

ARTICLE VIII NON-CONFORMITIES

SECTION 800 EXISTING CONFORMING LOTS, STRUCTURES, OR USES

- 800.01 Existing Lots, Structures, or Uses May Be Continued.** Lots, structures, or the use of lots and/or structures which conform with the regulations of the zoning district in which they are located may be continued, and may be altered, extended, or changed in accordance with this section.
- 800.02 Lots.** A conforming lot may be changed, altered, enlarged, or reduced in dimension, except that the remaining lot and/or resulting lot(s) shall conform to the development standards for the zoning district in which the lot is located.
- 800.03 Structures.** A conforming structure may be altered, reconstructed, or extended only in such a manner as will comply with the development standards for the zoning district in which the structure is located.
- 800.04 Uses.** A conforming use may be expanded, modified, or changed only in such a manner as will comply with the use restrictions and development standards for the zoning district in which the conforming use is located.

SECTION 801 NONCONFORMING LOTS

- 801.01 Nonconforming Lots.** A lawfully existing lot which would be prohibited under this zoning resolution by reason of area, width, frontage, or otherwise shall be considered a nonconforming lot. Any change, alteration, enlargement, or reduction of a nonconforming lot of record shall be in accordance with the provisions of Sections 801.02 and 801.03. It is the intent of this section to permit such nonconforming lot to continue until it is altered to conforming status, but not to encourage its use or alteration outside of the provisions set forth in this article.
- 801.02 Nonconforming Vacant Lots of Record in Combination.** If two or more lots, or a combination of lots and portions of lots with continuous frontage in single ownership, are of record at effective date of this zoning resolution or appropriate amendment thereto, 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 zoning resolution. All such lots shall be required to be recombined, as required, to meet the current area and frontage requirements for the required use before a zoning permit may be issued. 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 zoning resolution, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this zoning resolution.
- 801.03 Single Nonconforming Lots of Record.** In any zoning district in which a use is permitted, such use may be permitted on any single lot of record at the effective date of this zoning resolution or appropriate amendment thereto, notwithstanding the limitations imposed by Section 801.03. Such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership. 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. Yard dimensions, parking requirements, and development standards of the applicable zoning district other than those applying to lot area or lot width shall conform to the regulations for the district in which such lot is located. Variance of such development standards shall be obtained only through action of the Board of Zoning Appeals.

SECTION 802 NONCONFORMING STRUCTURES

- 802.01 Continuation.** Any lawfully existing principal or accessory structure which by reason of size, type, location on the lot, or otherwise is in conflict with the applicable development standards of the zoning district in which it is located shall be considered a nonconforming structure. Any change, alteration, enlargement, or reduction of a nonconforming structure shall be in accordance with the provisions of Sections 802.02 through 802.05. It is the intent of this zoning resolution to permit such nonconforming structure to continue until it is removed, but not to encourage its use or expansion outside of the provisions set forth in this article.

- 802.02 Structural Alterations.** Structural alteration of a nonconforming structure shall be in accordance with the provisions of this section.
- A. **Must Comply With Development Standards.** Any structural alteration of a nonconforming structure shall be made only in such a manner that such alteration will comply with the development standards of the zoning district in which such nonconforming structure is located.
 - B. **No Increase In Nonconformity.** Any structural alteration of a nonconforming structure shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
 - C. **Reduction of Other Standards Prohibited.** The extension or enlargement of a nonconforming structure may not occupy ground space suitable and otherwise available for meeting the required off-street parking, loading, and drive-through waiting requirements of this zoning resolution.
 - D. **Nonresidential Structures In Residential Zoning Districts.** Any enlargement of a nonconforming nonresidential structure located within a residential zoning district shall require a public hearing using the procedures prescribed for appeals in Article 10, Section 1003. If permitted, enlargements of such nonconforming structures shall only be made on property owned in conjunction with such non-conforming structure at the effective date of this zoning resolution or appropriate amendment thereto.
 - E. **Residential Buildings In Nonresidential Zoning Districts.** Nonconforming residential buildings in a nonresidential district may be improved, modernized, or enlarged. However, no increase in the number of dwelling units shall be permitted.
- 802.03 Damage or Destruction.** In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of the current replacement cost of the entire structure, such structure shall not be restored unless it thereafter conforms to the development standards for the zoning district in which it is located. When a structure is damaged to the extent of fifty (50) percent or less of the current replacement cost, no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one (1) year after the date of such partial destruction. Such repair or restoration shall not increase the nonconformity that existed prior to the damage.
- 802.04 Moving.** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure thereafter conforms to the development standards of the zoning district in which it will be located after being moved.
- 802.05 Repair and Maintenance.** Work may be done on ordinary maintenance and repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing; provided, however, that this paragraph shall not be deemed to authorize any violation of this article. Nothing in this zoning resolution shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure, other than a damaged or destroyed building or other structure subject to the provisions of 802.03, in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.
- 802.06 Plans Approved Prior To Effective Date.** To avoid undue hardship, nothing in this zoning resolution 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 or appropriate amendment of this zoning resolution and upon which actual building construction has been carried on diligently.

