

## **ARTICLE VII NONCONFORMING USES**

### **Section 1. Purpose and Intent.**

If, within the districts established by this Ordinance, or by amendments that may later be adopted, there exist lots, structures, and use of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited under the terms of this Ordinance, it is the intent of this Ordinance to permit these non-conformances to continue until they are removed, but not to encourage their continuance. Such non-conformances are declared by this Ordinance to be incompatible with permitted uses in the districts in which they are located.

It is further the intent of this Ordinance that non-conformances shall not be enlarged upon, expanded, or extended, or used as grounds for adding other structures, or uses prohibited elsewhere in the same district.

### **Section 2. Nonconforming Lots of Record.**

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by the other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot which was recorded prior to the date it became legally nonconforming. Such lot must be in separate ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Board.

If two (2) or more lots or combination of lots and portions of lots with continuous frontage in single ownership, are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet at least eighty (80%) percent of the requirements, for lot width and area, for the zone in which they are located, as established by the Ordinance, the lands involved shall be considered to be an undivided parcel, for the purpose of this Ordinance, and no portion of said parcel shall be used or sold which does not meet width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

### **Section 3. Nonconforming Uses of Open Land.**

This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junk yards, golf driving ranges, and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this Ordinance, in the district in which it is located.

- A. When a nonconforming open use of land has been changed to conforming use, it shall not thereafter be used for any nonconforming use.
- B. Nonconforming open uses of land shall not be changed to any but conforming uses.
- C. A nonconforming open use of land shall not be enlarged to cover more than was occupied by that use when it became nonconforming.
- D. When any nonconforming open use of land is discontinued for a period of ninety (90) days any future use of the land shall be limited to those uses permitted in that district under the provisions of this Ordinance. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

### **Section 4. Nonconforming Uses of Structures.**

This category of nonconformance consists of structures used, at the time of passage of this Ordinance, for purposes not permitted in the district in which they are located.

- A. A nonconforming use of a structure may be changed to a conforming use.
- B. A nonconforming use of a structure shall not be changed to another nonconforming use.
- C. When a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- D. A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use, except those required by law or Ordinance or ordered by the Zoning Administrator to secure the safety of the structure.
- E. When any nonconforming use of a structure is discontinued for a period of six (6) months, any future use of the structure shall be limited to those uses permitted in

that district under the provisions of this Ordinance. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

- F. Nonconforming Signs. *See Article VI Design Standards, Section 2 Signs, (L) Nonconforming Signs.*

**Section 5. Non-Conforming Structures.**

When a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No structure may be enlarged or altered in a way which increases its non-conformity.
- B. Should such a structure be moved for any reason for any distance whatever it shall hereafter conform to the regulations for the district in which it is located after it is moved.

**Section 6. Repairs and Maintenance.**

On any structure on a nonconforming lot, a structure containing a nonconforming use, or a nonconforming structure, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10%) percent of the current replacement value of the buildings, provided that the cubical content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Should such building or structure be destroyed by any means to an extent of more than fifty (50%) percent of its replacement cost or bulk, exclusive of foundations and land value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any County Building Inspections official charged with protecting the public safety, upon order of such official.

**Section 7. Nonconformance Created by Changes in Zoning Boundaries or Regulations.**

Any nonconformance created by a change in district boundaries or ordinance regulations after the date of passage of this Ordinance shall also be governed by the provisions of this section.

**Section 8. Special Uses are Conforming.**

Any use for which a Special Use Permit is issued, as provided in this Ordinance, shall without further action be deemed a conforming use unless otherwise provided in this Ordinance or otherwise provided as a condition of issuance of such permit. Any extension by or addition to such use shall meet all requirements of this Ordinance.

**Section 9. Changes of Tenancy and/or Ownership.**

There may be a change in tenancy or ownership of an existing nonconforming use or structure, provided there is no change in the nature or character of such nonconforming use or structure except as provided herein and all other applicable requirements of this Article are met (e.g., parking, screening, landscaping, etc.).