

Article IX Non-Conforming Buildings, Structures and Uses

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The following provisions shall apply to all buildings, structures and uses existing on the effective day of this law which do not conform to the requirements set forth in this law. The following provisions shall also apply to all buildings and uses that may become non-conforming or non-complying by reason of any subsequent amendment to this Zoning Law and the Zoning District Map which is a part thereof, and to all complying buildings housing non-conforming uses.

A. Non-Conforming Uses.

Any lawful: (i) non-conforming building or structure; (ii) non-conforming use of any non-conforming building or structure; (iii) non-conforming use of conforming building or structure; or (iv) non-conforming use of land in existence on the effective date of this Zoning Law, may be continued indefinitely if maintained in accordance with all applicable codes, ordinances, regulations and other requirements, but:

1. Shall not be enlarged or extended, altered, reconstructed or restored, except as provided in this Article, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Zoning Law.
2. Shall not be moved to another location where such use would be non-conforming.
3. Shall not be changed to another non-conforming use without prior approval by the Board of Appeals and then only to a use which as determined by the Board of Appeals is of the same or a more restricted nature. If the Board of Appeals approves such changes, they shall conform, to the extent practicable to current design standards and are also subject to Site Plan approval by the Planning Board.
4. Shall not be re-established if such use has been discontinued for any reason, whether through vacancy or cessation of use, for a period of one (1) calendar year or longer, or has been changed to, or replaced by, a conforming use for any period of time, with the intent to resume a non-conforming use not conferring the right to do so.

While a non-conforming use may not be extended, nothing contained herein shall prohibit the extension of a permitted use to any portion of a non-conforming building or structure, which existed prior to the effective date of this Zoning Law. Further, nothing contained herein shall prohibit the replacement of any mobile home or manufactured home legally existing in the Town of Rhinebeck at the time of adoption of this Zoning Law provided that the replacement structure is a manufactured home, as that term is defined in Article XIII of this law and is in full compliance with the requirements of the New York State Uniform Fire Prevention and Building Code and no

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existing non-conformities or non-compliances are increased. Any replacement manufactured home that has a gross floor area exceeding by twenty percent (20%) the gross floor area of the replaced mobile home or manufactured home, shall require the issuance of an Area Variance. No non-conforming use shall, however, be extended to displace a presently conforming use. [\[Back\]](#)

B. Repair or Alteration of Non-Conforming Buildings or Structures.

Nothing contained in this Article shall be deemed to prevent normal repair and maintenance, or structural alteration or enlargement, of a non-conforming building or structure, provided such action does not increase the degree of, or create any new, nonconformity with regard to setbacks, height, lot coverage, or other regulations set forth within the Zoning Law pertaining to buildings or structures. Any enlargement of a non-conforming building or structure shall require the approval of the Zoning Board of Appeals. In making its determination, the Board of Appeals shall apply the criteria for an area variance set forth in Article XI of this law. However, any enlargement of a non-conforming building or structure shall be limited to 125% of the area occupied by the building, or structure, at the time of the enactment of this Zoning Law. Further, any non-complying building or structure declared unsafe by the Zoning Enforcement Officer or other property authority may be restored to a property condition within the time period provided by such authority.

1. A nonconforming business or commercial use may be expanded within an existing structure or on an existing site, provided that the extent of such expansion, whether occurring as a single expansion, or as the aggregate of two or more smaller expansions, does not exceed fifty percent (50%) of the gross floor area of the structure or of the site dedicated to the non-conforming use at the time of enactment of this Zoning Law. Any such expansion shall, however, require Special Permit and site plan review and approval by the Planning Board in accordance with Articles VI and VII of this Zoning Law. In acting on such Special Permit and site plan review, the Planning Board, shall to the extent practicable, apply the current supplemental regulations which apply to such use, and also any current design standards which apply to such use.
2. An existing building or structure, housing a nonconforming business or commercial use, may be extended and thereafter occupied by the nonconforming use, provided that the extent of such addition, whether occurring as a single addition, or as the aggregate of two or more smaller additions, does not exceed fifty percent (50%) of the gross floor area of the existing building or structure and the addition is in strict compliance with the requirements set forth for the zoning district in Article IV of this Zoning Law. Any such extension shall require Special Permit and site plan review and approval by the Planning Board in accordance with Articles VI and VII. In acting on such Special Permit and site plan review, the Planning Board, shall to the extent practicable, apply the current supplemental regulations which apply to such use, and also any current design standards which apply to such use. [\[Back\]](#)

C. Restoration After Damage.

Nothing contained in this Article shall be deemed to prevent restoration of a lawful non-conforming use, building or structure, after damage for any reason or by any cause, provided that the bulk, height and area shall not be in excess of that which existed prior to damage; that all applicable New York State Uniform Fire Prevention and Building Code provisions be fully complied with; that other applicable Zoning requirements be complied with; and that the

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restoration be commenced within six (6) calendar months of the damage and be fully completed within two (2) calendar years of such occurrence. [\[Back\]](#)

D. Termination of Certain Uses and/or Structures.

Each of the non-conforming uses and/or structures specified below is deemed to be sufficiently objectionable and out of character in the zoning district to which such use is located as to depreciate the value of other property and uses permitted in the district and otherwise inhibit the proper, safe and orderly development of such district. Therefore, each such non-conforming use must be, and shall be terminated on or before the expiration of the specified period of time after the effective date of this Zoning Law. Said period of time is specified herein as one that is reasonable to permit the amortization of the remaining value, if any, of such use.

