

ARTICLE 9
NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

SECTION 901 INTENT

Within the zoning districts established by this Ordinance or subsequent amendments thereto, there may exist or will exist certain nonconforming uses of structures and/or land which if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such uses would be prohibited, regulated or restricted under the terms and provisions of this Ordinance or subsequent amendments thereto.

SECTION 902 NONCONFORMING LOTS OF RECORD

In any zoning district, structures, both principal and accessory, maybe erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and sideyard requirements for the zoning district in which such lot is located. Variances from the governing yard requirements in any Zoning District, including but not limited to using the existing foundation and/or footprint of a prior structure, may be obtained only through action of the Zoning Hearing Board.

If two (2) or more adjacent lots, with continuous frontage, in single ownership, are lots of record at the effective date of the adoption or amendment of this Ordinance, and if such lots do not meet the required lot area and/or width requirements, such lots shall be considered to be an undivided parcel and no portions of such parcel shall be used or sold in a manner which further diminishes compliance with the required lot area and/or width requirement for the zoning district in which such lots are located.

SECTION 903 CONTINUATION OF NONCONFORMITY

Any lawful nonconforming use and/or nonconforming structure may be continued except as otherwise provided in this Article, but any nonconforming use and/or structure shall not be enlarged, reconstructed, structurally altered or changed except as permitted by provisions of this Article.

SECTION 904 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The Zoning Officer may prepare and maintain an accurate listing of all nonconforming uses and structures. The Zoning Officer or the property owner may initiate the process of certifying the nonconformity of a given property. The Zoning Officer shall issue a Certificate of Nonconformity where he finds the use or structure, although not in compliance with all applicable requirements of the zoning district in which it is located, to be a lawful nonconforming use or structure.

SECTION 905 CHANGES OF NONCONFORMING USES

The Zoning Hearing Board may grant a special exception to allow one (1) nonconforming use to be changed to another nonconforming use, if the Board finds that all of the following provisions will be met:

- A. No structural alterations are made.
- B. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.
- C. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.
- D. There shall be no increase in the danger of fire or explosion.
- E. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
- F. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.

SECTION 906 ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES

The Zoning Hearing Board may grant a special exception for the enlargement of a nonconforming use and/or structure, if the Board finds the following standards will be met:

- A. The enlargement will not replace a conforming use.
- B. The nonconforming structure and/or use, after enlargement, shall comply with the yard and lot coverage requirements applicable to the zoning district in which it is located.
- C. The use and/or structure, after enlargement, shall comply with all applicable off-street parking and/or loading requirements for said use and/or structure.
- D. Not more than one (1) enlargement of a nonconforming use and/or structure shall be permitted.
- E. A nonconforming structure and/or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot shall be prohibited, even if such adjoining lot was in the same ownership at the effective date of the adoption of this Ordinance.

- F. The enlargement shall not exceed twenty-five (25%) percent of the floor area or land area as it existed at the time the structure or use first became nonconforming.

SECTION 907 RESTORATION OF USE

Any voluntary and/or unintentional destruction of a nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than sixty (60%) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

When damage is less than sixty (60%) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage, unless a variance is secured from the Zoning Hearing Board.

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.

SECTION 908 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

908.1 NONCONFORMING USE AND/OR STRUCTURE

A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than sixty (60%) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

908.2 CHANGE OF NONCONFORMING USE

Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one (1) nonconforming use, without approval by the Zoning Hearing Board, shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.

908.3 ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed abandoned, if it is changed as set forth in Section 908.2 of this Ordinance or if it is discontinued for a continuous period of one (1) year and the owner of said property fails to obtain a Certificate of Intention in accordance

with Section 909 of this Ordinance which indicates his or her intent to resume the nonconforming use.

908.4 UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to lack of maintenance or repairs and has been legally condemned, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.

SECTION 909 CERTIFICATE OF INTENTION FOR A NONCONFORMING USE

A Certificate of Intention shall be required in any instance when a nonconforming use of a structure, building and/or land is to be discontinued for a period of more than one (1) year and the owner or operator of the nonconforming use wishes to maintain a legal nonconforming status. A Certificate of Intention form shall be completed by the owner or operator of the discontinued nonconforming use. Said completed Certificate of Intention form shall be submitted to and approved by the Zoning Officer. The applicant shall indicate in writing the reason or basis for the discontinuation of the nonconforming use and the anticipated date on which the nonconforming use will resume. A Certificate of Intention, as issued and approved by the Zoning Officer, shall be valid for a period of one year from the date of issuance. A Certificate of Intention may be renewed annually by the owner or operator of the nonconforming use. Failure to renew a Certificate of Intention shall constitute a deemed abandonment of the use and forfeiture of the legal nonconforming use status of the property. A Certificate of Intention may not be renewed to exceed a period of two years beyond the original date of issuance.