

- A. Only that Portion of the land or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, substituted, or moved, except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
- B. Total Lifetime Structural Repairs or alterations to a nonconforming structure shall not exceed 50 percent of the municipality's equalized value of the structure at the time of its becoming a Nonconforming structure unless it is permanently changed to conform to the use provisions of this Ordinance.
- C. Substitution of New Equipment may be permitted by the Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use or structure with the neighboring uses.

17.0802 NONCONFORMING USES, STRUCTURES AND LOTS

- A. Intent: Within the jurisdiction and the districts established by this ordinance, there are lots, structures and uses of land which were lawful before the passage or amendment of this ordinance or prior zoning regulations, but which are prohibited, regulated, or restricted under the terms of this ordinance. The intent of this ordinance is to allow these nonconformities to continue, subject to limitations, until they are removed and to not assist or encourage their survival. It is the further intent of this ordinance that nonconforming lots, structures and or uses of land shall not be enlarged, expanded, extended or enhanced, nor used as grounds for adding other prohibited structures or uses. Nonconforming uses are declared to be incompatible with permitted uses in the various districts.
- B. Application: This ordinance shall affect all land, structures, and uses of land and structures and shall apply as follows:
 - (1) New Uses and Construction: After the effective date of this ordinance all new uses, structures and development shall comply with this ordinance, including district regulations.
 - (2) Conforming Uses and Structures: Land, structures, and uses of land which comply with this ordinance, including district regulations, may be continued, provided that any structural changes or additions or changes in use must conform fully to this ordinance.
 - (3) Nonconforming Uses and Structures: Land, structures and 1 or more uses of land or structures which are prohibited by- or are inconsistent with this ordinance shall be considered nonconforming may be continued only subject to the limitations stated herein, and should be eventually discontinued under the provisions of this ordinance.
- C. Continued Use of Nonconforming Property: Nonconforming properties may be continued in use as set forth below:
 - (1) Nonconforming Lots of Record: In any district permitting single family dwellings by right, a single family dwelling and customary accessory buildings may be erected on any single lot lawfully recorded before the adoption of this ordinance or amendments hereto provided this single lot is not adjacent to any other lot of record under the same ownership which, if combined, would allow for the meeting of area and setback requirements. This provision shall apply if the single lot fails to meet the minimum lot size

or width requirements of the district. Yard space and other dimensional requirements of the district shall continue to apply.

- (2) Adjoining Lots: When two or more lots with continuous frontage are in one ownership at any time after the adoption of this ordinance and such lots are individually less than the minimum area or width required in a district, such lots shall be considered as a single lot or (if sufficient land exists) several lots of required area and width and shall be combined to the extent necessary to achieve a lot or lots of the area and width required in the district. Such lots shall comply with all yard spaces and other dimensional requirements of the district.

D. Nonconforming Structure: A lawful structure which existed at the time of adoption or amendment of this ordinance, but which does not comply with this ordinance by other restrictions relating to the structure, may be continued, so long as it remains otherwise lawful, subject to the following limitations:

- (1) Enlargement and Alterations: Nonconforming structures shall not be enlarged and shall not be altered in any way which increases their nonconformity, but may be altered to decrease their nonconformity.
- (2) Moving: If nonconforming structures are moved, for any reason, they shall thereafter conform to the regulations of the ordinance.
- (3) Repairs and Maintenance: Ordinary maintenance, repairs and alterations of a nonconforming structure are permitted, provided that they do not increase area or nonconformity. Normal maintenance, repairs, and alterations shall be considered work not exceeding fifty (50) percent of the structures replacement cost.
- (4) Deteriorated and Dilapidated Structures: If any nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by an authorized official to be unsafe or unlawful by reason of its physical condition, the structure shall not be restored, repaired, or rebuilt except in conformity with this ordinance.
- (5) Substantially Damaged Structures: If a nonconforming structure or nonconforming portion of a structure is damaged or destroyed by any means to an extent greater than fifty (50) percent of its replacement cost at the time of the damage, it may be reconstructed only in conformity with this ordinance.

E. Nonconforming Uses: A use of land/or structures which was lawful prior to the adoption of this ordinance, but which does not comply with the use regulations of this ordinance, may be continued, so long as it remains otherwise, subject to the following provisions:

- (1) Extension or Enlargement: No conforming use of land or structures shall be enlarged, expanded, increased, or extended beyond the floor space and land area occupied or be carried on in a more intensive manner than existed at the time of adoption of this ordinance, except that a nonconforming use may be extended within a building to any parts already clearly arranged and designed for such use.

- (2) Relocation on Lot: No nonconforming use of land shall be relocated or significantly rearranged in whole or in part on the same lot unless it thereafter conforms to this ordinance.
- (3) Discontinuance: If active operation of a nonconforming use is discontinued for any reason for a continuous period of 180 days, or suspended at any time by a permitted use, any subsequent use of the land shall conform fully to this ordinance.
- (4) Damage or Dilapidated Structure: If a structure or part thereof occupied by a nonconformity use is damaged, destroyed, or becomes deteriorated to an extent greater than fifty (50) percent of its replacement cost at the time of damage or discovery of deterioration, the structure may not be repaired for or to a nonconforming use.

17.0803 ABOLISHMENT OR REPLACEMENT

If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water, shall conform to the provisions of this Ordinance.

- A. When a Nonconforming Structure is Damaged by fire, explosion, flood, or other calamity, to the extent of more than 50 percent of its current equalized value, it shall not be restored except so as to comply with the use provisions of this Ordinance.
- B. A Current File of all nonconforming uses and structures shall be maintained by the Zoning Administrator listing the following: property location, use of the structure, land, or water; and the date that the structure or use became nonconforming.

17.0804 EXISTING SUBSTANDARD STRUCTURES

The use of a structure existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform with the established building setback line along arterial streets and highways, or the yard, height, parking, loading, access, and lot area provisions of this Ordinance.

- A. Additions and Enlargements to existing substandard structures on conforming or nonconforming lots shall be permitted as long as the addition or enlargement does not further encroach on side, rear, or front lot lines than the existing structure. However, height, parking, loading and access provisions of this ordinance must be maintained.
- B. Existing Substandard Structures which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed and insofar as is practicable shall conform with the established building setback lines along arterial streets and highways and the yard, height, parking, loading, and access provisions of this Ordinance.
- C. Existing Substandard Structures may be moved and, insofar as is practicable, shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Ordinance.

17.0805 CHANGES AND SUBSTITUTIONS

Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with this Ordinance, it shall not revert back to a nonconforming use or substandard structure. Once the Board of Appeals has permitted