**ARTICLE 9**

**NONCONFORMITIES**

1. **NONCONFORMING USES AND STRUCTURES**

Any nonconforming use or structure legally existing under prior zoning ordinances at the time of adoption of this Ordinance 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 Ordinance to permit these nonconformities to continue until they are removed, discontinued, or abandoned. (For nonconforming lots, see Section 901.)

* 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 and/or where the construction shall have started before the date of adoption of this Ordinance or applicable amendment thereto.

* 1. Abandonment

If any nonconforming use 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.

* 1. Repairs and Reconstruction
     + 1. Exterior repairs, non-structural alterations, and other general maintenance adjustments may be made to a nonconforming building or structure or a building or structure occupied by a nonconforming use, but such repairs and adjustments shall be subject to all applicable Building/Zoning Permit requirements.
       2. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged by fire, flood or other natural cause may be reconstructed, restored and used as before provided that:
  2. said reconstruction commences within one (1) year of the damage;
  3. said reconstruction shall not exceed the size, bulk, height and area that existed prior to the damage, unless approved by the Zoning Hearing Board;
  4. the location of said reconstruction does not create a safety hazard;
  5. where the nonconformity is located in a Flood Fringe or General Flood plain District, such reconstruction shall comply, to the greatest extent possible, with all of the floodproofing requirements contained in Section 602 of this Ordinance; and,
  6. where the nonconformity is located in a Floodway District, such nonconformity may only be reconstructed, replaced and used as before provided that:
     + - 1. the property owner does not own adjoining land located outside of the Floodway District;
         2. the reconstruction will not cause any rise in the 100-year flood elevation; and
         3. the reconstruction will be floodproofed in accordance with the requirements contained in Section 602 of this Ordinance.
  7. Extensions and Enlargements
     1. A nonconforming use of a building or structure may be extended through-out the interior of the building provided that no structural alterations are made therein.
     2. Interior structural alterations proposed for a building or structure occupied by a nonconforming use shall require a Building/Zoning Permit and shall be authorized by the Zoning Officer.
     3. Exterior structural alterations proposed to extend a nonconforming use may be authorized provided that:
        1. the extensions or enlargements do not extend the structure or use by an aggregate total of more than 50% of the area occupied by such use at the time the use became nonconforming;
        2. the extension or enlargement shall conform to the yard, height off­street parking and other requirements of the district in which the structure or use is located;
        3. in the case of a nonconforming use, the extension is located immediately adjacent to and on the same lot as the existing nonconforming use;
        4. the extension is not located in a Floodway District; and
        5. the extension or enlargement is approved by the Zoning Hearing Board.

In reviewing applications for extensions or enlargements, the Zoning Hearing Board shall give due consideration to the welfare of the community in its entirety and may attach such reasonable conditions and safeguards as they deem appropriate to implement the purposes of this Ordinance.

* + 1. For nonconforming uses where normal operations involve natural expansion (i.e. quarries junk yards, cemeteries, etc.), expansion shall be permitted by right up to 50% of the volume or area of the nonconformity which existed at the effective date of this Ordinance. For expansion beyond 50%, approval must be obtained from the Zoning Hearing Board.
    2. A nonconforming use shall not be extended to displace a conforming use, unless authorized by the Zoning Hearing Board.
  1. Change of Use

A nonconforming use of a building, structure or land may be changed to a nonconforming use of the same or a more restricted classification, subject to the following conditions. (Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed back to a nonconforming use.)

* + 1. The Zoning Hearing Board shall approve all such changes; and
    2. The applicant shall show that the proposed change will be no more objectionable in external effect than the existing nonconforming use with respect to:
       1. traffic generation and congestion, including truck, passenger car and pedestrian traffic;
       2. noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration;
       3. on-lot storage and waste collection and disposal; and
       4. appearance.
  1. Application to Agricultural Structures

The regulations governing nonconformities set forth in this Article 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 Ordinance shall also be exempt from these provisions. It is not the intent of these regulations to create hardships for ongoing agricultural activities. However, should the nonconforming agricultural use be discontinued or abandoned, any buildings or structures damaged or destroyed thereafter shall be subject to the regulations governing nonconformities set forth in this Article.

* 1. 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 Ordinance.

1. **NONCONFORMING LOTS**

Any nonconforming lot legally existing at the time of the adoption of this Ordinance 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 Ordinance 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.

* 1. 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 Ordinance.

* 1. Existing Lots of Record

In the case of a lot of record which existed at the effective date of this Ordinance 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:

* + 1. each side yard is not less than five (5) feet when adjoining another lot, or ten (10) feet when adjacent to any street right-of-way line;
    2. the rear yard is not less than ten (10) feet;
    3. the front yard conforms to the minimum distance required;
    4. where needed, the site has an approved sewage disposal system or an appropriate sewage permit; and
    5. provided that the site and its intended use complies with all other applicable provisions of this Ordinance.