

LAND DEVELOPMENT REGULATIONS

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DIVISION 7000 PURPOSE AND INTENT

Within the Town there exist uses of land, structures and lots that were lawfully established before these Land Development Regulations were adopted or amended, that now do not conform to the terms and requirements of these Land Development Regulations. The purpose and intent of this Article is to regulate the continued existence of those uses and structures that do not conform to the provisions of these Land Development Regulations.

It is the intent of these Land Development Regulations to permit these nonconformities to continue until they are removed, but not to encourage their survival except under the circumstances established in this Article.

DIVISION 7100 NONCONFORMING USES

Nonconforming uses of land are declared generally incompatible with these Land Development Regulations. Nonconforming uses of land may continue in accordance with the provisions of this Division.

SECTION 7110 NORMAL MAINTENANCE OR REPAIR

Normal maintenance or repair of structures where nonconforming uses are located may be performed, provided that the total area of the structure existing after the date it became nonconforming shall not be increased, except pursuant to the standards of this Division.

SECTION 7120 ENLARGEMENT OR EXPANSION

A nonconforming use shall not be enlarged or expanded in area of structure or land occupied, except a nonconforming use may be enlarged in area of a structure if the approval was granted prior to the date the use became a nonconformity, and a nonconforming use may be enlarged or expanded a cumulative total amount of twenty (20) percent in floor area or ten (10) percent in land area (if a structure is not involved) from the date it became a nonconforming use, provided it complies with the dimensional standards of these Land Development Regulations. Expansions to buildings such as covered wheelchair ramps, lifts, handicap accessible rest rooms, etc., which are necessitated primarily to meet requirements and provisions of the Americans with Disabilities Act (ADA), shall be exempt from the twenty (20) percent cumulative limit to floor area expansion.

SECTION 7130 CHANGE IN CHARACTERISTICS OF NONCONFORMING USES

If characteristics of use such as off-street parking and loading, or other matters related to the use of land are made nonconforming, no change shall be made in such characteristics of use which increase nonconformities, provided changes may be made which do not increase such nonconforming use characteristics. A residential development that is a nonconforming use may be converted to condominiums or townhouses pursuant to the applicable standards and procedures of these Land Development Regulations provided the conversion does not create or increase a nonconformity.

SECTION 7140 RELOCATION

A structure housing a nonconforming use shall not be moved in whole, or in part, to another location on or off the parcel of land on which it is located, unless the relocation of the nonconforming use makes it conforming.

SECTION 7150 CHANGE IN USE

A nonconforming use shall not be changed to another nonconforming use, unless any new or additional use is a materially less intense nonconforming use. A nonconforming use shall not be materially increased in intensity. The determination of the level of intensity shall include consideration of the traffic generated (amounts and type), impacts on access, parking demand, perceived level of activity, operational characteristics and other potentially adverse impacts on neighboring lands. A residential development that is a nonconforming use may be converted to

condominiums or townhouses pursuant to the applicable standards and procedures of these Land Development Regulations provided the conversion does not create or increase a nonconformity.

SECTION 7160 DISCONTINUANCE OR ABANDONMENT

If a nonconforming use is operationally discontinued or abandoned for a period of more than twelve (12) consecutive months, whether or not the equipment or furniture are removed, or there is an intention to resume such activity in the future, such use may not be reestablished or resumed, and any subsequent use shall conform to the provisions specified by these Land Development Regulations. When government action, a natural disaster, or any other action not considered a willful act of the owner or occupant can be documented as the reason for discontinuance or abandonment, such time of discontinuance or abandonment shall not be calculated for the purpose of this Section. Regardless of the reason for discontinuance or abandonment, the period for reestablishing the nonconforming use may be extended by the Town Council for just cause.

SECTION 7170 UNSAFE DUE TO LACK OF MAINTENANCE

If a nonconforming structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs or maintenance, and is declared by a duly authorized official of the Town to be an unsafe structure, it shall thereafter be removed or rebuilt or repaired in conformance with the standards of these Land Development Regulations and the Building Code.

(Ord. 916 § 1, 2009.)

DIVISION 7200 NONCONFORMING STRUCTURES

Nonconforming structures are declared generally incompatible with these Land Development Regulations. A nonconforming structure devoted to a use permitted in the zoning district in which it is located at the time of its construction, may be continued in accordance with the provisions in this Division.