SECTION 803 NONCONFORMING USES

- 803.01 Continuation.** Any lawfully existing principal, accessory, or conditional use which is in conflict with the applicable use restrictions of the zoning district in which it is located shall be considered a nonconforming use. Any change, alteration, or enlargement of a nonconforming use shall be in accordance with the provisions of Sections 803.02 through 803.08. It is the intent of this zoning resolution to permit such nonconforming use to continue until it is removed, but not to encourage its continuation, expansion, or substitution outside of the provisions set forth in this article.
- 803.02 Expansion of Use Within A Structure.** A nonconforming use may be expanded throughout any part of a building or other structure that was lawfully and manifestly designed or arranged for such use on the effective date of this zoning resolution or appropriate amendment thereto.
- 803.03 Expansion Of Structure.** A building or structure housing a nonconforming use may be extended or enlarged upon the lot of record occupied by such building on the effective date of this zoning resolution or amendment thereto, provided the development standards of the zoning district are complied with. Such building or structure may be expanded on to an adjoining property, provided such property was under the same ownership as the lot in question on the effective date of this zoning resolution or amendment thereto. Such building may be enlarged or extended to an extent not exceeding twenty-five (25) percent of the gross floor area of such structure or building lawfully existing at the time of the adoption of this zoning resolution or appropriate amendment thereto.
- 803.04 Substitution of Use.** The Board of Zoning Appeals may permit the substitution of a nonconforming use within a building or structure lawfully existing at the time of the adoption of this zoning resolution, subject to the following conditions:
- A. The Board of Zoning Appeals may permit either an expansion of a nonconforming building or structure, or a substitution of a nonconforming use in such building or structure, but not both.
 - B. The substitution shall not be permitted unless the Board of Zoning Appeals finds that the proposed nonconforming use is equally or more appropriate to the district than the existing nonconforming use.
 - C. Such substitution shall only be permitted after a public hearing in accordance with the procedures prescribed for appeals in Article 10, Section 1003 of this zoning resolution.
- 803.05 Damage or Destruction to Structure.** In the event that any building or other structure that is devoted in whole or in part to a lawful non-conforming use is damaged or destroyed, by any means, to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds fifty (50) percent of the current replacement cost of the entire building or other structure, exclusive of foundation, such building or other structure shall not be restored unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, even if such damage is fifty (50) percent or less, no repair or restoration shall be made unless a building permit is obtained within one (1) year after the date of such partial destruction, and restoration is actually begun within six (6) months after that.
- 803.06 Moving of Structure.** No structure devoted in whole or in part to a nonconforming use, shall be moved to any other location on the same lot or any other lot unless the entire structure and the use thereof shall thereafter conform to the regulations of the district in which it will be located after being so moved.
- 803.07 Relocation Of Use.** No nonconforming land use shall be relocated, in whole or in part, to any other location on the same or any other lot unless such use thereafter conforms to the regulations or the district in which it is located after being moved.
- 803.08 Discontinuance of Use.** Discontinuance of any nonconforming use of land, a building, or a structure shall be in accordance with the provisions of this section.

- A. Discontinuance of a Nonconforming Use of Land. In the event that operation of a nonconforming use of land is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not thereafter be reestablished and any subsequent use or occupancy of such land shall conform to the regulations of the district in which it is located.
- B. Discontinuance of a Non-conforming Use of Buildings or Structures. In the event that operation of a nonconforming use of all or part of a building or other structure is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not thereafter be reestablished, and any subsequent use or occupancy of such building or other structure shall conform to the regulations of the district in which it is located.
- C. Nonconforming Accessory Uses. No nonconforming accessory use shall continue after the principal use to which it is accessory has been discontinued.