

## ARTICLE 5

### NONCONFORMING STRUCTURES AND USES

#### Section 5.1 Nonconforming Structures

##### 5.1.1 General Intent

Within the districts established by this Ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which are lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

It is the intent of this Ordinance to permit these nonconforming uses to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance.

##### 5.1.2 Nonconforming Lots of Record

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

##### 5.1.3 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 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:

No such structure may be enlarged or altered in a way which increases its nonconformity.

Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

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.

#### 5.1.4 Nonconforming Uses of Structures

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

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, but no such use shall be extended to occupy any land outside such building.

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 in which such structure is located, and the nonconforming use may not thereafter be resumed.

When a nonconforming use of a structure, or structure and premises in combination is discontinued or abandoned for one year, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

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.

#### 5.1.5 Nonconforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance, lawful uses of land exist that are no longer permissible under the terms of this Ordinance as enacted or amended, such uses may be continued, so long as they remain otherwise lawful, subject to the following provisions:

No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;

If any such nonconforming use of land ceases for any reason for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

## Section 5.2 Construction Authorized or in Progress

### 5.2.1 Building Permit Issued

If, before the effective date of these regulations or amendment thereof, a building permit authorizing construction was lawfully issued, such construction may be started or continued after such date, subject to the provisions of Section 7.2.3.

### 5.2.2 Areas Previously Not Under Zoning Jurisdiction

If, before the effective date of these regulations or amendment thereof, construction was started at a location not then subject to these regulations and was subsequently diligently pursued, and such construction on such date did not conform to such regulations, such construction may be continued after such date provided in Section 7.2. For the purposes of this section, construction shall be deemed to have been started before such date if the Board of Adjustment finds, on application, that before such date the foundation had been completed or costs equalling five percent of the total estimated construction cost had been incurred and would be lost if construction were not permitted to proceed.

