

ARTICLE 10

NONCONFORMITIES

10.00 PREAMBLE

This Ordinance establishes separate districts, each of which is an appropriate area for the location of the uses which are permitted in that district. Within such districts, however, there exist lots, structures, uses of land and structures, and characteristics of uses which were lawful before this Ordinance was passed or amended, but which are prohibited, regulated or restricted under the terms of this Ordinance or future amendments hereto.

Recognizing both the legitimate interest of those who lawfully established such a nonconformity and the need to protect the public health, safety, comfort and general welfare, the provisions of this Article are intended to provide for the regulation of nonconformities within the following:

10.00-A It is the intent of this Article to permit most nonconformities to continue until they are removed, but not to encourage their survival.

10.00-B It is the intent of this Article 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.

10.00-C It is recognized and declared that those nonconformities which substantially and adversely affect the orderly development, maintenance, use and taxable value of other property in the district (property that is itself subject to the regulations of this Ordinance) should eventually be eliminated.

10.01 CONTINUANCE OF NONCONFORMING STRUCTURES AND USES

Any nonconforming structure or principal use which exists lawfully at the time of the adoption of this Ordinance and which remains nonconforming or which shall become nonconforming upon the adoption of this Ordinance or any subsequent amendment thereto, may be continued only in accordance with the provisions of Article 10.01-A and 10.01-D.

Any use of the property other than the principal use shall be brought into conformity immediately unless otherwise provided for in this Ordinance.

10.01-A Nonconforming Structures

No nonconforming structure shall be:

1. Structurally altered;
2. Added to or enlarged in any manner;
3. Moved or relocated, in whole or in part; or
4. Restored or reconstructed if damaged or destroyed if the cost of reconstruction or restoration will exceed fifty(50) percent of the replacement cost of the entire structure at that time except as otherwise permitted by Article 10.01-D Exceptions and Article 10.02 Nonconforming Lots of Record (O-94-04).

10.01-B Nonconforming Use of Land

No nonconforming use of land shall be:

1. Renewed if abandoned for a period of six consecutive months;
2. Expanded or extended beyond the area it occupied on the effective date of this Ordinance or;
3. Changed, except if such change will make the use conforming.

10.01-C Nonconforming Use of a Building or Structure

No nonconforming use of a building or structure shall be:

1. Renewed if abandoned for a continuous period of one (1) year;
2. Expanded or extended into any part of a building or structure not occupied by such use on the effective date of this Ordinance; or
3. Changed, except if such change will make the use conforming.

10.01-D Exceptions (0-80-12)

1. Structural alterations or repairs of a nonconforming building required by law shall be permitted.
2. In the C-1, Village Center District, a nonconforming structure may be structurally altered if such structural alteration does not result in the enlargement of the exterior dimensions of the structure.
3. Provided that the result is to change the status of a structure or use from nonconforming to conforming; such a structure or use may be:
 - a. Structurally altered;
 - b. Added to or enlarged;
 - c. Moved or relocated, in whole or in part;
 - d. Expanded or extended;
 - e. Changed; or
 - f. Restored or reconstructed.

4. When the cost of reconstruction or restoring a damaged, nonconforming structure is less than fifty (50) percent of the placement cost of the entire structure, it may be restored or reconstructed if initiated within one year of partial destruction and diligently pursued to completion.
5. Ord. O-94-04
 - a. No nonconforming structure located in a residential district shall be structurally altered or enlarged in such a manner that would further increase the non-conformity. However, enlargements or structural alterations may be permitted providing there is no increase in the existing encroachments.
 - b. A nonconforming structure located in a residential district and occupied by a Permitted or Special Use may be structurally altered, enlarged or restored. Alterations, enlargement or restoration in excess of fifty percent (50%) of value at the time of such action may only be made upon approval of the Board of Trustees following a hearing by the Board of Zoning Appeals. Such proposed alteration, addition, enlargement or restoration may not adversely affect the value, use and enjoyment of surrounding properties. Single family residences shall be governed by the provisions of Article 10.02-A,2,b and Article 10.02-B.

