

**ARTICLE VII**  
**NONCONFORMING USES, BUILDINGS AND LOTS**

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**701 PURPOSE**

The purpose of this article is to provide for the continuation of uses that do not conform to the existing zoning, but which were in operation prior to the enactment of this Resolution or amendments thereto, but not to encourage their continuation. It is the intent of this article that nonconforming uses and structures be afforded reasonable opportunities for extension, but not be used as grounds for adding other structures or uses prohibited elsewhere in the same district. It is also the purpose of this article to impose limitations on the development of substandard lots.

**702 POLICY**

The lawful use of any building or land existing at the effective date of this Resolution or amendments thereto may be continues, although such use does not conform with the provisions of this Resolution.

**703 REGULATIONS**

- A. Alterations. A building, structure, lot or parcel containing a nonconforming use may be altered, improved or reconstructed provided that:
1. A nonconforming structure may be altered or enlarged to extend such structure to a total area not to exceed twenty-five percent (25%) more than the existing area of the structure, provided that the alteration or enlargement shall comply with the current regulations of the district in which it is located.
  2. A nonconforming use may be altered or enlarged to extend the area of such use to a total area not to exceed twenty-five present (25%) more than the legally existing area of the use, provided that the alteration or enlargement shall otherwise comply with the current regulations of the district in which it is located. Provided, however, that the area or intensity or nature of a use shall not be altered or enlarged in any manner which creates or increases a nuisance or hazard affecting or potentially affecting the surrounding properties or the community.

- B. Nonconforming to Nonconforming Use. A nonconforming use may not be changed to another nonconforming use unless the Zoning Commission determines that the proposed use is less in conflict with the character and uses in the district than the existing nonconforming use.
- C. Restoration. This Resolution shall not prevent the reconstruction, repairing, rebuilding and continues use of any nonconforming building or structure damaged by fire, collapse, explosion or acts of God subsequent to the date of this Resolution, wherein the expense of such work does not exceed sixty percent (60%) of the replacement cost of the building or structure at the time such damage occurred.
- D. Construction Approved Prior to Resolution. Nothing in this Resolution shall prohibit the completion of construction and use of a nonconforming building for which a zoning certificate has been issued prior to the effective date of this Resolution or any amendment provided the following:
1. That construction was commenced within 90 days after the issuance of such certificate.
  2. That construction is carried on diligently and without interruption for a continuous period in excess of 30 days.
  3. That the entire building shall have been completed within one (1) year after the issuance of the zoning certificate.
- E. Displacement. No nonconforming use shall be extended to displace a conforming use. When a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not hereafter be changed to a less restricted or nonconforming use. A nonconforming use may be changed to another nonconforming use provided that the changed nonconforming use is identical or in less conflict with the character and use of the district than the existing nonconforming use as determined by the Board of Zoning Appeals.
- F. Discontinuance or Abandonment. Whenever a nonconforming use has been voluntarily discontinued for a period of two (2) years or more, any further use shall be in conformity with the provisions of this Resolution.
- G. Unsafe Structures. Nothing in this Resolution shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

- H. Conditional Uses. All legally nonconforming uses which exist at the time of passage of this Resolution or amendments hereto and which are conditional uses in their respective districts under this Resolution shall be issued conditional zoning certificates within one (1) year after the passage of this Resolution or amendments hereto by the Board of Zoning Appeals. Failure by the Board to issue a conditional zoning certificate within one (1) year shall not affect the status of the use as a legal nonconforming use.

#### 704 CERTIFICATE OF NONCONFORMING USE

Within one (1) year of the effective date of this Resolution or any amendment, the Zoning Inspector shall issue a "Certificate of Nonconforming Use" to all owners of legal nonconforming use property, the use of which does not conform to the provisions of the district in which the property is located. No use of land, buildings or structures shall be made other than that specified on the "Certificate of Nonconforming Use" unless said use shall be in conformance with the provisions of the district within which the property is located. A copy of each "Certificate of Nonconforming Use" shall be filed with the Board of Zoning Appeals and a copy retained by the Zoning Inspector. The nonconforming status of the use shall not be affected if a Certificate of Nonconforming Use is not issued.

#### 705 NONCONFORMING LOTS

- A. Single Nonconforming Lot of Record. In any district in which single family dwellings are permitted, a single-family dwelling and customary accessory structures may be erected on a single lot of record conforming to the Resolution at the time it was recorded, even though the lot now fails to meet the requirements for lot area or lot width, or both, of this Resolution. The lot shall comply with the following:
1. The lot must be in separate ownership and control from any adjacent lot
  2. Prior to issuance of a zoning certificate, the owner shall submit an affidavit certifying that the lot was not in common ownership or control at the time the lot was made nonconforming by amendment of the Resolution.
  3. The lot shall comply with all other applicable requirements of this Resolution, including but not limited to required yard dimensions.
- B. <sup>1</sup>Nonconforming Lots of Record in Combination. Legally created lots of record as of the effective date of this amendment, containing at least 1 ½ acres and with 150 feet of frontage, shall be considered buildable lots despite their failure to meet the area and frontage requirements adopted herein, provided that this

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<sup>1</sup> Amended 08-10-1998

exception should not apply to more than two (2) lots of continuous frontage existing under common ownership on the date this section is effective.