

CHAPTER

No. **AN ORDINANCE AMENDING CHAPTER 27, "ZONING", ARTICLE 20
CONCERNING NONCONFORMING USES**

Be it ordained by the City of Providence:

Chapter 27, Article 20, Section 2001 of the Code of Ordinances is amended to read as follows:

2001 - NONCONFORMING USE.

- A. **Definition.** A nonconforming use is the use of a structure or land that at one time was an allowed use within a zoning district but because of subsequent amendments to the ordinance is no longer allowed.
- B. **Expansion.** A nonconforming use of a structure or land cannot be expanded or increased in intensity. This includes expansion, extension, or relocation of a nonconforming use to any other structure on the lot, additional floor area devoted to the nonconforming use, or occupying any land area currently not occupied by such nonconforming use.
- C. **Intensification.** A nonconforming use of a structure or land cannot be intensified in any manner. Intensification includes, but is not limited to, increasing hours of operation, increasing the number of dwelling units, increasing the number of parking spaces, reducing total land area through a subdivision, or increasing the seating or occupancy capacity of any use. However, this does not prohibit the reconfiguration of existing dwelling units within a structure so long as such reconfiguration complies with the requirements of item B., above.
- D. **Relocation.** A nonconforming use cannot be relocated, in whole or in part, to any other location on the same lot. The nonconforming use may only be relocated to another structure or lot if the use conforms to all regulations of the zoning district where it is relocated.
- E. **Change of Use.**
 - 1. **Residential Districts.** Within any residential district, a nonconforming use may not be changed to any other nonconforming use. Within residential districts, a portion of a building containing a nonconforming use may be converted to a single dwelling unit, regardless of the maximum number of units permitted by the dimensional regulations in this ordinance.
 - 2. **Nonresidential Districts.** Within any nonresidential district, a nonconforming use may be changed to another nonconforming use by special use permit if the zoning board of review deems the proposed use to be less intensive than the existing use.
- F. **Discontinuation or Abandonment.**
 - 1. If a nonconforming use or a use variance permitting a nonconforming use is discontinued for a continuous period of one year, the nonconforming use or use variance is presumed abandoned and cannot be reestablished or resumed regardless of intent absent the granting of a new application for a variance, which application will be considered on its own merits without regard to any previously authorized use. Any subsequent use or occupancy of such land or structure shall comply with all regulations of the zoning district in which the structure or land is located.
 - 2. Abandonment of a nonconforming use or use variance permitting a nonconforming use consists of some overt act, or failure to act, which leads one to believe that the owner of the nonconforming use or use variance permitting a nonconforming use neither claims nor retains any interest in continuing the nonconforming use unless the owner can demonstrate an intent not to abandon the use. An involuntary interruption of nonconforming use or use variance permitting a nonconforming use, as by fire and natural catastrophe, does not establish the intent to abandon the nonconforming use.

However, if any nonconforming use or use variance permitting a nonconforming use is halted for a period of one year, the owner of the nonconforming use or use variance permitting a nonconforming use is presumed to have abandoned the nonconforming use, unless that presumption is rebutted by the presentation of sufficient evidence of intent not to abandon the use.

- G. **Damage or Destruction.** In the event that any structure that is devoted in whole or in part to a nonconforming use is structurally damaged or destroyed through no fault of the property owner or tenant, the nonconforming use may be reestablished provided that no new nonconformities are created and the degree of the previous nonconformity is not increased. If the structure containing the nonconforming use is a nonconforming structure, the structure may only be rebuilt, restored, repaired, or reconstructed in accordance with section 2002. However, if a building permit is not obtained within one year of the date of damage or destruction, then the nonconforming use may not be reestablished.