

## Article XIV

### Nonconforming Uses and Noncomplying Buildings or Lots

#### § 57-57 Applicability.

This article applies to lots, buildings, structures and nonbuilding uses in existence on the effective date of this chapter. The lawful use of any such premises or uses existing on the effective date of this chapter may be continued although neither such use conforms nor the bulk of the same complies with the requirements, except as hereinafter follows.

#### § 57-58 Noncomplying buildings, structures or lots.

- A . Noncomplying buildings or structures. Normal maintenance and repair, structural alteration in, or reconstruction or enlargement of, a building or structure with noncomplying bulk is permitted if the same does not increase the degree of or create any new noncomplying bulk in such building or structure.
- B . Residential buildings or structures. Any existing one- or two-family residential building or structure, or building accessory thereto, made noncomplying as to bulk by this chapter or any amendment thereof and having a lot width of at least 75 feet shall be permitted to comply with the yard and setback requirements as specified for the highest residential district having the same or less lot width regardless of sewer facility availability. In no event, however, shall the yard and setback requirements of any lot be less than the requirements for the SR-10 District as prescribed for lots with central sewer facilities. No front setback may in any event be closer to the designated street line than the existing established setback. For any existing building or structure on a lot having less than a 75-foot lot width, the minimum standards will be the same as those specified in Subsection D of this section.
- C . Two or more adjoining noncomplying subdivision lots, regardless of ownership, in a subdivision approved by the Planning Board shall have three years from the date of filing with the office of the County Clerk to obtain a building permit. Two or more adjoining noncomplying lots in a subdivision approved by the Planning Board and filed with the office of the County Clerk more than three years prior to the effective date of this chapter and in the same ownership shall not be eligible to receive a building permit. Said subdivision or part thereof shall be resubmitted to the Planning Board for approval in accordance with the applicable provisions of this chapter. Any lot in a subdivision approved by the Planning Board after the effective date of this chapter, but which is made noncomplying as to bulk by any future amendments of this chapter, shall have three years from the date of filing to obtain a building permit.
- D . Noncomplying lots.
  - (1) A residential lot separated from any other land in the same ownership and noncomplying as to bulk, whether or not located in and part of a subdivision plat approved by the Planning Board and filed in the office of the County Clerk, and which has a minimum lot width of 75 feet, may be used for a one-family detached residence, provided that such use shall comply with the bulk requirements as specified in the highest residential district having the same or less lot width. For

all residential lots having less than 75 feet of lot width, the following minimum requirements shall apply:

- (a) The minimum width of one required side setback shall be 12 feet and the total width shall be 30 feet.
  - (b) The total width of both required side setbacks may be reduced 3 inches for each foot that the lot width is less than 75 feet.
  - (c) The minimum front yard shall be 25 feet.
  - (d) The minimum lot width shall be 50 feet.
  - (e) The maximum building height shall be 35 feet and 2.5 stories.
- (2) A nonresidential lot separated from any other land in the same ownership and noncomplying as to bulk and having less than 100 feet of lot width, may meet the less restrictive of the requirements prescribed by the schedule of District Regulations for the zoning district in which the lot is located or the following requirements:
- (a) The minimum width of each required side setback may be reduced by three inches for each foot that the lot width is less than that specified in the Table of Bulk Requirements.
  - (b) The minimum total width of both required side setbacks may be reduced six inches for each foot that the lot width is less than that specified in the Table of Bulk Requirements.
  - (c) The minimum front yard shall be 40 feet;
  - (d) The minimum rear yard shall be 20 feet except for lots in the LI District which shall be 40 feet.
  - (d) The minimum lot width shall be 75 feet.
  - (e) The maximum building height shall be 35 feet and 2.5 stories.
- E . A lot with less than the required front yard shall be considered complying with respect to the front yard requirements of this chapter if said condition is the result of a street right-of-way widening reservation or dedication, whether in fee or easement, required by the Planning Board at the time of subdivision or site development plan approval.
- F . Any residential lot created as a conforming lot prior to November 20, 2017 with a gross lot area of 40,000 square feet or more and which currently is required to have a minimum of one acre of lot area shall be considered to be in compliance with the lot area requirements of this chapter.

#### **§ 57-59 Nonconforming Uses.**

- A. Repair and alterations. Normal maintenance and repair of a building or structure is permitted if it does not increase the area of the nonconforming use. No extension, alteration or enlargement shall be made in a building or structure occupied by a nonconforming use, nor in a

nonconforming nonbuilding use except:

- (1) When required pursuant to an order of a court of competent jurisdiction.
- (2) To adapt the building or structure to a conforming use.
- (3) In a building or structure occupied by a nonconforming use or in a nonconforming nonbuilding use permitted to extend under Subsection D of this section.

- (4) To increase compliance with the New York State Uniform Building and Fire Prevention Code.

- B. Change of use. Any nonconforming use may be changed to any conforming use or, on application to and with the approval of the Board of Appeals, to any use which the Board of Appeals deems to be more similar in character with the uses permitted in the district in which said change of use is proposed. Any nonconforming building, structure or nonbuilding use may be changed to a conforming use, regardless of whether the newly created conforming use is noncomplying as to bulk, subject to approval by the Board of Appeals, subject to the same general considerations applicable to the granting of special permits and subject to site development plan approval by the Planning Board.
- C. Cessation of use. If active and continuous operations are not carried on in a nonconforming use during a continuous period of one year, the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. The time period set forth herein shall be tolled for any cessation of use pursuant to a court order.
- D. Permitted extension or enlargement shall mean:
- (1) In the case of a nonconforming use in a building: the enlargement or extension of such use so as to create additional floor area within any existing building to any portion of the floor area therein not formerly used for such nonconforming use, except where such additional floor area was manifestly designed for such use at the time such use became nonconforming.
  - (2) In the case of a nonconforming nonbuilding use: the use of any additional land on which no substantial operations were previously conducted, provided that any such extension or enlargement is on the same lot occupied by the nonconforming use on the effective date of this chapter and subject to site development plan approval.
- E. Damage and destruction. A building or structure occupied by a nonconforming use or noncomplying as to bulk, damaged by fire or other causes to the extent of 75% of last full value as shown in the records located in the Town Assessor's office, excluding the assessed valuation of the land thereof, shall not be repaired or rebuilt except in conformity with the requirements of this chapter. Any building, structure or any part thereof occupied by a nonconforming use or noncomplying as to bulk, which is damaged to an extent less than 75% of last full value as shown in the records located in the Town Assessor's office, excluding the assessed valuation of the land,

may be repaired, provided that a building permit is obtained within one year after such damage; otherwise such building, structure or part thereof shall thereafter be occupied only by a conforming use and shall comply with the bulk requirements of this chapter.

**§ 57-60 Nonconforming summer cottage developments.**

- A. Any property lawfully used on or before the third day of September 1954 for the purpose of a rental summer cottage development or bungalow colony shall be considered a lawful nonconforming use and may be continued.

**§ 57-61 Reserved**

**§ 57-62 Reserved**

