

## **ARTICLE 8 NON-CONFORMING CONDITIONS**

### **8-1. Non-Conforming Buildings and Structures**

A non-conforming building or structure may be maintained, except as otherwise provided for in this Article.

#### **8-1.1 Repairs, Alterations.**

Repairs and alterations may be made to a non-conforming building or structure provided that no structural alteration shall be made except those required by law or ordinance for the health, safety or welfare of the occupants or the general public.

#### **8-1.2 Additions, Enlargements, Moving.**

- 8-1.2.1 A non-conforming building or structure shall not be added to or enlarged in any manner unless such building or structure is made to conform to all the regulations of the district within which it is located.
- 8-1.2.2 A building or structure which does not comply with the height or area regulations shall not be added to or enlarged in any manner unless such addition or enlargement conforms to all the regulations of the district in which it is located and provided that all such additions or enlargements shall not exceed fifty (50) percent of the gross floor area of the ground floor of the building or structure at the time this ordinance became effective.
- 8-1.2.3 A building or structure lacking sufficient automobile parking space in connection therewith, and in accordance with Article 5 Parking and Loading Regulations, may be altered or enlarged provided that additional parking space is supplied in accordance with Article 5.
- 8-1.2.4 No non-conforming building or structure shall be moved in whole or in part to any other parcel of land unless every portion of such building or structure is made to conform to all the regulations of the district within which it is relocated.
- 8-1.2.5 Legal, non-conforming (grand-fathered) mobile homes (manufactured homes as defined herein) may be replaced provided that all of the following conditions are met:
- (A) The replacement home shall be equal or smaller in size than the existing mobile home. The Zoning Administrator may waive this condition upon written determination that an equivalently sized replacement is not available and that a larger mobile home could be accommodated on the site in compliance with the regulations of the district in which it is located and such home would not be detrimental to neighboring properties.
  - (B) The replacement mobile home must be certified under HUD regulations and manufactured within ten (10) years of the date of application for replacement.

- (C) The replacement mobile home shall be located on the same parcel of land as the existing home and in conformance with the regulations of the district within which it is located, unless the Zoning Administrator finds that relocation on the same lot would increase the non-conformity of the mobile home.
- (D) A building permit shall be obtained prior to the removal of the existing mobile home and placement of the new mobile home. Such permit shall include setbacks and the adequacy of sewer and water services in accordance with the County Health Department regulations and this ordinance.

### **8-1.3 Restoration of damaged buildings or structures.**

- 8-1.3.1 A non-conforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God may be restored and the original occupancy or use of such building or structure or part thereof which existed at the time of destruction may be continued or resumed, provided that the total area destroyed of the building or structure does not exceed seventy five (75) percent of the area of the foundation of such non-conforming building or structure. Any restoration of a building or structure subject to this section must begin work within one (1) year of the damage and be completed within two (2) years.
- 8-1.3.2 In the event that a building or structure is damaged beyond seventy five (75) percent of its foundation area, no repairs, reconstruction or restoration shall be made unless all regulations for a new building in the district within which it is located shall be complied with. Notwithstanding the above, any single-family dwelling that has not been abandoned as defined by this Article may be replaced in kind and on the same foundation as the existing dwelling on the property, subject to the same timeframes as identified in 8.1.3.1 above.
- 8-1.3.3 Restoration or replacement of building or structures that are included on the Federal or state list of registered historic building or places shall be exempt from these provisions and may be restored to the extent allowed by the US Department of Interior guidelines for historic facilities.

### **8-1.4 Abandonment of building or structure.**

A non-conforming building or structure or portion thereof which is or hereinafter becomes vacant and remains unoccupied for a continuous period of two (2) years shall be considered abandoned and shall not thereafter be occupied or used except by a use which conforms to the regulations of the district within which it is located.

### **8-1.5 Permits.**

The construction or use of a non-conforming building, structure or parcel of land for which a permit was legally obtained prior to the adoption of this Article, may proceed provided that such building is completed within one (1) year or such use is established therein within thirty (30) days from the adoption of this Article.

**8-2 Non-conforming Use of Buildings and Structures**

**8-2.1 Continuation and change of use.**

Except as otherwise provided for in this Article:

- 8-2.1.1 The non-conforming use of a building or structure existing at the time of adoption of this ordinance may be continued.
- 8-2.1.2 The use of a non-conforming building or structure may be changed to a use of the same or more restrictive classification. However, where a building or structure is hereafter changed to a use of a more restricted classification, it shall not be thereafter changed to its original use or a use of a less restricted classification.
- 8-2.1.3 A vacant non-conforming building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within one (1) year of the effective date of this ordinance. The use of a building or structure which becomes vacant after the effective date of this ordinance may also be occupied by a use for which the building was designed or intended, if so occupied within a period of two (2) years after the building becomes vacant.

