

## CHAPTER 7

**NONCONFORMING USES AND NONCOMPLYING STRUCTURES**

(Ordinance No. 004-2007, 01/23/2007)

## SECTION:

- 10-7-1: Use May be Continued
- 10-7-2: Terminated if Use is Abandoned
- 10-7-3: Reconstruction or Restoration
- 10-7-4: Maintenance and Changes of Structures or Uses

10-7-1: **Nonconforming Use or Noncomplying Structure May be Continued:**

- A. Except as provided in this section, a nonconforming use or Noncomplying structure may be continued by the present or a future property owner.
- B. A nonconforming use may be extended through same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
- C. For the purposes of this Subsection, the addition of a solar energy device to a building is not a structural alteration.

10-7-2: **A Nonconforming Use Shall be Terminated if Its Use is Abandoned:**

- A. Abandonment shall be presumed to have occurred if:
  - 1. A majority of the primary structure associated with the nonconforming use had been voluntarily demolished without prior written agreement with the municipality regarding and extension of the nonconforming use;
  - 2. The use has been discontinued for a minimum of one year; or
  - 3. The primary structure associated with the nonconforming use remains vacant for a period of one year.
- B. The property owner may rebut the presumption of abandonment under Subsection 10-7-2(A), and shall have the burden of establishing that any claimed abandonment under Subsection 10-7-2(A) has not in fact occurred.

10-7-3: **THE RECONSTRUCTION OR RESTORATION OF A NONCOMPLYING STRUCTURE SHALL BE PROHIBITED AND A NONCONFORMING USE OF A STRUCTURE SHALL BE TERMINATED IF:**

- A. The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the Noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
- B. The property owner has voluntarily demolished a majority of the Noncomplying structure or the building that house the nonconforming use.

10-7-4: **MAINTENANCE AND CHANGES OF STRUCTURES OR USES:**

- A. Repairs and Alterations: A noncomplying structure or a building housing a nonconforming use May be repaired or altered; provided, that the degree of nonconformity or noncompliance is not increased by the repair or alteration.
- B. Restoration of Damaged Buildings: A noncomplying use or the nonconforming use of a structure that is involuntarily destroyed in whole or part due to fire or other calamity may continue unless the structure or use has been abandoned. Said restoration shall no increase the degree of nonconformity.
- C. Change of Nonconforming Use: The nonconforming use of a structure may not be changed, except to a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use.