

## ARTICLE 23. NONCONFORMING SITUATIONS

### Section 23-1: General

Upon the effective date of this Ordinance, and any amendment thereto, pre-existing structures or lots of record and existing and lawful uses of any building or land which do not meet the minimum requirements of this Ordinance for the district in which they are located or which would be prohibited as new development in the district in which they are located shall be considered as nonconforming. It is the intent of this Ordinance to permit these nonconforming uses, structures, and lots to continue until they are removed, discontinued, dilapidated, or destroyed, and to prohibit the expansion of any non-conformance. Variances will not be granted for any nonconforming lot, structure or use, except as set forth in Section 23-2(B).

### Section 23-2: Substandard Lots of Record and Structures

Any lot of record or structure existing at the time of the adoption of this Ordinance, which has dimensions which do not meet the requirements of this Ordinance, shall be subject to the following exceptions and modifications.

- (A) ***Adjoining Lots.*** When two or more adjoining lots of record with continuous frontage, where no more than one is developed, are in one (1) ownership at any time after the adoption of this Ordinance, and such lots individually or together are less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, then such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity. Whenever two (2) or more contiguous vacant lots of record are in single ownership at any time after the adoption of this Ordinance and any of such lots individually have less area than the minimum requirements for the zoning district in which such lots are located, such lots shall be combined to create one (1) or more lots that meet the standards of this Ordinance; in the event that the combination cannot produce a conforming lot, such combination shall be required in order to reduce the nonconformity.
- (B) ***Lot Not Meeting Minimum Lot Size Requirements.*** Except as set forth in the above, in any district in which single family dwellings are permitted, and regardless of whether or not a vested right has been established, any lot of

record existing at the time of the adoption of these regulations which has dimensions which are less than required by these regulations may be used as a building site for a single-family dwelling with related accessory buildings, provided that the lot area and width are not less than eighty (80) percent of the requirements in the district. If the lot is smaller or narrower, a variance may be requested of the Board of Adjustment, but in no case shall the Board reduce the requirements by more than forty (40) percent. If a lot of record existing at the time of adoption of these regulations in a district other than residential, has dimensions which are less than required by these regulations, a variance may be requested from the Board of Adjustment, but in no case shall the Board reduce the requirements by more than thirty (30) percent.

- (C) ***Enlargement and Expansion of Nonconforming Structures.*** Any building or structure which is nonconforming solely because of its encroachment in a required yard area may be extended in any lawful manner that does not further encroach in that yard. Expansions to structures classified as existing development must meet the requirements of this Ordinance; however, the built-upon area of the existing development is not required to be included in the density/built-upon area calculations.

### **Section 23-3: Nonconforming Uses of Buildings**

- (A) ***Loss of Nonconforming Status.*** The nonconforming use of a building may be extended throughout the building provided no structural alterations (except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building) are made therein but no such use shall be extended to occupy any land outside the building. If the nonconforming use of such building is discontinued for a continuous period exceeding three hundred sixty (360) days, every future use of such premises shall be in conformity with the provisions of this Ordinance.
- (B) ***Restoration After Destruction or Dilapidation.*** This provision shall not prevent the restoration of a nonconforming building, or a building used for a nonconforming use, which has been destroyed or dilapidated to the extent of not more than fifty (50) percent of its current value, but only if such building is restored within one (1) year of the date of its destruction or dilapidation. The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is

provided. For the purposes of this Subsection, single-family residential development is exempted from the built-upon area and stormwater control requirements imposed by this Subsection.

#### **Section 23-4: Nonconforming Uses of Land**

The nonconforming use of land shall not be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this Ordinance. If any nonconforming use of land, other than for location of a manufactured home or manufactured office, is discontinued for a continuous period exceeding one hundred twenty (120) days, any future use of said land shall be in conformity with the provisions of this Ordinance.

If the nonconforming use of land for location of a manufactured home or manufactured office is discontinued, either by destruction or dilapidation of the manufactured home or office, or by removal thereof, any further use of said land shall be in conformity with the provisions of this Ordinance.