10.02 NONCONFORMING LOTS OF RECORD

Nonconforming lots of record as herein defined may be used as permitted in Article 2.02-B and in accordance with the following:

10.02-A Separate Ownership

A nonconforming lot of record owned separately and individually from all adjoining tracts of land shall be subject to the following provisions:

1. Permitted Uses

- a. In residential districts a nonconforming lot of record may be used for a single family dwelling and accessory use.
- b. In a nonresidential district a nonconforming numbered lot in a recorded subdivision may be used for any permitted, accessory, special or temporary use allowed in the district in which it is located. (Ord. O-94-04)

2. Zoning Requirements (Ord. O-94-04)

a. All Districts

- (1) All zoning requirements other than those which make the lot of record nonconforming shall apply.

- (2) Undeveloped nonconforming lots of record in all zoning districts shall provide and maintain all setbacks as required for that particular zoning district. All corner yards must be maintained according to the setbacks required for the zoning district.
 - (3) Variances from any requirements shall be obtained only through the procedures as outlines in Article 13 hereof, Administration and Enforcement.
- b. R-1, R-2, and R-3 Single Family Districts - Casualty Loss.
- (1) Any nonconforming single family residence located on a nonconforming lot which sustains casualty loss may be restored to its footprint before the loss if the single family residence was built and the lot divided in accordance with Village ordinances at the time of such development and division. In no event may the structure being restored be increased to more than one hundred ten percent (110%) of the original square footage of structure. Variance from the above one hundred ten percent (110%) limitation shall be obtained following a hearing and determination by the Board of Zoning Appeals as outlined in Article 13 hereof, Administration and Enforcement.
 - (2) Any nonconforming residence sustaining a casualty loss which is located on a nonconforming lot of record may be restored in accordance with current required setbacks without extraordinary action.

10.02-B Unified Control (Ord. 0-81-61)

1. Where two or more lots of record or combination of lots and portions of lots of record with continuous frontage are developed as a single zoning lot under unified control, are of record at the time of passage or amendment of this Ordinance, and where all or part of the lots do not meet the requirements established for lot widths and area, the lands involved shall be considered to be a single zoning lot for the purpose of this Ordinance. No portion of said zoning lot shall be used or sold which would diminish compliance with lot width and area requirements established by this Ordinance.
2. Lots or parts of lot resulting from the conveyance or any other transfer of interest of a portion of such zoning lots held in unified control shall not be entitled to zoning certificates or building permits as provided elsewhere in this Ordinance.

3. The use and zoning requirements of these lots shall be the same as those specified in Article 10.01-A.

10.02-C Construction, Repair and Alteration

Construction of new buildings or repair of existing buildings that are being used for permitted uses but are located on nonconforming lots of record shall be permitted. If any building is damaged or destroyed, it may be rebuilt for its original permitted use to the extent of its original development, or a new building may be constructed for any use to the extent permitted in Article 10.02-A.

10.03 CHANGE TO A CONFORMING USE OR STRUCTURE

Whenever a nonconforming use or a nonconforming structure is changed so as to conform to the regulations of the district in which it is located, such structure or premises shall not thereafter be used, occupied or altered so as to become nonconforming.

10.04 CONVERSION TO A SPECIAL USE

Any nonconforming building, structure or use may be converted to a Special Use pursuant to the appropriate procedure set forth in Article 13. This conversion may occur only when it is shown that the nonconforming building, structure or use is providing a service to the area, and that the building, structure or use is not substantially detrimental to the surrounding properties.

10.05 ELIMINATION OF NONCONFORMING STRUCTURES AND USES

10.05-A Nonconforming Signs

Nonconforming signs shall be removed, altered or converted to conforming signs as provided in Article 9, Signs.

10.05-B Nonconforming Use of Land

A nonconforming use of land on which there is no building or structure shall be made to conform to the provisions of this Ordinance within a period of two (2) years after the adoption of this Ordinance.