



CITY OF SAINT PAUL
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Date: May 13, 2009

To: DSI Staff

From: Wendy Lane
Zoning Manager

Re: **Policy - Reestablishment of discontinued nonconforming uses**

The following policy will apply in implementing Sec. 62.106(g) of the Saint Paul Zoning Code.

Sec. 62.106(g). Nonconforming uses of structures, or structures and land in combination.

When a nonconforming use is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the building, or building and land in combination, shall thereafter be used in conformance with the regulations of the district in which it is located, unless the planning commission approves a permit to reestablish the nonconforming use as set forth in section 62.109(e).

- This section applies to buildings with a nonconforming use where the use has been discontinued or ceases to exist. However, it does not apply to a vacant unit within a multiple family building because a vacancy generally denotes availability. Additionally, it does not apply to a conforming use that has been discontinued or ceases to exist because Sec. 62.106 only applies to nonconforming uses and not conforming uses.
- There must be verifiable evidence that the nonconforming use has been discontinued or has ceased to exist for a continuous period of more than 365 days before this section can be applied. It is considered verifiable evidence if the property has been a registered vacant building for more than 365 days.
- To provide notification to the property owner, the Code Compliance letter that is done for Category 2 and Category 3 vacant buildings will indicate whether the use of the property is nonconforming and if so, the date the nonconforming status expires (365 days after the vacant buildings folder was created). If the use is nonconforming, a copy of Sec. 62.106(g) will be included in the Code Compliance letter and the property owner will be advised that once the nonconforming status expires, the property may only be used for a conforming use unless a reestablishment of nonconforming use permit is granted.

- To prevent the accidental issuance of a code compliance repair permit, all vacant buildings with two or more dwelling units that have been registered on the vacant buildings list for more than 365 days and that have a nonconforming use status in the info field in Amana will be flagged by means of a zoning warning folder prohibiting the issuance of any permit unless it is for a conforming use or the planning commission (or City Council on appeal) grants a reestablishment of nonconforming use permit.
- The reestablishment of nonconforming use permit is regulated under Sec. 62.109(e) of the zoning code. There is an application fee (currently \$650), a public hearing would be held and the process generally takes one month. The planning commission's decision is appealable to the City Council within 10 days; there is another filing fee (currently \$435) and the timing is generally an additional month. The findings the planning commission must make follows. Please note that finding (5) requires a petition from the neighboring property owners.

Sec. 62.109(e) *Reestablishment of nonconforming use.*

When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:

- (1) The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose;
- (2) The proposed use is equally appropriate or more appropriate to the district than the previous nonconforming use;
- (3) The proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare;
- (4) The proposed use is consistent with the comprehensive plan; and
- (5) A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.