

**ARTICLE XI                   NONCONFORMING LOTS AND USES**

**Section 1100.               NONCONFORMING DEVELOPMENT**

**Section 1105.               TITLE AND PURPOSE**

Sections 1100 through 1118 shall be known as the Nonconforming Development Provisions. The purposes of these provisions are:

- A.     To assure reasonable opportunity for use of legally created lots which do not meet current minimum requirements for the district in which they are located (nonconforming lots).
- B.     To assure reasonable opportunity for use, maintenance, and improvement of legally constructed buildings, structures, and site development features which do not comply with current minimum requirements for the district in which they are located.
- C.     To assure reasonable opportunity for continuation of legally established uses which do not conform or comply with current use regulations for the district in which they are located.
- D.     To limit continuation and expansion and encourage eventual replacement of nonconforming uses having potentially undesirable impacts on surrounding conforming uses.

**Section 1108.               RESTRICTIONS ADDITIVE**

Regulation applicable to a nonconforming use are in addition to regulations applicable to a nonconforming structure, and in event of any conflict the most restrictive provision shall apply.

**Section 1109.               DETERMINATION OF VALUE**

The value of structures for purposes of these Nonconforming Development Provisions shall be determined by the Building Official in accordance with the valuation established by the latest County appraisal for property tax purposes.

**Section 1110.               SUBSTANDARD LOT: RESIDENTIAL USE**

A substandard lot may be used for any residential use allowed by these Zoning Regulations within the district in which the substandard lot is created.

A substandard lot of record after November, 1973 shall mean a lot having a minimum site area of less than 5000 square feet, and having a minimum width of less than 50 feet at the street or at the building.

**Section 1115.               SUBSTANDARD LOT: NONRESIDENTIAL USE**

A substandard lot may be used for any nonresidential use allowed by the zoning regulation within the district in which the substandard lot is located, provided such use complies with all other provisions of the Zoning Regulations.

**Section 1118. ABUTTING LOTS IN COMMON USE**

When a substandard lot is used together with one or more contiguous lots for a single use or unified development, all of the lots used, including any lots used for off-site parking, shall be considered a single lot for the purposes of these Zoning Regulations.

**Section 1120. NONCONFORMING STRUCTURES**

A nonconforming structure may be continued and may be enlarged, maintained, repaired or altered. Except as provided in Section 1128, no such enlargement, maintenance, repair or alteration shall either create an additional noncompliance or increase the degree of existing noncompliance of all or any part of such a structure. No building, structure or property shall be made nonconforming solely as a result of a change in the use, zoning or development of adjacent property. No building, structure or property which complied with the Zoning Regulations in effect immediately prior to the date of adoption of these Revised Zoning Regulations shall be deemed to have become or shall become nonconforming due to the passage of these Revised Zoning Regulations.

**Section 1122. NONCONFORMING STRUCTURES: DAMAGE OR DESTRUCTION**

Nothing in this section shall prevent the substantial restoration, of a building within a period of twelve months, following damage or destruction by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind unless the nonconforming structure is in a FEMA-designated floodway. Any property which did not comply with the zoning regulations in effect prior to the adoption of this ordinance will be regulated in a manner consistent with the previously existing resolution.

**Section 1125. NECESSARY REPAIRS**

The Building Official may order unsafe nonconforming structure to be restored to a safe condition. Any such order is subject to the provisions of Section 1122 regulating the repair or restoration of partially damaged or destroyed nonconforming structures.

**Section 1128. NONCONFORMING STRUCTURES: PERMITTED INCREASES IN NONCOMPLIANCE**

- A. Height. A building which is noncomplying with respect to the height limits of these Zoning Regulations may be altered in a manner which increases the noncompliance, provided the total area exceeding the height limit shall not increase by more than 15 percent, and the height limit shall not exceed the height of that portion of the existing building which is in noncompliance.
- B. Yards. A building which is noncomplying with respect to required yards of these Zoning Regulations may be altered in a manner which extends the degree of noncompliance, provided the length of any such alteration or enlargement shall not extend more than 25 feet parallel to the lot line, the alteration or enlargement shall not extend further into the required yard than the existing noncomplying

portion of the building. This provision shall apply separately to each required yard with which the existing structure does not comply.

- C. Nonconforming structures shall be limited to one alteration as provided by subsection A, and one alteration as provided by subsection B of this section.

**Section 1130. NONCONFORMING USE**

No use of a building, structure (other than a sign) or property which conformed with the zoning regulations in effect immediately prior to the date of adoption of these Revised Zoning Regulations shall become or be deemed to have become nonconforming due to passage of these Revised Zoning Regulations.

**Section 1132. NONCONFORMING USE: DAMAGE OR DESTRUCTION OF STRUCTURES**

If the structure accommodating or serving a nonconforming use is damaged or destroyed to the extent that the cost of reconstruction or restoration will exceed 50 percent of evaluation for tax purposes of the structure immediately prior to the damage, the structure may not be rebuilt, and the nonconforming use may not be resumed, but any substantial changes in the structure shall require Planning Commission approval.

**Section 1135. NONCONFORMING USE: REVISION OF NONCONFORMANCE**

If a nonconforming use is changed to a conforming use, the nonconforming use shall be resumed.

**Section 1137. NONCONFORMING USE: CONDITIONAL USE PERMIT REQUIREMENT**

When a nonconforming use which is a conditional use in the district in which it is located is deemed a nonconforming use, and is subject to the Nonconforming Development Provisions. The Planning Commission may approve a Conditional Use Permit for any such nonconforming use under the provisions of Section 1020 of Article X.

**Section 1140. NONCONFORMING USE: DISCONTINUANCE**

When a nonconforming use of land, or a nonconforming use of all or part of a structure, is discontinued or abandoned for a period of 90 consecutive days, such use shall not be resumed, notwithstanding any reserved intent not to abandon such use. Normal, seasonal cessation of a use, temporary discontinuance for purposes of maintenance, rebuilding after damage or destruction per Section 1122 or 1132, or improvements permitted by the Nonconforming Development Provisions shall not be included in determination of the 90 day period of discontinuance.

**Section 1145.**

**NONCONFORMING USE PROVISION**

The following provision shall apply to a nonconforming use:

- A. A nonconforming use occupying an open site, or conducted within or utilizing structures valued at less than \$2,500 shall be discontinued within 10 years following the date on which such use became a nonconforming use, or 10 years after January 1, 1993 whichever day is later. Maintenance or improvement of structures associated with the nonconforming use shall be limited to that required by law to meet minimum health and safety requirements, and the value of any such improvements shall not be used in determining the value of improvements associated with the use.
- B. A nonconforming use may be continued, and structures associated with the use may be maintained, provided no nonresidential use shall be enlarged or expanded in terms of floor space utilized, site area occupied, nor any change be made in the nature of the use which would result in an increase in required off-street parking.
- C. Structures associated with the nonconforming use may be improved, enlarged, or structurally altered, provided the total cost of such improvement shall not exceed 20 percent of the value of the structure prior to such improvement in minimum health and safety requirements, or improvement to a portion of structure used solely for a conforming use shall not be used in determining valuation under this provision.
- D. When authorized by a Conditional Use Permit, a nonconforming use may be replaced by another nonconforming use of a similar nature. A Conditional Use Permit authorizing a substitute nonconforming use shall require a finding of facts by the Planning Commission that the substitute will not have a greater undesirable impact on surrounding uses than the original use, in terms of traffic generation, noise hours of operation, number of employees, or such other measures deemed significant by the Commission.