



**TITLE #: 81**

**Ordinance #: 08-06-19-054**

**Date: August 9, 2019**

**ORDINANCE for the Revision of  
Article 5 – Section 5-3C1 and Addition of Definitions to the  
Town of Cheswold Land Use Ordinance**

**DESCRIPTION:** This Ordinance has been created to revise the definition for the elimination of a “grandfathered” status, as it relates to structures destroyed by more than 50% of its replacement cost at the time of destruction.

This Ordinance does not change the Article number or Article title or any part of Article 5-3 C2 or Article 5-3 C3.

**Section 1. PURPOSE:**

The purpose of this Ordinance is to revise Article 5-Section 5-3C1, Termination of Legal Non-Conforming Status, as currently defined in the Land Use Ordinance of the Town of Cheswold, to provide a precise and definitive explanation of the parameters required for the termination of a non-conforming status, associated to structures which do not conform to the requirements of the Land Use Ordinance including permitted uses by zoning codes.

Section 4 of this Ordinance also provides for associated definitions to be added to Article 2 of the Land Use Ordinance.

**Section 2. AUTHORITY TO ACT**

The Town Charter of the Town of Cheswold:

- 2.1.1 Section 4.2.25**, authorizes the Town Council to provide for and preserve the health, peace and safety, cleanliness, ornament, good order and public welfare of the Town and its’ inhabitants.
- 2.1.2 Section 4.2.48**, authorizes the Town Council to make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules and By-Laws not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town.

**Section 3. APPLICABILITY**

The provisions of this Ordinance shall be applied to all structures destroyed by any means by 50% or more of its' replacement cost at the time of the destruction, without exception.

**Section 4. ADDITION of DEFINITIONS**

The following terms and words shall have the following meaning/s and be added to Article 2 Definitions of the Cheswold Land Use Ordinance:

**4.1 Alteration** — any construction or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit. There are three (3) levels associated to alternations:

- **Level 1:** Includes the removal and replacement for the covering of existing materials, elements, equipment or fixtures using new materials, elements, equipment or fixtures that serve the same purpose.
- **Level 2:** Includes the re-configuration of space, the addition or any door or window, the reconfiguration or extension of any system, or the installation of any additional equipment.
- **Level 3:** Level 3 alterations apply where the work area exceeds 50% of the aggregate area of the building.

**NOTE:** *For additional specifications concerning alternations, see Article 5-Section 5-3C1 of this Land Use Ordinance and all applicable chapters of the currently approved and adopted version of the International Residential and associated International Existing Building Codes.*

**4.2 Grandfather/ed Status** — is a structure that may continue to exist as lawful and not be required to meet the standards of adoptions, revisions or amendments of the Town of Cheswold Land Use Ordinance.

**4.3 Non-conforming Structure** — is any structure that was lawful prior to the adoption, revision or amendment of the Town of Cheswold Land Use Ordinance, but as a result of the adoption, revision or amendment of said Ordinance no longer complies with the current provisions of said Ordinance.

**4.4 Repair** - is the reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

**4.5 Replacement Cost** — is the amount that an entity would have to pay to **replace** an asset at the present time, according to its current worth.

**Section 5. DESCRIPTION OF REVISION of ARTICLE 5-SECTION 5-3C1**

Article 5-Section 5-3C1, Termination of Legal Non-Conforming Status of the Town of Cheswold Land Use Ordinance which currently reads as follows:

*"When a non-conforming structure, or a non-conforming portion of a structure is destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, non-conforming status is terminated unless **reconstruction** of the structure commences within twelve, (12), months time of said destruction"*

shall be removed in its' entirety and replaced as follows:

*"When a non-conforming structure, or a non-conforming portion of a structure is destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, non-conforming status is terminated unless **alternation/s** of the structure commences within twelve, (12), months time of said destruction **and the alteration/s must be completed as specified in the currently approved and adopted International Residential and associated International Existing Building Codes.**"*

**Section 6 - EFFECTIVE DATE**

This ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage and adoption.

**Ordinance No. 08-06-19-054 entitled, Revision of Article 5-Section 5-3C1 and Definitions of the Town of Cheswold Land Use Ordinance**, was posted for public notice on September 9, 2019, as required and the Public Hearing was held at 6:00 pm on October 7, 2019.

I, Robert W. Sine, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of **Ordinance No. 08-06-19-054 entitled, Revision of Article 5-Section 5-3C1 and Definitions of the Town of Cheswold Land Use Ordinance**, passed by affirmative vote of all elected Members of the Cheswold Town Council at a regularly scheduled Town Council Meeting, (or Special Meeting), held on October 7, 2019, at which a quorum was present and voting throughout, and that the same is still in force and effect.

Certified: \_\_\_\_\_

  
Mayor Robert W. Sine

Date: October 7, 2019

ATTEST: \_\_\_\_\_

  
Secretary/Treasurer Theon E. Callender

Date: October 7, 2019

Agreed: \_\_\_\_\_

  
Vice-Mayor Larence Kirby

Date: October 7, 2019




Agreed:

  
Councilperson Judith Johnson

Date: October 7, 2019

Agreed:

  
Councilperson Santo Faronea

Date: October 7, 2019

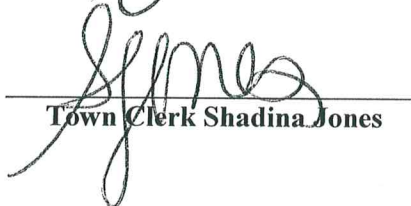
Agreed:

  
Councilperson Mark Moxley

Date: October 7, 2019



NOTARIZED:

  
Town Clerk Shadina Jones

Date: October 7, 2019

Sponsored by: Theon E. Callender– Councilperson  
Co-Sponsor: N/A - Councilperson

Introduction: September 3, 2019

**READINGS & REVIEWS:**

Engineer Review – Tom Wilkes, P.E.  
Planning Commission Review  
1<sup>st</sup> Council Reading  
2<sup>nd</sup> Council Reading  
3<sup>rd</sup> Council Reading  
Public Hearing

August 16, 2019  
August 19, 2019  
September 3, 2019  
October 7, 2019  
October 7, 2019  
October 7, 2019