**CHAPTER 27**

**ZONING**

**Part 9**

**Nonconformities**

**§901. Nonconforming Uses and Structures.** Any nonconforming use or structure legally existing at the time of the effective date of this Chapter or which is created whenever a district is changed by amendment hereafter, may be continued, altered, reconstructed, changed, sold, or maintained even though it does not conform to the regulations of the district in which it is located, except as provided below. It is the intent of this Chapter to permit these nonconformities to continue until they are removed, discontinued, or abandoned.

(1) General Application of Provisions. Nothing herein shall require any change in plans, construction, or designated use of a building or structure which complies with existing laws or for which a permit was granted an/or where the construction shall have started before the effective date of this Chapter or applicable amendment thereto.

(2) Abandonment. If any nonconforming use or building or structure occupied by a nonconforming use is abandoned for a period of one (1) year, the future use of such building or land shall be in conformity with the District Regulations. A nonconforming use shall be judged to be abandoned when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within a period of one (1) year from the date of cessation or discontinuance.

(3) Repairs, Replacement, and Reconstruction.

(a) Exterior repairs, non-structural alteration and other general maintenance adjustments may be made to a non-conforming building or structure or a building or structure occupied by a non- conforming use, but such repairs and adjustments shall be subject to all applicable requirements for a Building Permit and a Zoning Permit.

(b) Any mobile home which was nonconforming at the time of the effective date of this Chapter or which becomes nonconforming by a subsequent change or amendment to (excluding those units situated in existing mobile home parks) may be replaced with a unit of the same or larger size provided that:

(1) All dimensional and off-street parking requirements of this Chapter are met;

(2) All foundation and anchoring requirements set forth in this Chapter are met; and

(3) All required permits are obtained.

(c) A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood or other natural causes may be reconstructed, restored and used as before provided that:

(1) Said reconstruction commences within one (1) year of the damage;

(2) Said reconstruction shall not exceed the size, bulk, height and area that existed prior to the damage, unless approved by the Zoning Hearing Board;

(3) The location of said reconstruction does not create a safety hazard;

(4) Where the nonconformity is located in a Flood Fringe or General Floodplain District, the new construction shall comply, to the greatest extent possible, with all of the floodproofing requirements contained in this Chapter; and,

(5) Where the nonconformity is located in a Floodway District, such nonconformity may only be reconstructed, replaced and used as before provided that:

(a) The property owner does not own adjoining land located outside of the Floodway District;

(b) The reconstruction will not cause a rise in the 100 year flood elevation; and

(c) The reconstruction will be floodproofed in accordance with the requirements contained in this Chapter.

(4) Extensions and Enlargements.

(a) A non-conforming use of a building or structure may be extended throughout the interior of the building or structure provided that no structural alterations are made, no increase in parking spaces or areas is required, no increase in noise, smoke, odor, light or traffic shall result, no increase in size or use of outdoors displays shall occur, and no change in the exterior appearance of the building or structure or lot shall occur. Any such expansion or extension shall be in conformance with all applicable local, state and federal ordinances, laws, statutes and regulations and the appropriate permits including a Zoning Permit shall be obtained prior to any such extension or expansion.

(b) For nonconforming uses whose normal operations involve land area expansion (i.e. quarries, cemeteries, or similar uses), expansion shall be permitted by right up to 25% of the volume or area of the nonconformity which existed at the effective date of this Chapter.

(c) Any nonconforming building or structure or building or structure occupied by a nonconforming use which is moved for any reason shall meet all requirements of the district in which it is to be located.

(d) Exterior structural alterations proposed to extend a non- conforming structure and/or use shall be permitted provided that:

(1) The extensions or enlargements do not extend the structure or use by an aggregate total of more than 50% of the gross floor area occupied by such use at the time the use became non-conforming;

(2) The extension or enlargement shall conform to the yard, height, off-street parking and other requirements of the district in which the structure or use is located;

(3) The extension is not located in a Floodway District; and

(4) The extension is located immediately adjacent to and on the same lot as the existing non-conforming use or structure.

(Ordinance No. 32, adopted June 22, 2010)

(5) Application to Agricultural Structures. The regulations governing nonconformities set forth in this Section shall not apply to agricultural structures when such structures are part of an active agricultural use. An active farm situated in a zone where agricultural activities become nonconforming as a result of adoption of this Chapter shall also be exempt from these provisions. It is not the intent of these regulations to create hardships for ongoing agricultural activities.

(6) Application to Signs. Signs existing at the effective date of this Chapter which do not conform to the requirements of this Chapter shall be considered nonconforming signs, and once removed, shall be replaced with only conforming signs. Nonconforming signs may be painted, repaired or otherwise maintained, provided that such maintenance or repair does not extend the dimensions of the existing sign.

(7) Certification. A Certificate of Nonconformance shall be issued by the Zoning Officer for all nonconforming uses or structures, upon written request of the property owner or occupant. Sufficient evidence shall be provided by the applicant at the time of such request which documents the existence of the nonconformity at the effective date of this Chapter.

**§902. Nonconforming Lots.** Any nonconforming lot legally existing at the time of the effective date of this Chapter or which is created whenever a district is changed by amendment hereafter, may be continued and/or maintained even though it does not conform to the regulations of the district in which it is located. It is not the intent of this Chapter to be overly restrictive or to cause a hardship for any property owner, but rather to allow these nonconforming lots to continue until they are eliminated as single entities, possibly through the addition of such lots to adjacent property.

(1) Discontinuance/Lot Changes. Any nonconforming lot which is discontinued or becomes conforming through its addition to adjacent land, shall not hereafter be changed back to a nonconforming lot.

(2) Existing Lots of Record. In the case of a lot of record which existed at the effective date of this Chapter which does not meet the minimum area requirements for the district in which it is located, a permitted structure may be placed on the parcel provided that:

(a) The owner does not own adjoining land which could be combined to form a conforming lot;

(b) All applicable front, side and rear yard requirements can be met, unless approved as a variance by the Zoning Hearing Board, or the lot meets all average dimensional standards for the block where it is to be located, as determined by the Zoning Officer;

(c) Where needed, the site has an approved sewage disposal system or an appropriate sewage permit; and

(d) Provided that the site and its intended use complies with all other applicable provisions of this Chapter.

(3) Certification. A Certificate of Nonconformance shall be issued by the Zoning Officer for all nonconforming lots, upon written request of the property owner or occupant. Sufficient evidence shall be provided by the applicant at the time of such request which documents the existence of the nonconformity at the effective date of this Chapter.

(Ordinance No. 99-1, adopted July 20, 1999)