

Section 6.4 Nonconforming Structures

A. General Provisions: Where a lawful structure or building lawfully exists on the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance or subsequent amendment by reason of restrictions on area, lot coverage, height, setbacks, yards or other characteristics of the building, structure, or location on the lot, such structure or building may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. **Enlargement/Alteration:** No nonconforming structure or building may be enlarged, changed or altered so as to increase its nonconformity such as in the case of an increase in the height of a roof that currently exceeds the permitted height, an increase in the cubic area or size of a building that encroaches into a required setback, and an increase in the number of stories encroaching into a required setback area.
 - a. This subsection (1) shall not apply in the case where a single story is to be added above a one-story dwelling provided all the following requirements are met:
 - 1) The one-story dwelling complies with the District's height standards.
 - 2) The addition of a second story will maintain compliance with the District's height standards.
 - 3) All walls of the second story addition, and any dormers that are part of such addition, shall comply with the setback standards of the District.
 - 4) Any sloped roof area generally extending from the first story to a wall of the second story shall not exceed a slope of 12:12 (vertical: horizontal).
 - b. This subsection (1) shall not apply in the case where a dwelling that encroaches into a required side yard setback is to be expanded so as to cause additional floor area to encroach into the same required setback provided the following conditions are met:
 - 1) The expansion area that is to encroach into the required setback shall not exceed one (1) story in height.
 - 2) The expansion area shall not exceed a height of ten (10) feet, measured from the surrounding ground elevation to the highest point of the roof that is located within the required setback.
 - 3) The expanded floor area shall not exceed an area greater than fifty percent (50%) of the floor area that currently encroaches into the required setback area but in no case shall such expanded floor area exceed one-hundred fifty (150) sq. ft., and the expansion area shall not exceed a height of ten (10) feet measured from the surrounding ground elevation to the highest point of the roof that is located within the required setback.
 - 4) No wall of the expansion area shall extend beyond the existing wall encroaching into the required setback so as to be closer to the lot line than the existing nonconforming wall, and in no case shall the expansion area setback be less than fifty percent (50%) of the required District setback.
 - 5) The total first story floor area of the expanded dwelling shall not exceed the maximum allowable first story floor area according to the buildable area of the specific lot in question, based on required setbacks, building/lot coverage limitations, and other applicable standards of this Ordinance.
2. **Destruction:** Should a nonconforming structure or building be destroyed by any means to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, it shall not be reconstructed except in full conformity with all of the provisions of this Ordinance, including the site development standards for the respective District. In identifying the extent of destruction and the cost to replace the damaged structure or building, the Zoning Administrator may seek a written opinion from a qualified building appraiser and the opinion shall include the basis for the opinion. The limitations of this subsection (2) shall not apply when all of the following conditions are met:
 - a. The walls of the replacement structure or building shall not extend beyond the foundation and plane of the previous structure or building.
 - b. The replacement structure or building shall be set back from all lot lines a minimum distance equal to fifty percent (50%) of the District's setback standards.
 - c. A building permit for the erection of the replacement structure or building is issued within one

- (1) year of the previous destruction, and the replacement structure or building is completed to an extent equal to fifty percent (50%) or more of its construction cost within two (2) years of such destruction.
- d. The replacement structure or building is no more nonconforming than the previous structure or building except as may be permitted according to subsection (1) above.
3. Relocation: Should a nonconforming structure or building be moved for any reason for any distance, it shall thereafter conform to the regulations for the District in which it is located after it is moved.
4. Minor Repairs: A nonconforming structure or building may undergo ordinary non-structural repairs and maintenance, including the repair and refurbishing of wall exteriors, fixtures, wiring or plumbing, provided there is compliance with subsections (a) and (b) below unless otherwise permitted according to subsection (1), above. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.
- a. The nonconformity existing at the time of Ordinance adoption or amendment shall not be increased or intensified, including the cubic area of any nonconforming portion of such structure or building.
- b. No structural alterations shall be undertaken, as in the case of the relocation of load-bearing walls.