

ARTICLE 5 NONCONFORMITIES

SECTION 500 CONTINUATION

Except as otherwise provided in this section, any use, building, or structure lawfully existing at the time of enactment of this Ordinance may be continued, although it is not in conformity with the regulations specified by this Ordinance. To be “lawfully existing,” the use shall have been permitted under the prior Zoning Ordinance (by right, by special exception, or by conditional use), or shall have been a nonconforming use allowed under the prior Zoning Ordinance.

SECTION 501 ABANDONMENT

If a nonconforming use of land or of a building or structure ceases or is discontinued for a continuous period of one (1) year, or more, subsequent use of such building, structure, or land shall be in conformity with the provisions of this Ordinance.

SECTION 502 EXTENSION OF A NONCONFORMING USE OF LAND

Any lawful nonconforming use of land (exclusive of buildings and structures and the use contained therein), may only be extended upon the lot on which it exists, provided such extension shall be limited to a distance of a total of one hundred fifty (150) feet in any one or combination of directions from the existing nonconforming use, or to an area equal to 50% of the existing nonconforming use, whichever is the lesser. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence at the time the use became nonconforming under this Ordinance, or the prior Zoning Ordinance. Such extension shall also conform to current area and lot regulations and to the current design standards of this Ordinance.

SECTION 503 EXPANSION OR ALTERATION

503.1. Any nonconforming use of buildings or structures and the use contained therein may only be expanded or altered through the obtainment of a special exception and subject to the following criteria, and those contained in Section 604.3.:

1. Expansion of the nonconformity shall be confined to the lot on which it was located at the time the use became nonconforming;
2. The total of all such expansions or alterations of use shall not exceed an additional one hundred percent (100%) of the actual area of those buildings or structures devoted to the nonconforming use as they existed on the date on which such buildings or structures first became nonconformities. The applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created;
3. Provision for vehicular access, off-street parking and off-street loading shall be consistent with current standards required by this Ordinance;
4. Provision for yards, building height and building area shall be consistent with the current standards required for permitted uses in the zone in which the nonconformity in question is located;

5. Appearance should be harmonious with surrounding properties; this feature includes but is not limited to landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance of all improvements and open spaces;
6. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, plantings and open spaces;
7. The expansion shall not create new dimensional nonconformities. Any dimensional nonconformity of an otherwise conforming structure may be reduced by permitted use. No extension or enlargement of a dimensional nonconformity relating to yard, height or building area requirements shall be permitted;
8. No expansion of a nonconforming structure or a nonconforming use located outside of a structure existing on the effective date of this Ordinance shall be permitted in any floodplain; and,
9. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming use or structure located in a floodplain shall be permitted only when either elevated above the base flood elevation or floodproofed. In no case shall any modification, alteration, repair, reconstruction or improvement cause unacceptable increases in flood height, velocities or frequencies.

503.2. Any dimensional nonconformity may be reduced by permitted use. The extension or enlargement of a dimensional nonconformity may also be permitted by right if such extension or enlargement is limited to no more than ten percent (10%) of the dimensional nonconformity than when it was created.

SECTION 504 SUBSTITUTION OR REPLACEMENT

Any nonconforming use may be replaced or substituted by another nonconforming use by special exception, if the Zoning Hearing Board determines that the proposed use is no more incompatible with, and no more detrimental to, the surrounding area, than the original nonconforming use. In addition, the proposed nonconforming use shall not increase any dimensional nonconformities. The Zoning Hearing Board may attach reasonable conditions to the special exception to lessen the use's incompatibility with its surroundings.

SECTION 505 RESTORATION

Any lawful nonconforming building or other structure which has been damaged or destroyed by fire, explosion, windstorm, or other cause may be reconstructed in the same location, provided that:

- 505.1.** The reconstructed building or structure shall not exceed the height, area, or volume of the damaged or destroyed building or structure and such reconstructed building or structure shall not increase any dimensional nonconformities; and,
- 505.2.** Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption.

SECTION 506

PREVIOUSLY EXPANDED NONCONFORMING USES AND STRUCTURES

It is the express intent and purpose of this Ordinance that if a building, structure, sign or use of land was expanded or extended to the limits of expansion for a nonconforming building, structure, sign, or use of land as authorized by the prior Zoning Ordinance, no further expansion of said building, structure, sign, or use of land shall be authorized. In the event a nonconforming building, structure, sign, or use of land was expanded to a portion of the limits of expansion authorized by the prior Zoning Ordinance, additional expansion if permitted by this Ordinance, shall only be authorized to the amount of expansion not previously utilized pursuant to said the prior Zoning Ordinance.

SECTION 507

NONCONFORMING LOTS OF RECORD

In any zone in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any lot of record not meeting the minimum lot size requirement which was in existence on the effective date of the Ordinance. (An undeveloped remainder of an agriculturally-zoned parent tract from which all legally-permitted lots have been subdivided shall not be considered a lot of record qualifying for an additional dwelling.) For purposes of this section, when two or more nonconforming lots for which a subdivision plan has been recorded, are contiguous and are in single ownership, they become held in common as one (1) parcel and require a variance from the Zoning Hearing Board to re-subdivide the parcel. This shall apply regardless of the number of deeds held by the owner, up to the number required to make the lot conforming. Nonconforming contiguous lots under single ownership as of the date of adoption of this Ordinance which are thereafter sold shall not qualify for dwellings, unless they can be made conforming. Development on nonconforming lots of record shall comply with all yard, height and building area requirements, unless a variance is granted by the Zoning Hearing Board.