

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

Jeff Levine, AICP, Director

Ann Machado, Zoning Administrator

December 23, 2015

To Whom It May Concern:

Under the City's Land Use Ordinance 14-385 (see attached), there is an allowance to rebuild a legal, nonconforming building after it is destroyed by sudden or accidental acts or due to decay. This section of the Ordinance applies to all areas and zones within the City of Portland, Maine.

Yours truly,

A handwritten signature in black ink, appearing to read "Ann B. Machado", with a long horizontal flourish extending to the right.

Ann B. Machado

Zoning Administrator

- (b) In a B-1 zone, from any use permitted in a B-3 zone to any use permitted in a B-2 zone.
- (c) In a residence zone, from any use permitted in a B-2 zone to any use permitted in a B-1 zone.
- (d) In a residence zone, from any use permitted in any other residence zone to any use permitted in a more restricted residence zone. For the purpose of this subsection, an R-6 zone shall be deemed the least restricted and an R-2 zone shall be deemed the most restricted, with the intervening zones restricted in order of zone number.

(Code 1968, § 602.17.D; Ord. No. 499-74, § 8, 8-19-74)

Sec. 14-385. Restoration or reconstruction within an existing footprint of damaged nonconforming structure.

A nonconforming structure damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay or otherwise may be restored or rebuilt only where:

- (a) The restoration or reconstruction is of a building which is nonconforming only as to land area, setbacks or any other dimensional requirements; and
- (b) Where the restoration or reconstruction will occur entirely within the existing footprint and previous shell of the building and will not create a new nonconformity; and
- (c) Restoration or reconstruction occurs within one (1) year for a nonconforming non-residential structure, or two (2) years for a nonconforming residential structure, of the initial damage where such damage is sudden and accidental. Note that for buildings in Shoreland zones, stte regulations may also govern and provide for a shorter period for restoration or reconstruction of non-conforming structures; and
- (d) Restoration or reconstruction necessitated by decay must be completed within one (1) year of the demolition of the building or the commencement of the restoration or reconstruction, whichever occurs first; and
- (e) Any reconstruction, under this provision, in the residential R-6 zone on a lot with 10,000 square feet or less, other than the exact restoration of a previously

existing building on the site, shall comply with the applicable standards contained within the Planning and Development Design Manual; and

- (f) A nonconforming building located in the R-6 which is destroyed by fire, explosion, flood, riot, act of the enemy, or accident may be rebuilt under the small residential lot development provisions of the R-6 zone as if the lot were vacant as of January 1, 2005 and such reconstruction shall meet the setback requirements contained therein to the extent practicable; otherwise the building shall be reconstructed within the footprint of the previously existing building such that any nonconformity will not be enlarged.

For the purpose of this section, the footprint of a building is the perimeter of the foundation supporting a structure.

(Code 1968, § 602.17.E; Ord. No. 89-88, 7-19-88; Ord. No. 284-99, §2, 5-17-99, enacted as an emergency; Ord. No.254-05/06, 6-5-06; Ord. No. 61-07/08, 10-1-07; Ord. No. 240-09/10, 6-21-10; Ord. No. 139-12/13, 2-4-13)

*Editor's note—Ord. No. 89-88, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 89-88.

Sec. 14-386. Discontinuance of use of land for ninety days.

A nonconforming use of land where no buildings or only incidental or accessory buildings are employed together with such use shall not be changed to any other nonconforming use, and if such use is discontinued for a period of ninety (90) days, it shall not be reestablished.

(Code 1968, § 602.17.G)

Sec. 14-387. Discontinuance of use of property.

If a legally nonconforming non-residential use is discontinued for a period of twelve (12) months or if a legally nonconforming residential use is discontinued for a period of twenty-four (24) months, such discontinuance shall constitute an abandonment of the use and the property shall not thereafter be occupied or used except in conformity with the provisions of this article. In cases of foreclosure or similar situations involving a legally nonconforming residential structure, the Planning Authority shall be authorized to extend the aforementioned period up to an additional five (5) years provided that the extension is for good cause and the minimum length considered necessary to resume the