

**(RESTORATION & SUBSTANTIAL IMPROVEMENTS)****(Amend) 1.3 Definitions**

Floor Area, Gross: The sum of the gross floor area of all floors in all structures on a lot, but excluding any space where the floor to ceiling height is less than six feet. The gross area is measured from the exterior faces of exterior walls or from the centerline of a party or common wall. All portions of the structure's space with a height of fourteen feet or greater from floor to ceiling shall be calculated as two floors and each additional seven feet as an additional floor. Included in the measurement of floor area are: all interior stairwells, elevator shafts, utility rooms, roofed porches, roofed carports, roofed decks, unenclosed breezeways, roof decks and balconies. Excluded from the measurement: a basement, to the extent it is located four feet or more below the surface, **and** any portion of interior space with structural headroom of less than six feet, **and any floor area regardless of ceiling height below the Base Flood Elevation that is the result of a substantial improvement or restoration to a building or structure in the Flood Hazard Area.**

**Non-Conforming Building or Structure:** ~~A building or structure, the size, dimension, or location of which was lawful prior to the adoption, revision, or amendment to the Zoning Regulations but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.~~ **A structure which existed lawfully prior to the enactment of these Regulations, or any amendment thereto, which does not comply with the restrictions as to size, nature of construction, location of the structure on the land, or location of the structure in proximity to other buildings required by the Regulations adopted subsequent to its construction, and which is continuously maintained after the effective date of such Regulations, or amendments thereto.**

**2.9. Non-Conforming Uses and Structures****2.9.2. Non-Conforming Structures**

For purposes of these Regulations, a non-conforming structure shall be defined as a structure which existed lawfully prior to the enactment of these Regulations, or any amendment thereto, which does not comply with the restrictions as to size, nature of construction, location of the structure on the land, or location of the structure in proximity to other buildings required by the Regulations adopted subsequent to its construction, and which is continuously maintained after the effective date of such Regulations, or amendments thereto.

**(Amend) 2.9.2.1** Any non-conforming **building or other** structure ~~lawfully existing at the time of the adoption of these Regulations~~ may be continued to be used, as long as such use is either permitted within the district in which it

is located, or is a legal, non-conforming use. Such structure may be renovated, providing the following conditions are met:

- ~~a. No new non-conformity or increased encroachment results.~~
- ~~b. No non-conforming use is established or expanded.~~
- ~~c. The work meets the definition of renovation in Section 1.3.~~
- ~~d. A Special Permit is obtained which satisfies the conditions of Section 10, however no Special Permit is required if (a) the work consists solely of exterior renovations which only require approval under Section 2.6 or (b) site plan requirements are waived per Section 9.2.1.~~

(Add)

**2.9.2.2. A non-conforming building or structure may be renovated provided the following conditions are met:**

- a. No new non-conformity or increased encroachment results.**
- b. No nonconforming use is established or renovated.**
- c. The work meets the definition of a renovation in Section 1.3.**
- d. A Special Permit is obtained which satisfies the requirements of Section 10. However, no Special Permit shall be required if (a) the work consists solely of exterior renovations that require approval only under Section 2.6 or (b) site plan requirements are waived per Section 9.2.1, or (c) the proposed renovations are themselves conforming.**

(Amend)

**2.9.3 Restoration, and Repair and Substantial Improvement**

**2.9.3.1.** Nothing in these Regulations shall be deemed to prohibit the restoration of any non-conforming **building or other** structure and its use where such **building or other** structure has been destroyed or **substantially damaged** by means out of control of the owner, provided the restoration of such a **building or other** structure and its use in no way increases any former non-conformity (**except as provided below**), and provided further that restoration of such a **building or other** structure is begun within one year after the date of such destruction **or substantial damage** and all construction is diligently pursued to completion within ~~two~~ **three** years following the date of such destruction **or substantial damage**.

**If the restoration of the building or other structure would be required to conform to Section 3.3.2.6 of these regulations, the restoration shall comply with the following additional conditions:**

- a. ***The restoration must not increase the height of the building or other structure by more than the minimum amount necessary to meet the requirements of Section 3.3.2.6 for construction in a Flood Hazard Area.***
- b. ***The total amount of habitable space in any building or other structure shall not be increased as a result of the restoration.***

***When a restoration pursuant to Section 3.3.2.6 is permissible under the foregoing provisions:***

1. ***The addition of floor area below the Base Flood Elevation (BFE) for storage, building entry and parking of vehicles, which floor area is not intended for human habitation, shall not count towards the Floor Area calculation.***
2. ***When the previously existing exterior walls of a building or structure were non-conforming in terms of setback, extension of the exterior walls in a vertical plane as a result of raising the structure to comply with the construction requirements of Section 3.3.2.6 shall not be considered an extension of a non-conformity***

**2.9.3.2.** In order to insure that structures containing non-conforming uses will be maintained in a safe and decent condition for so long as such non-conforming uses continue, nothing in these Regulations shall be deemed to prohibit the following:

- a. Work to be done on ordinary repairs, or on repair or replacement of walls, ceilings, floors, fixtures, wiring, or plumbing, in the non-conforming structure or non-conforming portion of the structure, as the case may be, provided such work does not expand or increase the extent of non-conformity.
- b. Any work required by the codes and ordinances of the Town of Stonington as ordered by any Town or Borough official charged with protecting the public health, safety, or welfare, if such work does not enlarge or extend a non-conforming use or otherwise increase any non-conformity.

**(Add)**

**2.9.3.3. *Any non-conforming building or other structure may be substantiality improved if necessary to meet any of the requirements of Section 3.3.2.6 of these Regulations, provided the following additional conditions are met:***

- a. ***The substantial improvement must not increase the height of the building or other structure by more than the minimum necessary***

***to meet the requirements of section 3.3.2.6 for construction in a Flood Hazard Area.***

- b. The total amount of habitable space in any building or other structure shall not be increased as a result of the substantial improvement.***

***When a substantial improvement is permissible under the foregoing provisions:***

- 1. The addition of floor area below the Base Flood Elevation (BFE) for storage, building entry and parking of vehicles, which floor area is not intended for human habitation, shall not count towards the Floor Area calculation.***
- 2. When the existing exterior walls of a building or structure are non conforming in terms of setback, the extension of the exterior walls in a vertical plane as a result of raising the structure to comply with the construction requirements of Section 3.3.2.6 shall not be considered an extension of a non-conformity.***