

## CHAPTER 10

### NONCONFORMING USES

10-1. INTENT: It is the intent of this Ordinance to permit nonconforming uses to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconforming uses 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.

10-2. INCOMPATIBILITY OF NONCONFORMING USES: Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the district in which such use is located. A nonconforming use shall not be extended or enlarged after passage of this Ordinance by expansion of the existing use or by alterations or additions to the existing buildings or premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

10-3. AVOIDANCE OF UNDUE HARDSHIP: To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of this Ordinance or adoption of a more restrictive amendment which would be otherwise applicable to a previously permitted use and upon which actual building construction has been carried on diligently.

10-4. SINGLE NONCONFORMING LOTS OF RECORD: In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by the other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership (see Section 5 below). This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulation for the district in which such lot is located.

10-5. NONCONFORMING LOTS OF RECORD IN COMBINATION: If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership area of record at the time of passage or amendment of this Ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Ordinance.

10-6. NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION: If a lawful use involving individual structures, of a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. An existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- B. A nonconforming use shall not be extended to occupy any additional land area;
- C. If no structural alterations are made, any nonconforming use of a structure or structure and land may, upon the issuance of a Special Use Permit by the Commission, be changed to another nonconforming use provided that the Commission shall find that the proposed use is at least as appropriate to the district as the existing nonconforming use. In permitting such change, the Commission may require appropriate conditions and safeguards in accord with other provisions of this Ordinance;
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
- E. When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for more than two (2) years (except when government action impedes access to the premises), the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
- F. Where nonconforming use status applies to a structure, or a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land, and the nonconforming use shall not be resumed.

10-7. REPAIRS AND MAINTENANCE: On any nonconforming structure, or portion of a structure containing a nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that, the cubic content existing when it became nonconforming shall not be increased. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

10-8. USES UNDER SPECIAL USE PROVISIONS NOT NON-CONFORMING USES: Any use which is permitted as a special use in a district under the terms of this Ordinance shall not be deemed a nonconforming use in such a district, but shall, without further action, be considered a conforming use for the duration of the special use permit.