

ARTICLE 8. NONCONFORMITIES

800 Continuation

Nonconforming Uses, as defined in Article 2, are governed by this Article, and may continue only in conformance with the provisions hereof. Such uses as are continued not in conformance with the provisions of this Article shall forfeit their nonconforming status, and may thereafter be treated as any other use in violation of this Ordinance.

801 Nonconforming Buildings and Structures

Nonconforming buildings, structures, and lots, as defined in Article 2, are governed by this Article, and may continue only in conformance with the provisions hereof. Such buildings, structures and lots continued not in conformance with the provisions of this Article shall forfeit their nonconforming status, and may thereafter be treated as any other buildings, structures, and lots, subject to the provisions of these regulations.

802 Nonconforming Special Exception Uses

Any use legally existing on the effective date of this Ordinance and which is classified as requiring a Special Exception in the zoning district in which it is located, under Section 405, Table of Use Regulations, and for which the owner of the land on which said use exists has not applied for and officially been granted a Special Exception by the Board of Appeals pursuant to Article 10 hereof, shall be considered a non-conforming use. Nothing herein shall be construed as a grant of permission for the enlargement, extension, alteration or reconstruction of such use itself, or of any building or structure involved in such use. In all respects, such a use shall be considered a nonconforming use and shall be governed under this Article and shall be treated the same as all other nonconforming uses, except that this Section shall not apply to any use which has been officially granted a Special Exception by the Board of Appeals pursuant to Article 10.

803 Nonconforming Use Permits

All nonconforming uses and nonconforming buildings and structures as defined in Article 2, shall be eligible for a Nonconforming Use Permit. Such a permit shall be issued by the Town Zoning Administrator, if, after due investigation, he is convinced that the use and/or building or structure lawfully existed on the date of this Ordinance. The character, nature and extent of the non-conformity shall be carefully documented by photographic and other means by the Zoning Administrator, at the time the permit is issued and a file shall be kept thereon by the Zoning Administrator.

804

Application

- A. It shall be the responsibility of the person seeking the permit to apply for it on forms provided by the Zoning Administrator. The permit shall show the exact specifications of the nonconforming use and/or building or structure on the face thereof, and shall be good only for such specifications, dimensions and use.
- B. All such permits must be issued nine months after the effective date of this Ordinance, and any nonconforming uses and/or buildings or structures which have not obtained a permit within nine months of the effective date of this Ordinance, shall forfeit their nonconforming status, and shall be treated as any other uses, buildings or structures, subject to the terms of this ordinance, except that application for such permit may be accepted after nine months for good cause shown.

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Alteration, Expansion or Extension

- A. No nonconforming use or nonconforming building or structure, except as provided herein, shall be altered, expanded, replaced, or extended in any way.
- B. It is the specific intent of this Article to permit the continuation, under the terms hereof, of uses lawfully existing upon the effective date of this Ordinance, in order to prevent hardship or confiscation. It is not the intent of this Article to permit development, in any degree whatsoever, in contravention of the other provisions of this Zoning Ordinance under the guise of the nonconforming use.
- C. A use of land, building or structure which does not conform to the provisions of Article 4, Section 405, Use Regulations, shall not be altered, replaced, reconstructed, extended or enlarged except in accordance with the provisions hereof, and any alteration, replacement, reconstruction, extension or enlargement shall result in forfeiture of the nonconforming status, and thereafter the use shall be treated the same as any other use, subject to the terms of this ordinance.
- D. A building, structure, or lot, except a mobile home, which does not conform to the provisions of this Ordinance, other than Article 4, Section 405, Use regulations, and which is not involved in a nonconforming use, may be altered, replaced, reconstructed or enlarged, provided that its nonconformity is not increased by such alteration, replacement, reconstruction or enlargement. This paragraph shall not apply to any building or structure which contains a nonconforming use. Such a building or structure, except a mobile home, shall be governed under subsection 805C hereof. No mobile home shall be altered, replaced, reconstructed or enlarged under any circumstances.

Restoration

- A. Any building or structure which contains a nonconforming use which is designated by the letter "N" in Article 4, Section 405, Table of Use Regulations, and which is damaged by fire or other natural causes to the extent of more than thirty percent (30%) of its market value at the time the damage occurred, shall forfeit its nonconforming status, and shall not be permitted to resume the nonconforming use thereafter, and shall be treated as any other building, or structure, subject to the terms of this ordinance.
- B. Any building or structure which contains a nonconforming use which is designated by the letters "SE" in Section 405, Article 4, Table of Use Regulations, and which is damaged by fire or other natural causes to the extent of more than sixty percent (60%) of its market value at the time the damage occurred shall forfeit its nonconforming status. Thereafter, the use shall be continued only if the Board of Appeals grants a Special Exception, under Article 10 hereof, and the building and structure is repaired or restored in such a way that its nonconformity, if the building itself was nonconforming, is not altered, changed or increased beyond the extent which existed at the time of the damage. The reconstructed structure shall not exceed the height, area or volume of the damaged structure unless such expansion shall be approved by the Board of Appeals as a Special Exception under Article 10 hereof.
- C. Structures, except mobile homes, damaged to the extent of less than seventy-five percent of their market value at the time the damage occurred may be reconstructed, repaired or used for the same nonconforming use without action of the Board of Appeals, but in no event shall the reconstruction, repair or restoration result in any alteration, reconstruction or enlargement of the nonconforming use, or the nonconformity of the building or structure.
- D. A structure which does not contain a nonconforming use, which is damaged by fire or other natural causes may be restored, reconstructed, or repaired, irrespective of the amount of damage. All such reconstruction or repairs shall be subject to the following provisions, if the structure is nonconforming:
1. Reconstructed structures shall not exceed the height, area or volume of the damaged structure.
 2. Reconstruction shall begin within one year from the date of damage and shall be carried out without interruption.
 3. All such reconstruction shall comply with all other provisions of this Ordinance.

807 **Abandonment**

Whenever a nonconforming use has been discontinued or abandoned for a period of one year, it shall be deemed to forfeit its nonconforming status and such use shall not thereafter be reestablished and any future use shall be in conformance with the provisions of this Ordinance.

808 **Changes**

- A. If a structure or building containing a nonconforming use is changed so as to contain a conforming use, the nonconforming status shall be forfeited, and the building and/or structure or land shall not be permitted to revert to a nonconforming use.

- B. The Board of Appeals may grant, pursuant to Article 10, permission to change one nonconforming use to another nonconforming use if the applicant shows to the satisfaction of the Board that the proposed new use will be no more objectionable in external effects than the existing nonconforming use in regard to the various criteria set forth in Article 10, Section 1006.