

**ARTICLE VIII
NONCONFORMITIES**

Section 8.01 Intent

Within the districts established by this Ordinance, or amendments hereinafter adopted, there may exist lots, structures, used of land and structure which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed and to permit reasonable extensions as allowed by law.

Section 8.02 When Permitted

8.02.01 Existing Land or Buildings

Any use of land or buildings existing on the effective date of this Ordinance may be continued, even though such use does not conform to the provisions herein so long as such use was in conformity with the zoning ordinance in effect in the Municipality at the time that the use or structure was established. No nonconforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as specifically provided in this Ordinance.

8.02.02 Construction Commenced

Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Ordinance, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Ordinance, may be used for nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within two (2) years from the date of adoption of this Ordinance of amendment thereto making said use nonconforming.

Section 8.03 Substitution

The planning and Zoning Commission may allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided no structural alterations except those required by law or ordinance are make. No additional signs or sign area intended to be viewed from off the premises shall be allowed for any nonconforming business use existing in a district where single-family homes are a permitted use.

Section 8.04 Extension

No nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

- A. The Commission may permit, on a once-only basis a building containing a nonconforming use to be enlarged to an extend not exceeding fifty percent (50%) of the ground floor area of the existing building or structure devoted to a nonconforming use at the time of enactment of this Ordinance or at the time of its amendment making the use nonconforming. The commission, except under conditions of a variance pursuant to Article VI above, shall not authorize an extension which would result in a violation of the provision of this Ordinance with respect to any adjoining premises, or which would occupy ground space required for meeting the yard or other requirements of this Ordinance.
- B. No nonconforming building or structure shall be moved in whole or in part to any other location unless such building or structure and the yard and other open spaces provided are made to conform to all of the regulations of the district in which such building or structure is to be located.
- C. Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate R-District.
- D. Any structure which is nonconforming due to its location or configuration on the lot, resulting in lot coverage or yards inconsistent with the requirements of the zoning district where it is located, may be enlarged, extended or structurally altered in a manner that decreases or maintains its existing degree of nonconformity, but in no case shall such structure be enlarged, extended or structurally altered in a manner that increases its degree of nonconformity.

Section 8.05 Discontinuance

A nonconforming use which has been abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned wherever any one of the following conditions exist:

- A. When the use has been voluntarily discontinued for a period of two (2) years.
- B. When the nonconforming use has been replaced by a conforming use.

Section 8.06 Damage and/or Destruction of a Nonconforming Building or Use

When a building or structure, the use of which does not conform to the provisions of this Ordinance, is damaged by fire, explosion, act of God, or the public enemy, it may be restored or rebuilt and continued in such nonconforming use, provided that the restoration or rebuilding is commenced within six (6) months of the time of damage, that construction is completed within one (1) year, and that such restoration or rebuilding would not extend or expand the existing use. If the restoration or rebuilding of the structure involves extension or expansion of the use, then the provisions of Section 8.04 shall apply.

Section 8.07 Maintenance and Repair

Nothing in this chapter shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use as follows:

- A. When required by law.
- B. To convert to a conforming use.
- C. A building or structure containing residential nonconforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.

Section 8.08 Nonconforming Lots of Record

In any district where dwellings are permitted, a one-family detached dwelling or accessory building if the lot is already occupied by a one-family residence, may be erected on any lot of official record on the effective date of this Ordinance, even though such lot does not comply with the lot area and width requirements of the district in which it is located, provided said lot width minimum area of 3,000 square feet and at least twenty-five (25) feet of lot width with frontage on a public street; and further provided the following conditions are complied with:

- A. If the owner of such lot does not own adjacent property and did not own adjacent property at the time this Ordinance became effective:
 - 1. In any district where dwellings are permitted, two (2) inches may be deducted from the required minimum width of each side yard and four (4) inches from the required minimum width of both side yards for each foot that the lot is narrower than required width for the district. In no case, however, shall any side yard be narrower than three (3) feet.

2. For lots having a depth of less than 110 feet, the depth of the rear yard need not exceed 25 percent of the total depth of the lot, but shall not be less than twenty (20) feet.

B. If the owner of such lot owns adjacent property, or owned such property at the time this Ordinance became effective, the modification of lot area and yard dimensions as set forth hereinbefore shall not apply, except as follows: In order to erect a dwelling or dwellings thereon, the owner of two (2) or more adjacent lots fronting on the same street shall redivide the lots in such a manner that they conform with the lot area and yard requirements for a single-family dwelling in that district where the lots are located. However, if the average width of the lots resulting from such redivision would exceed the required lot width for a single family dwelling by more than fifteen (15) feet, such redivision, if any, may be made so as to provide one (1) more building lot than would otherwise be permitted. In such case, the provisions of Section 8.08A. relating to the reduction of side and rear yards shall apply.