

ARTICLE 15
NONCONFORMING LOTS
NONCONFORMING USES OR LOTS
NONCONFORMING STRUCTURES
NONCONFORMING USES OF STRUCTURES AND PREMISES
AND
NONCONFORMING CHARACTERISTICS OF USE

SECTION 15.01 – INTENT: Within the district established by this Ordinance or amendment that may later be adopted there exists:

- A. Lots,
- B. Structures,
- C. Uses of land and structures, and
- D. Characteristics of use

which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricts under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed. It is further the intent of this Ordinance that nonconformities shall not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavations or demolition or removal of an existing building has been carried on diligently.

SECTION 15.02 - NONCONFORMING LOTS OF RECORD:

In any district a permitted building and customary accessory buildings may be erected on any single lot on record at the effective date of adoption or amendment of this Ordinance, not

withstanding limitations imposed by other provisions of this Ordinance, except for the limitations set forth in the provisions found in Article 6, Sections 6.02, 6.03, and 6.05 of this Ordinance and in the definition of “Farm” set forth in Article 1 of this Ordinance. 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 this district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Hearing Board.

SECTION 15.03 - NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY): Where at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000 the use may be continued so long as it remains lawful, provided;

- A. If any nonconforming use of land ceases or is abandoned for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- B. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

SECTION 15.04 - NONCONFORMING STRUCTURES: Where 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 restriction on area, lot coverage, height, yards, its location on the lot, or other requirements, concerning the structure; such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. Any alterations, improvements or enlargement of a nonconforming structure shall conform to any and all districts requirements (i.e. lot area, coverage, building height, and yard requirements) of the district in which it is located.

A nonconforming single family dwelling, or portion thereof, may be extended along established, existing building lines provided:

1. The extension meets all other applicable yard, lot coverage and height regulations, and;
 2. Extension or enlargement along the nonconforming setback shall be limited to a maximum one hundred (100) percent increase of the area of the land covered by the portion of the structure that is in a nonconforming status. Extension or enlargement in a conforming manner shall not be subject to the one hundred (100) percent limitations. Any extension or enlargement shall be regulated by other applicable yard, lot coverage, and height restrictions.
- B. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, it shall not be reconstructed in a manner which increases its nonconformity.

- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 15.05 - NONCONFORMING USES OF STRUCTURES OR OF

STRUCTURES AND PREMISES IN COMBINATION: If lawful use involving individual structures with a replacement cost of \$1,000 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged or extended except on contiguous property owned at the time of adoption of this Ordinance.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance.
- C. Any nonconforming use of a structure, or structure and premises, may as a Special Exception be changed to another nonconforming use provided that the Zoning Hearing Board, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Hearing Board may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than ninety (90) percent of the replacement cost at the time of destruction.
- F. If any nonconforming uses of buildings or of buildings and premises in combination should cease for any reason for a period of more than two (2) years, any subsequent use of the building or of the building and premises in combination shall conform to the regulations specified by this Ordinance for the district in which the building or buildings and premises are located.
- G. All nonconforming signs, billboards, junk storage areas, storage areas and similar nonconforming uses of open land, when discontinued for a period of thirty (30) days or damaged to an extent of sixty (60) percent or more of the replacement cost, shall not be continued, repaired or reconstructed.

SECTION 15.06 - REPAIRS AND MAINTENANCE: Nothing in this Ordinance shall be deemed to prevent any repairs or maintenance of a nonconforming building or structure.

SECTION 15.07 - USES UNDER SPECIAL EXCEPTION PROVISIONS NOT

NONCONFORMING USES: Any use which is permitted as a Special Exception in a district under the terms of this Ordinance (other than a change through Zoning Hearing Board action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

SECTION 15.08 - NONCONFORMING SIGNS: A sign erected, constructed, or placed before the effective date of this Ordinance may remain and continue to be used and maintained notwithstanding that it does not conform to the applicable provisions or Article 18 of this Ordinance; provided that not such sign shall be altered or relocated unless the same shall either conform or be made to conform in all respects with the applicable provisions of Article 18 of this Ordinance and provided further that every such sign which does not so conform shall within five (5) years of the date of enactment of this Ordinance, be either removed or made to conform as stated in Article 18 of this Ordinance.