

## DIVISION 11. NON-CONFORMING USES.

### Sec. 6-141. NON-CONFORMING BUILDING AND USE: RESTRICTIONS.

- (a) In addition to a building becoming legally non-conforming pursuant to Sec. 8-13a of Connecticut General Statutes, any building, lot or use, lawfully existing on February 1, 1926 or on the effective date of any amendment thereafter to these Regulations, may be continued and its non-conforming status shall be deemed lawful, provided that with respect to use the non-conforming use must be actual and not discontinued for any period in excess of one year and maintained within the same structure as existed on February 1, 1926 or on the date that said use conformed to these Regulations.
- (b) A non-conforming building, lot or use, or the building in which a non-conforming use occurs, may not be changed, altered or added to except in accordance with the following:
- (1) Change
 

A non-conforming building, lot or use, or the building in which a non-conforming use occurs may be changed to another non-conforming use only if after application for Special Permit, the Commission finds that said change meets the standards of Sections 6-15 and 6-17 and also finds said changed use is not more detrimental to the neighborhood than the existing use.
  - (2) Alteration or Addition
    - (A) A non-conforming building (other than single family or two family) may be altered or permitted to expand provided that such alteration or addition meets the standards for site plan review under Sec. 6-15, and further provided that such alteration or expansion shall not increase the degree of non-conformity. The addition of floor area which either (i) causes the floor area ratio or building coverage permitted in the zone to be exceeded, or (ii) results in a site plan for all uses on the site which does not provide parking in accordance with the standards of Division 15, shall be deemed to increase the degree of non-conformity and shall not be permitted. (10/13/92)
    - (B) A Dwelling or an accessory building in residential zones that has one or more legally non-conforming yards, may be added to, provided that: (10/13/92)
      - i. The addition does not further encroach into the required yard(s); (10/13/92)
      - ii. Any addition extending horizontally beyond the limits of the building will have a width not more than half the total width of the non-conforming portion of the building being added to. Only one non-conforming addition may be made under this provision; construction permitted by a variance of yard requirements may not be counted in the width calculations described above.
 

No part of such addition shall at any point exceed the height and number of stories of the existing building at the point of juncture; (10/13/92)
      - iii. No more than one vertical addition, alteration, or reconstruction shall be permitted to increase the height at any point of any portion of the building located within the required yard provided the addition does not increase the height to more than 75 percent of the maximum height limitation for the zone in which the property is located nor increase the floor area of the affected floor (story) by more than 15 percent of the entire floor and provided there is a minimum distance of at least 10 feet between the proposed addition and the closest adjoining building. (4/19/2006)

(4/19/2006)

- (C) i. When a building in any residential zone is razed and rebuilt in one or more steps utilizing an existing foundation, the new structure shall be constructed only on that portion of foundation existing within lawful setbacks. (10/13/92)
- ii. When a building that is less than 50 years old or is otherwise not eligible to qualify for placement on the National Register of Historic Places in a residential zone is substantially improved as defined in Sec. 6-5(a)(49.1), that building must conform to current provisions of the Building Zone Regulations pertaining to required yards, height, number of stories and floor area ratio. (7/19/2006)
- iii. When a building that is non-conforming as to required yards is enlarged by an addition(s) that complies with current required yards, such complying addition(s) shall not be included in the calculation of substantial improvement to the existing structure. (7/19/2006)
- iv. Improvements to a non-conforming building that do not qualify as a substantial improvement are permitted provided that there shall be no increase in the degree of the existing non-conformity. (7/19/2006)
- (3) A non-conforming lot may not be altered if the result would be to increase the degree non-conformity.
- (4) **Damage, Destruction or Replacement**  
 When a building whether conforming or non-conforming in which a non-conforming use occurs is damaged or destroyed by fire, explosion, act of God or the public enemy, it may be restored and the non-conforming use continued, provided that the restored building covers no greater area and has not greater cubic content or greater floor area and further, provided that the new structure be substantially identical in appearance to the one damaged or destroyed.  
 The Planning and Zoning Commission, subject to the granting of special permit in accordance with Sec. 6-17, may permit a modified reconstruction, provided that the restored building covers no greater area and has no greater cubic content and no greater floor area.  
 Properties for which Demolition Permit Applications were filed in the Building Department prior to November 27, 1984 shall be exempt from the restriction of being otherwise demolished. (12/18/84)  
 Rights under this section must be exercised within one year by filing plans with the Building Department. (10/13/92)  
 All site plan applications and special permit applications officially received prior to October 20, 1981 shall be exempt from the requirements of Sec. 6-141 (a) and Sec. 6-141(b)(1)(2)(3)(4). (11/20/81)
- (5) Where a non-conforming use of land or structure has ceased for a period of one (1) year or more or has been changed to a conforming use, the non-conforming use shall not again be permitted.
- (6) The sale of alcoholic liquor served from but not consumed at a service bar in a hotel which is non-conforming by reason of its location in a residential zone shall not be deemed to be a change in use more detrimental to the neighborhood, provided that:
- Such hotel contains dining facilities adequate for all occupants of its rooms, and
  - The sale of such alcoholic liquor is made to overnight guests of the hotel, or guests using the hotel dining facilities.
- (7) Where alterations or accessory buildings are otherwise permitted by this Section, non-conforming dwellings or accessory buildings in business zones may be altered or added to in conformance with the standards of the R-6 Zone in Division 12 and Division 21 of this Article. (12/27/78)

(7/19/2006)

**Sec. 6-142. NON-CONFORMING BUILDING.**

Any building constructed prior to September 30<sup>th</sup>, 1947, with front, side and/or rear yards insufficient to comply with the zoning regulations then in effect shall nevertheless be deemed to be lawfully non-conforming with respect to the yards, and may be continued subject to the conditions set forth in Section 6-141.

**Sec. 6-143. NON-CONFORMING YARDS.**

Legally conforming yards made deficient in yard requirements, and legally non-conforming yards made more deficient, by the construction of a street in a subdivision pursuant to approval by the Planning and Zoning Commission may be continued as legally non-conforming.

**LAND USE**

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