1. Any non-conforming or non-complying sign, accessory or non-accessory which include features as prohibited in Article V Section C(1) of this Zoning Law shall be subject to the provisions of Article V(C)19 of this Zoning Law.
2. Any non-conforming billboards lawfully existing on the date of the enactment of this Zoning Law shall be subject to the amortization provisions of Article V(C)20 of this Zoning Law.
3. Any sign, excluding billboards, which include such features as are prohibited in Article V, Section C(1) of this Zoning Law which were lawfully erected prior to June 26, 1989 will have non-conforming status. However, at the time such properties, or businesses, with non-conforming signs submit an application to the Planning Board for Site Plan approval and/or Special Permit approval, the applicant will be subject to compliance by the Planning Board with the provisions of Article V(C)1.
4. Any accessory sign existing on or after the effective date of this Zoning Law which advertises a business no longer conducted; product no longer available; or service no longer provided on the premises, shall be removed from the premises by the owner of the sign and/or premises upon which the sign is located within ten (10) days after receipt of written notice from the Zoning Enforcement Officer to remove such obsolete sign.
5. Any non-conforming sign including supporting structure, unrelated to the activity on the site, except for off-premises directional signs, shall be removed not more than one (1) year from the effective date of this Zoning Law.
6. Any non-conforming automobile wrecking yard or other junk yard shall be discontinued not later than two (2) years from the effective date of this Zoning Law.
7. Any non-conforming outdoor lighting which does not contain features as provided in Article V(V) of this Zoning Law, shall be deemed to be non-conforming lighting. However, at the time the owner or lessee of the property having a non-conforming lighting submits an application to the Planning Board for Site Plan and/or Special Permit approval, the non-conforming lighting shall be subject to compliance with the provisions of Article V(V) of the Zoning Law. [\[Back\]](#)

E. Completion of Ongoing Construction.

Any construction, use or occupancy of any land, building or structure which has been lawfully commenced prior to the effective date of this Zoning Law, pursuant to a valid Special Use Permit,

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Site Plan Approval, Subdivision Approval, Variance, Operating Permit, Certificate of Use and/or Building Permit may be completed and used in accordance with the conditions of said approval and plans on file with the applicable Board, Code Enforcement Officer or Zoning Enforcement Officer, provided such construction and/or use is diligently pursued, and the building, structure or commencement of use of the land is completed within two calendar years of the adoption of this Zoning Law or within the time period specified in the applicable Approval and/or Building Permit, whichever is earlier. [\[Back\]](#)

F. Increase in Volume of Use.

Nothing herein shall prevent an increase in the volume of the Non-Conforming Use provided that the increase in volume is not a result of: (i) a change in the kind of use; (ii) the addition of structures, facilities or buildings within which the use is operated; or (iii) the alteration or enlargement of such structures, facilities or buildings. [\[Back\]](#)

G. Compliance with Environmental Performance Standards.

Notwithstanding provisions contained in this Article, all Non-Conforming Uses shall comply with the General Performance Standards set forth in Article V(A) of this Zoning Law, regardless as to whether the conduct of the use or use of the building or structure was in compliance with those General Performance Standards on the date of the enactment of this Zoning Law. [\[Back\]](#)

H. Application for Special Use Permit or Site Plan Review.

Any use, structure or building lawfully established prior to the enactment of the Zoning Law which is not prohibited by the provisions of this Zoning Law, but which requires the issuance of a Special Use Permit or Site Plan Approval, shall be deemed to be a Non-Conforming Use pursuant to this Chapter. In the event any such Non-Conforming Use, building or structure is changed in a manner which requires the approval of the Zoning Board of Appeals pursuant to this Chapter, or any Non-Conforming Use, building or structure is altered, enlarged or expanded, or any site improvements are added to the site on which the Non-Conforming Use, building or structure is operated or maintained, Special Use Permit and/or Site Plan Approval shall be obtained for any such expansions, alteration, enlargement and/or addition. During the course of such Special Permit and/or Site Plan approval process, the Planning Board shall have the power to require such changes, modifications and/or alterations in the Non-Conforming use, building and/or structure which it determines are necessary to mitigate environmental impacts of the use, building and/or structure identified during the SEQRA Review of the application, or to mitigate any adverse impacts upon neighboring properties and the community. [\[Back\]](#)