

Article 19

NONCONFORMING LOTS, USES and STRUCTURES

Section 19.01 Purpose

It is recognized that there exists lots, structures and uses of land and structures within the districts established by this Ordinance and subsequent amendments, which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance or subsequent amendment. It is the purpose of this Article to permit legal nonconforming lots, structures and uses to continue until they are removed or discontinued, and to provide for their maintenance and repair but not their expansion, enlargement, extension or other alteration which in any way increases its nonconformity, except as otherwise provided by this Article.

Section 19.02 Nonconforming Lots

A. Notwithstanding limitations imposed by other provisions of this Ordinance, any use and customary accessory structures may be erected on any single lot of record in existence at or before the effective date of adoption or amendment of this Ordinance, where such use is an authorized use by right in said District according to Article 10, even though such lot fails to meet the requirements for area, width, and/or frontage that are generally applicable in the district. However, all yard dimensions, setbacks and other requirements not involving area, width, and/or frontage, shall conform to the regulations for the district in which such lot is located unless a variance is obtained through approval of the Zoning Board of Appeals.

1. If two or more lots or combinations of lots and portions of lots share one or more common boundaries and are in single ownership of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for area, width, and/or frontage, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used or divided in a manner which diminishes compliance with the lot area, lot width and lot frontage requirements established by this Ordinance.

Section 19.03 Nonconforming Uses

A. Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming use shall be enlarged or increased in area or bulk, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. However, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
2. No 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.
3. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
4. Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and lot may be changed to another nonconforming use of less nonconformance, provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the District than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose of this Article. Where a nonconforming use, structure, or use and structure in combination is hereafter changed to a less nonconforming character, it shall not thereafter be changed to a greater nonconforming character.
5. Any nonconforming use of land or structure, or combination thereof, which is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such use is

located, and the nonconforming use may not thereafter be resumed.

6. If a nonconforming use of a parcel or lot ceases for any reason for a period of more than one hundred and eighty (180) consecutive days or eighteen (18) months during any three (3) year period, the subsequent use of such parcel or lot shall thereafter conform to the regulations and provisions of this Ordinance for the district in which such lot is located.

Section 19.04 Nonconforming Structures

A. 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 or subsequent amendment by reason of restrictions on area, lot coverage, height, setbacks, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity except that, in the case where a structure is nonconforming due to its encroachment into the required front yard setback, that portion of the nonconforming structure that encroaches into the front yard setback may be enlarged or altered provided such enlargement or alteration does not occur to any portion of the structure within twenty-five (25) feet of a road right-of-way nor cause any portion of such structure to extend any closer to the right-of-way line than the structure did prior to the effective date of this Ordinance or amendment thereto.
2. Should a nonconforming structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, it shall not be reconstructed except in conformity with the provisions of this Ordinance, including the respective site development standards for the district in which it is located. In identifying the extent of destruction and the cost to replace the damaged structure, the Zoning Administrator shall seek a written opinion from a qualified building appraiser and the opinion shall include the basis for the opinion.
 - a. The limitations of this subsection shall not apply in the case where the construction of the replacement structure is on the same foundation as the previous structure, the replacement structure is completed to an extent equal to fifty percent (50%) of its construction cost within eighteen (18) months of the previous structure's destruction, and the replacement structure is no more nonconforming than the previous destroyed structure.
3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. Where nonconforming status applies to a structure and use in combination, removal or destruction of the structure to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, shall eliminate the nonconforming status of the land, and all subsequent uses and structures on the land shall conform to the applicable district regulations.

Section 19.05 Repairs and Maintenance

A. Nonconforming Structure: No nonconforming structure may undergo repairs or maintenance that has the effect of increasing its nonconformity. See also Section 19.04(A)(2).

B. Nonconforming Use: On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten (10) percent of the then building's replacement cost prior to the initiation of repairs, exclusive of foundations, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

C. Unsafe Building: Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.

Section 19.06 District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Article shall also apply to any existing lots, uses and structures that become nonconforming as a result of the boundary changes.

Section 19.07 Illegal Nonconformities

Nonconforming lots, uses and structures existing at the effective date of this Ordinance or amendment thereto, that were established without approval of zoning compliance or without a valid building permit, or those nonconforming lots, uses and structures that cannot be proved conclusively as existing prior to the effective date of this Ordinance or amendment thereto, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses by this Article.

End of Article 19