

ARTICLE 13
NONCONFORMING SITUATIONS

Section 13.1	Continuation of Nonconforming Situations
Section 13.2	Abandonment or Discontinuance of Nonconforming Situations

Section 13.1 Continuation of Nonconforming Situations

- A. Nonconforming situations that were otherwise lawful on the effective date of this ordinance may be continued, subject to the restrictions and qualifications set forth in this article.
- B. Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation, which shall include, but is not limited to, the following:
 - (1) Nonconforming buildings shall not be enlarged or extended in any direction, horizontally or vertically.
 - (2) There shall be no extension in a nonconforming situation that would increase building occupancy, building square footage, production, servicing, or utility demands.
 - (3) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming.
- C. *Nonconforming single lot of record.* If the owner of a lot does not own sufficient land to enable him or her to conform to the dimensional requirements of this Ordinance, then the lot may be used as a building site for a use permitted within the applicable zoning district, provided that all applicable setback requirements of the zoning district are met.
- D. *Nonconforming contiguous lots of record.* If two (2) or more contiguous vacant lots of record established prior to the effective date of this chapter are in single ownership, then such lots, at the owner's option, may be designated to form a single or several lots which meet the applicable setback requirements of the zoning district in which they are located.
- E. *Elevation of buildings in nonconforming situations.* An extension or enlargement of a nonconforming situation is permitted if it involves only raising a building which, prior to being raised, was in violation of the Town's Flood Damage Prevention Ordinance, provided that no increase in the extent of nonconformity of the nonconforming situation shall occur when the building is raised other than those activities absolutely essential to accomplish bringing the building into compliance with the Town's Flood Damage Prevention Ordinance. If the lot on which the building to be raised is located has sufficient area that the building can comply with all current setback requirements, then the building may only be raised if it is relocated so as to comply with all current setback requirements, provided that it can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building.

- F. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged, provided that there is no expansion or extension per Section 13.1.B.
- G. *Damage or Destruction.* Any nonconforming situation where a building has been partially or totally damaged by natural disaster or other accidental casualty loss, may be reconstructed or replaced, provided that it does not violate Section 13.1.E, and as specifically provided in this subsection:
 - (1) The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformity's must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building;
 - (2) *Time for carrying out reconstruction.* Any owner wishing to repair a building in a nonconforming situation under the provisions of this Ordinance must acquire a building permit for such repairs within 12 months of the date of the damage or destruction. The Zoning Code Administrator shall have the authority to extend such 12 month period for an additional 90 days upon receipt of a written request to do so prior to the expiration of the initial 12 month period. If the owner fails to repair the building within the time allowed by the building permit, the right to continue the nonconforming situation, use, and/or building shall terminate and the property shall thereafter be used only in a conforming manner.
- H. *Change in Kind of Nonconforming Use.* A nonconforming use may not be changed to another use unless the proposed use is permitted in the district in which the land is located.
- I. *Termination of Nonconforming Situations.* Subject to all other terms and conditions of Article 15 of this ordinance, nonconforming situations shall not be subject to specific time limitations for permanent discontinuation.

Section 13.2 Abandonment or Discontinuance of Nonconforming Situations

- A. Abandonment or discontinuance of nonconforming situations shall not include damage or destruction as described in Section 13.1.G.
- B. When a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming purposes.
- C. Once a nonconforming situation has been changed to a conforming situation, it shall not revert back to a nonconforming situation.
- D. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one Multi-

Family Dwelling in a nonconforming Multi-Family Dwelling building or one space in a nonconforming manufactured home park for one hundred eighty (180) days shall not result in a loss of the right to rent that Multi-Family Dwelling or space thereafter so long as the Multi-Family Dwelling building or manufactured home park as a whole is continuously maintained.

- E. If a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for one hundred eighty (180) days shall terminate the right to maintain it thereafter. For example, if manufactured housing is used as a nonconforming use on the residential lot where a conforming residential building is also located, removal of that manufactured home for one hundred eighty (180) days terminates the right to replace it.
- F. When a building or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the one hundred eighty (180) day period for purposes of this subsection begins to run at the effective date of this chapter.