SECTION 7210 NORMAL MAINTENANCE

Normal maintenance to permit continuation of a nonconforming structure may be performed provided that the total area of the structure existing after the date it became nonconforming shall not be increased, except pursuant to the standards of this Division.

SECTION 7220 ENLARGEMENT OR EXPANSION

A nonconforming structure shall not be enlarged or expanded in area occupied if it increases the nonconformity, except a mobile home may be enlarged on a parcel where it is located prior to the date the use becomes a nonconformity, if the enlargement consists of replacement of the nonconforming mobile home unit with another mobile home unit that has improved structural and safety design. A residential development that contains nonconforming structure(s) may be converted to condominiums or townhomes provided the conversion does not increase the nonconformity and further provided the conversion complies with the applicable standards and procedures of these Land Development Regulations.

SECTION 7230 CHANGE IN CHARACTERISTICS OF NONCONFORMING STRUCTURES

If characteristics of use such as off-street parking and loading or other matters related to the use of a structure are made nonconforming, no change shall be made in such characteristics of the structure which increases nonconformities. Provided however, changes may be made which do not increase the degree of nonconformity of the structure. A residential development that contains nonconforming structure(s) may be converted to condominiums or townhomes provided the conversion does not increase the nonconformity and further provided the conversion complies with the applicable standards and procedures of these Land Development Regulations.

SECTION 7240 RELOCATION

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless it conforms to the standards and requirements of the zoning district in which it is located.

SECTION 7250 DAMAGE AND RESTORATION OF NONCONFORMING STRUCTURES

A. General. Any nonconforming structure which has been willfully modified or dismantled by any means to the extent of more than fifty (50) percent of the fair market value of the structure during any two (2) year period, shall only be restored in conformity with the standards of these Land Development Regulations, and all rights to continue as a nonconformity shall terminate. If a structure is damaged by less than fifty (50) percent of the

fair market value during any two (2) year period, it may be repaired and reconstructed to its prior nonconforming condition as before the time of damage, provided that such repair or reconstruction is commenced within twelve (12) months after the date of such damage and pursued diligently to completion.

- B. Natural disaster/not willfully accomplished by owner.** Any nonconforming structure that is demolished or destroyed by a natural disaster or through any manner not willfully accomplished by the owner, regardless of the extent of the demolition or destruction, may be rebuilt consistent with its prior nonconforming status, provided such repair or reconstruction is commenced within twelve (12) months after the date of demolition or destruction.

SECTION 7260 UNSAFE DUE TO LACK OF MAINTENANCE

If a nonconforming structure, or portion thereof, becomes physically unsafe or unlawful due to the lack of repairs or maintenance, and is declared by a duly authorized official of the Town to be an unsafe structure, it shall thereafter be removed or rebuilt or repaired in conformance with the standards of these Land Development Regulations and the Building Code.

SECTION 7270 MULTIPLE RESIDENTIAL STRUCTURES ON ONE SITE

Repealed (Ord. 531 § 1, 1996)

(Ord. 916 § 2, 2009.)

DIVISION 7300 PROCEDURE

SECTION 7310 APPLICATION FOR EXPANSION OR CHANGE OF USE

- A. Enlargement or expansion of a nonconforming use. Any enlargement or expansion of a nonconforming use permitted by this Article shall require application for and receipt of a Development Plan permit, pursuant to Section 51200, Development Plan. Expansions of nonconforming uses shall be processed as minor, intermediate, or major developments pursuant to the review thresholds specified in the Development Plan section.
- B. Change of use. A change of use permitted by this Article shall require application for and receipt of a Zoning Compliance Verification, pursuant to Section 5170, Zoning Compliance Verification and, if applicable, a building permit.

SECTION 7320 LIMITS ON ENLARGEMENTS OR EXPANSIONS OF NONCONFORMING USES

Enlargements or expansions of nonconforming uses shall comply with this Section, this Article, and these Land Development Regulations.

Notwithstanding the provisions in Section 7120, Enlargement or Expansion, any expansion prior to November 9, 1994 (date of adoption of these Land Development Regulations) of a nonconforming use that continues to be nonconforming under these Land Development Regulations shall be counted as part of the expansion allowance provided in Section 7120, Enlargement or Expansion.

For example, a nonconforming use under the previous land use regulations that was expanded by ten (10) percent would be allowed only an additional ten (10) percent (to the twenty percent total) expansion under these Land Development Regulations if the use continues to be nonconforming.