

Rebuilding structures and continuing uses damaged by the storm



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Many of the communities affected by Superstorm Sandy consisted of older homes and businesses that have existed since before local zoning regulations were put into effect. Many local zoning codes have regulations that limit the rebuilding of structures and the resumption of discontinued uses which do not comply with current codes. Because of this, these regulations may apply even if your building was damaged or your business was discontinued due to a natural disaster such as Sandy.

The most common regulations restrict or prohibit the reconstruction of these "non-conforming" buildings and businesses which were damaged by more than 50% unless you obtain special permission from the local zoning board, town board or board of trustees. These regulations may also prevent you from resuming your business or residential use if that use is not currently permitted, and it has been "discontinued" or "abandoned" for a period of time ranging anywhere from six months to two years.

In addition to local zoning regulations, other restrictions may exist by virtue of federal regulations (e.g., Fire Island National Seashore) or local cooperative restrictions (e.g., Breezy Point), as well as state and county regulations.

Fortunately, some municipalities are relaxing their restrictions to make it easier for owners to restore their property to pre-Sandy condition. It is advisable to engage experienced land use counsel to help you determine whether your building or use was non-conforming, and whether you will be able to rebuild without special permission, and, if not, to advise you as to the most efficient path and provide assistance with your application.

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