**8-2.2 Expansion prohibited.**

A non-conforming use of a conforming building or structure (i.e., commercial use of a dwelling, etc.) shall not be expanded or extended into any other portion of such non-conforming building or structure nor changed, except to a conforming use. If such a non-conforming use or portion thereof is discontinued or changed to a conforming use, any subsequent use of such building or structure or portion thereof shall be in conformity with the regulations of the district within which it is located.

**8-3 Non-Conforming Use of Land.**

**8-3.1 Continuation of use.**

The non-conforming use of land, existing at the time that this ordinance became effective, may be continued provided that:

- 8-3.1.1 No such non-conforming use of land shall be expanded or extended further onto either the same or adjoining property.
- 8-3.1.2 If such non-conforming use of land or any portion thereof is discontinued or changed, any subsequent use of such land shall be in conformance with the provisions of this ordinance.
- 8-3.1.3 Any sign, billboard, commercial advertising structure or statuary which is lawfully existing and maintained at the time this ordinance became effective may be continued, although such does not conform with the provision herein and provided that no structural alterations are made to it.

- 8-3.1.4 Automobile graveyards and junkyards lawfully in existence at the time of the adoption of this ordinance shall be allowed up to two (2) years after the effective date of this ordinance to come into compliance with this ordinance.

### **8-3.2 Non-conforming Lots.**

- 8-3.2.1 Any lot of record at the time of adoption of this ordinance which does not meet the requirements for on-site well and septic systems as required by the Health Department and this ordinance shall not be issued a permit for construction unless the owner/applicant can demonstrate that public sanitary sewer and adequate public or community water supply can and will be provided in accord with all applicable regulations.
- 8-3.2.2 Any lot of record at the time of adoption of this ordinance which does not meet the requirements for lot area, frontage or width, may be used for the purposes authorized for the district only when the requirements for minimum setback and yard are met.
- 8-3.2.3 For any non-conforming lot, the minimum side yard setback shall be five (5) feet unless otherwise provided for herein.
- 8-3.2.4 A non-conforming parcel or lot platted and recorded prior to June 1, 1978 that is fifty (50') or less in width and/or is one hundred and twenty (120') feet or less in length and/or is 6000 square feet or less in area shall be allowed the following setbacks for all new construction and/or additions to either principal or accessory structures provided the parcel or lot does not abut or is attached with an adjoining parcel under the same ownership.
- A. Double Front Lot is lot with frontage on two streets at opposite ends of the lot. The owner shall choose which street shall be the front yard. The rear street setback shall be opposite of the front yard.
- The principal building front yard setback shall be 25% of the lot length but no less than 25 feet.
  - The principal building rear street setback shall be 20% of the lot length but no less than 20 feet
  - The principal building interior lot line setbacks shall be a minimum of 4 feet on one side and 8 feet on the opposite side.
  - Accessory structure setback shall be a minimum of 4 feet from the interior lot line.
- B. Corner Lot a lot that abuts two streets at their intersection. The front yard shall be abutting the shortest lot line and be opposite of the rear lot line. The side street shall be the longest lot line abutting the street.
- The principal building front yard setback shall be 25% of the lot length but no less than 25 feet.
  - The principal building rear yard setback shall be 20% of the lot length but no less than 20 feet.
  - The principal building side street setback shall be a minimum of 15 feet.
  - The principal building interior lot line setback shall be a minimum of 4 feet.

- e. Accessory structure setback shall be a minimum of 4 feet from all interior lot line and comply with the principal building street frontage setbacks
- C. Double Front Corner Lot a lot that butts three (3) separate streets at their intersection. The owner shall choose which street shall be the front yard. The rear yard shall be opposite the front yard. The side street shall be the longest lot line abutting the street. The interior lot line shall abut another parcel interior lot line.
- a. The front yard setback shall be 25% of the lot length but no less than 25 feet.
  - b. The rear street setback shall be 20% of the lot length but no less than 20 feet
  - c. The side street setback shall be a minimum of 15 feet.
  - d. The interior lot line setback shall be a minimum of 4 feet.
  - e. Accessory structure setback shall be a minimum of 4 feet from all interior lot line and comply with the principal building street frontage setbacks.
- D. Interior Lot is any other lot.
- a. The principal building front yard setback shall be 25% of the lot length but no less than 25 feet.
  - b. The principal building rear street setback shall be 20% of the lot length but no less than 20 feet
  - c. The principal building interior lot line setbacks shall be a minimum of 4 feet on one side and 8 feet on the opposite side.
  - d. Accessory structure setback shall be a minimum of 4 feet from all interior lot line.

**8-4 Non-Conforming Due to Reclassification.**

The foregoing provisions of this Article shall also apply to buildings, structures, land or uses which hereafter become non-conforming due to any re-classification of zoning districts under this ordinance or any subsequent change in the regulations of this ordinance.