken unless it is started within one year from the date of notice by the Development Administrator of this provision or the date of the casualty destruction, whichever is later, and completed within twenty-four (24) months from the date of the casualty.
- C. RELOCATION. No non-conforming building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of said building is made to conform to all of the regulations of the district in which it is to be relocated.
- D. DAMAGE OR DESTRUCTION. In the event that any non-conforming building or structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of the building or structure new, such building or structure shall not be restored unless it and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is fifty percent (50%) or less of the cost of replacement, no repairs, or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

3.3.3. Non-Conforming Uses.

- A. CHANGE OF USE. A non-conforming use of land or a building shall not be changed to any use other than a use permitted in the zoning district in which the use is located. When a non-conforming use of land or a building has been changed to any permitted use, it shall not thereafter be changed back to a non-conforming use. For purposes of this Section, a use shall be deemed to have been so changed when an existing non-conforming use shall have been terminated and a conforming use shall have commenced and continued for a period of seven (7) days.
- B. ALTERATION. Alterations designed to increase the intensity of anon-conforming use, or to introduce new non-conforming uses, are prohibited.
- C. DAMAGE OR DESTRUCTION. In the event that any structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of the structure new, such

structure shall not be restored unless it and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is fifty percent (50%) or less of the cost of replacement new, no repairs, or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction is diligently pursued to completion.

- D. RELOCATION. No non-conforming use of land or building shall be moved in whole or in part of any distance whatsoever, to another location on the same lot or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after so moved.
- E. DISCONTINUATION OR ABANDONMENT.
 - 1. NON-CONFORMING USE OF LAND. When a non-conforming use of land, not involving a structure, or involving use of land, is discontinued or accessory to the non-conforming use of land, is discontinued or abandoned for a period of thirty (30) consecutive days (regardless of any reservation of an intent not to abandon or to resume such use), such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such land or structures shall comply with the regulations of the zoning district in which such land is located.
 - 2. NON-CONFORMING USE OF A BUILDING OR STRUCTURE. The abandonment or discontinuation of any non-conforming use of a structure for a period of sixty (60) days, regardless of any reservation of an intent not to abandon or to discontinue such use, shall terminate any rights conferred by this Chapter to continue such non-conforming use. Any subsequent use or occupancy of such land or structures shall comply with the regulations of the zoning district in which such land is located.
 - 3. NON-CONFORMING ACCESSORY USES. No use which is accessory to a principal non-conforming use shall continue after such principal non-conforming use shall have been ceased or terminated.

Article 3.4

Exempt Buildings, Structures, Uses and Lots

- 3.4.1. Exempt Buildings, Structures, Uses and Lots.** Whenever a lawfully existing building or other structure otherwise conforms to the use regulations of the district in which it is located, but is non-conforming only in the manner hereinafter specified, the building and use thereof shall be exempt from the requirements of Section 3.3.2 and Section 3.5:
- A. In any residential district where a building is non-conforming only as to the number of dwelling units it contains, provided no such building shall be altered in any way so as to increase the number of dwelling units therein. (Ord. 2007-35, 12-04-2007)
 - B. In any business or manufacturing district, where the use is less distant from a residential district than that required in the regulations for the district in which it is located.
 - C. In any district where an established building or structure, use or lot is non-conforming with respect to the yard, parking, lot area, lot width, building height required in the district in which it is located.

Article 3.5

Eliminating Non-Conforming Buildings, Structures and Uses.

- 3.5.1. Procedures.** In accordance with authority granted to municipalities for the elimination of non-conforming uses and structures in Chapter 65, Act 5 Section 11-13-1 of the Illinois Compiled Statutes, it is hereby declared to be the policy of the City to eliminate said uses and structures.
- A. The Development Administrator shall inventory the non-conforming uses and structures in the City and shall determine the assessed valuation, normal useful life, and years in existence for each. Such inventory and determination shall be kept on file by the Development Administrator and be a matter of public record.
 - B. The Development Administrator shall notify in writing the owner of each parcel of land or each structure which has been determined to be non-conforming, at least once every year. Such notice shall contain:
 - 1. The normal useful life of the use or structure as determined by the Development Administrator of the City of Genoa.
 - 2. The date at which it has determined the use was commenced; and
 - 3. The assessed valuation of the use or structure as determined by the Township Assessor.
 - C. Nothing in this Article 3.5 shall apply to non-conforming structures to which Section 3.3.3 or Section 3.5.2 do not apply.

3.5.2. Elimination of Non-Conforming Buildings and Structures.

- A. Any structure or building, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall be removed and its use thereafter cease, or shall be converted to a building or structure designed or intended for a use permitted in the district in which it is located at the end of its useful life as determined

by the corporate authorities of the City. Nothing in this Chapter shall apply to structures used for residential purposes in residential zoning classifications.

- B. Condemnation of non-conforming buildings and structures. The City, at any time, and from time to time, by Ordinance duly enacted:
1. may acquire by condemnation any non-conforming building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, and all land which is necessary or appropriate for the rehabilitation or re-development of the area blighted by such non-conforming building or structure;
 2. may remove or demolish all such non-conforming buildings and structures so acquired;
 3. may hold and use any remaining property for public purposes; and
 4. may sell, lease or exchange such property as is not held for public purposes, subject to the provisions of this Ordinance, or any amendment hereto.

No such acquisition by condemnation shall be made until such time as the Plan Commission, at the request of the City Council or upon its own initiative, has made a study of the area within which such non-conforming building or structure is located and has filed a written report on such study with the City Council.

3.5.3. Elimination of Non-Conforming Uses of Land.

- A. The non-conforming use of land shall cease ten (10) years from the effective date of this Title in each of the following cases:
1. Where no building or structures are employed in connection with such use;
 2. Where the only buildings or structures or other physical improvements employed are accessory or incidental to such use or have an assessed valuation of less than \$2,000; or,
 3. Where such is maintained in connection with a conforming building or structure; except that inadequate off-street parking facilities use in connection with a building the use of which complies with the requirements of the district in which it is located, may be continued for so long as the premises are used for a permitted use.
- B. A non-conforming use of land which is accessory to the non-conforming use of building or structure shall be discontinued on the same date the non-conforming use of the building or structure is discontinued.
- C. Nothing in this Article shall require the elimination of a non-conforming use of land for residential purposes.