



NON-CONFORMING USES

Legal non-conforming uses are: (1) uses that have existed prior to the adoption of zoning (July 20, 1961); or (2) lawful uses that were in existence when the regulation or map was amended and became non-conforming as a result of the amendment.

In *Campion v. Board of Aldermen* the Connecticut Courts have recognized non-conforming uses as “A nonconformity has been defined as a use or structure [that is] prohibited by the zoning regulations but is permitted because of its existence at the time that the regulations [were] adopted. . . . For a use to be considered nonconforming . . . that use must possess two characteristics. First, it must be **lawful** and second, it must be **in existence** at the time that the zoning regulation making the use nonconforming was enacted.” (Emphasis added; internal quotation marks omitted.) *Horace v. Salem Zoning Board of Appeals*, 85 Conn. App. 162, 165 n.5, A.2d (2004). *Susan C. Campion et al. v. Board of Aldermen of the City of New Haven et al.*

The goal of zoning is to create a consistent compliance throughout the district; therefore non-conformities are not considered a positive element, and the regulations have been written with the goal of extinguishing non-conformities.

The Connecticut General Statutes protect legal non-conforming uses, however the Zoning Regulations have been designed to discourage the expansion of this type of use.

Use, Non-Conforming. Use of a structure or land or both which does not conform to the applicable Use Regulations of these Regulations either on its effective date or as a result of subsequent amendments thereof. Any use that is permitted in a District by a valid variance or Special Use Permit shall be considered a conforming use.

Section 1.2.2 Stonington Zoning Regulations

Protect your rights.

- Permitting is the best way to document your rights as a property owner as it will aid in creating a case for lawful and in existence as described in the Campion case.
- Pay attention to land use proposals and decisions.

NONCONFORMITIES

- A **non-conforming lot** is a property that fails to meet the Bulk Requirements of the Zoning District in which it is located;
- A **non-conforming use** is a use, which is not permitted in the Zoning District in which the property is located.
- **Legal Non-conformity.** A Legal Non-conforming Use is allowed to continue to operate on the site and could seek additional permits. No action can be undertaken without approval from the Zoning Enforcement Officer.
- **Illegal Non-conformity.** An Illegal Non-conforming Use constitutes a violation of the Zoning Regulations and could be subject to Zoning Enforcement Action to remedy the violation.

WHAT HAPPENS IF MY PROPERTY BECOMES NON-CONFORMING?

- You are allowed to continue the use that is being conducted on the property, provided you have proof that this is a lawful use.
- You will not be allowed to expand the use of the property. No building expansions are permissible.
- You should take action to document the use that is on the premises through the permitting process. If you do not have a permit to conduct the activity that is currently operating on the premises, you should secure that permit.

NOTICE: Staff Commentaries are opinion position papers, and should be considered biased.
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