

## **CHAPTER 3: GENERAL PROVISIONS**

For the purpose of this Ordinance there shall be certain general provisions which shall apply to the Town as a whole.

### **3.1 ZONING AFFECTS EVERY BUILDING AND USE**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

### **3.2 CONTINUANCE OF NONCONFORMING USES AND STRUCTURES**

It is the intent of this Ordinance to recognize that the reasonably expeditious elimination of the existing buildings, structures, or uses that are not in conformance with the provisions of this Ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. It is also the intent of this Ordinance to administer the elimination of nonconforming uses, buildings, and structures so as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings, and structures existing at the time of passage of this Ordinance, or any amendment thereto, shall be allowed to remain subject to the following provisions:

- 3.2.1** An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same classification; provided, however, that establishment of another nonconforming use of the same classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.
- 3.2.2** No existing nonconforming use or structure shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except as herein provided.
- 3.2.3** Nonconforming commercial, business, or industrial uses shall be allowed to expand operations and reconstruct facilities which involve an actual continuance and expansion of activities of the business which were permitted and being conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such business and that any construction, improvements or reconstruction shall be in conformance with the district requirements in which it is located.
- 3.2.4** A nonconforming use of land shall be restricted to the area occupied by such use as of the effective date of this Ordinance. A nonconforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this Ordinance.

- 3.2.5 When a nonconforming use of any building or land has ceased for a period of six (6) months, it shall not be re-established or changed to any other nonconforming use.
- 3.2.6 Any nonconforming building or nonconforming use, which is damaged by fire, flood, wind or other act of God or man, may be reconstructed and used as before, if it occurs within twelve (12) months of such damage. If an extension of the twelve (12)-month time period is required, a variance may be requested and granted by the Board of Zoning Appeals.
- 3.2.7 A nonconforming building or building housing a nonconforming use shall not be structurally altered except in conformance with the provisions of this Ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.
- 3.2.8 All additions or improvements to an existing nonconforming mobile home park shall be in conformance with these regulations.

### **3.3 REQUIRED YARD CANNOT BE USED BY ANOTHER BUILDING**

No part of a yard or open space required by this Ordinance shall be included as a part of a yard or other open space required in this Ordinance for another building.

### **3.4 MINIMUM LOT WIDTH**

No dwelling shall be erected on a lot which does not abut a public street or permanent access easement of at least thirty-five (35') feet. This section does not apply to townhouse use.

### **3.5 REDUCTION IN LOT AREA PROHIBITED**

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is required for a public purpose.

### **3.6 REAR YARD ABUTS A PUBLIC STREET**

When a rear yard abuts a public street, all structures built in that rear yard shall observe the same setback from the street line, centerline of the street or property line as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25') feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.

### **3.7 LOT OF RECORD**

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Where the owner of a legally subdivided lot created prior to October 1997 is unable to meet the minimum lot size required but did qualify as a buildable lot under the previous Ordinance dated March 1995 for the district in which the lot is located shall not be required to gain a variance from the Board of Zoning Appeals. If the owner of a legally subdivided lot does not own sufficient land to enable him to conform to the above requirements or other requirements of this Ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this Ordinance. Permission to use such lot as a building site may be granted provided the yards and other requirements of the district are complied with as closely as possible, in the opinion of the Board of Zoning Appeals. Where two (2) or more substandard lots of record with continuous frontage are under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.