

SECTION 7: Non-Conforming Buildings and Uses

7.1 Continuance of Use.

- 7.1-1 Any lawfully established use of a building or land, at the effective date of this ordinance, or of amendments thereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal non-conforming use and may be continued, except as otherwise provided herein. It is the intent of this ordinance to permit these non-conforming uses to continue until terminated by voluntary act, by catastrophic event, or as otherwise provided herein, and to encourage conversion to conformance wherever possible.
- 7.1-2 Any legal non-conforming building or structure may be continued in use provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein. A transfer of ownership by sale, gift, devise or other devolution of title does not operate to cause a discontinuance of the non-conforming use.
- 7.1-3 Any building for which a permit has been lawfully granted prior to the effective date of this ordinance, or of amendments thereto, may be completed in accordance with the approved plans; provided construction is started within six months and diligently prosecuted to completion. Such building shall thereafter be deemed a lawfully established building.
- 7.1-4 Any vacant lot or parcel of land of record that is in one ownership and that is less than three acres in area is not deemed hereby to be, and does not constitute, a legal non-conforming use of land for purposes of the construction of buildings thereon and, therefore, it may not be used for residential purposes or for any other purposes under this ordinance which would otherwise permit the placement or construction of structures thereon. Any vacant lot or parcel of land of record that is in one ownership and that is less than 10 acres in area is not deemed hereby to be, and does not constitute, a legal non-conforming use of land for purposes of the construction of agricultural structures thereon.

7.2 Discontinuance of Use.

- 7.2-1 Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this ordinance, such premises shall not thereafter be used or occupied by any non-conforming use, even though the building may have been originally designed and constructed for the prior non-conforming use. Discontinuance of a non-conforming use of land or of a structure for any reason for a period of more than 90 days shall be considered abandonment of that use, unless the discontinuance is of a cyclical or seasonal agricultural use that lasts for no more than one year, or of a residential use caused by the destruction of, or material damage (i.e., it renders the premises uninhabitable) to, a residential structure that lasts for no more than one year. Such use shall not be re-established, and any subsequent use of the land or structure shall conform to the regulations of the zoning district in which it is located. The availability to the premises of public utilities, i.e., gas, electricity, telephone, shall not be sufficient to constitute a continuance of use.

7.3 **Change of Use.**

- 7.3-1 A non-conforming use of a building or structure, or part thereof, may be changed to a use of the same or of a more restricted character, but may not thereafter be changed to any less restricted use.
- 7.3-2 Any part of a building, structure or land occupied by a non-conforming use which is changed to or replaced by a use conforming to the provisions of this ordinance shall not thereafter be used or occupied by a non-conforming use.
- 7.3-3 No conforming building or use of land may be made non-conforming through sale, gift, devise or other devolution of title, or through other division.

7.4 **Termination and Removal.**

- 7.4-1 The period of time during which the following non-conforming uses of buildings, structures or land may continue or remain shall be limited to two years from the effective date of this ordinance, or of any amendment thereto which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the two-year period, at the owner's expense.
 - (a) Any non-conforming building or structure having an assessed valuation not in excess of \$500.00 on the effective date of this ordinance.
 - (b) Any non-conforming use of land where no enclosed building is involved, or where the only buildings employed are accessory or incidental to such use, or where such use is maintained in connection with a conforming building.
- 7.4-2 During the two-year period, such non-conforming uses may not be enlarged or expanded.
- 7.4-3 Non-conforming signs and billboards shall be removed as provided in the sign ordinance of the Village of Bull Valley.

7.5 **Repairs and Alterations.**

- 7.5-1 Normal maintenance of a building or other structure containing a non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.
- 7.5-2 No structural alterations shall be made in a building or other structure containing a non-conforming use, except in the following situations:
 - (a) When the alteration is required by law.
 - (b) When the alteration will actually result in eliminating the non-conforming use.

(c) When a building containing residential non-conforming uses may be altered in any way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk or height of the building.

(d) When the structural safety of the building requires such alteration.

7.6 **Damage and Destruction.**

7.6-1 If a building or other structure containing a non-conforming use is damaged or destroyed by any means to the extent of 50 percent or more of its replacement value at that time, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district. In the event the damage or destruction is less than 50 percent of its replacement value, based upon prevailing costs, the building may then be restored to its original condition and the occupancy or use of such building which existed at the time of such partial destruction may be continued. Anything to the contrary notwithstanding, if any such building or structure is used for residential (but not including an accessory building or structure) or agricultural purposes, it may be rebuilt on its site existing immediately prior to such destruction, but only to the same dimensions that existed immediately prior to such damage or destruction.

7.6-2 Normal maintenance and repairs are permitted.

7.7 **Additions and Enlargements.**

7.7-1 Non-conforming buildings on a lot which are legally non-conforming because of deficiencies in lot area, yards or bulk may be enlarged only if the building is conforming in use, if the expansion does not increase the non-conformity and if all other regulations of the zoning district in which the lot is located are met.

7.7-2 No building partially occupied by a non-conforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such non-conforming use.

7.7-3 No non-conforming building in any district shall be so altered as to increase the number of dwelling units therein.

7.7-4 No non-conforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed at the effective date of this ordinance, or to displace any conforming use in the same building or on the same parcel.