

Article 10

Nonconforming Uses and Buildings

Section 10-1 General

Any parcel of land, use of land, building or structure existing at the time of the adoption of this ordinance, or any amendment, that does not conform to the use or dimensional requirements of the district in which it is located, may be continued and maintained subject to the following categories of nonconforming uses.

Section 10-2 Nonconforming Vacant Lots

Nonconforming vacant lots are ones that have been platted and recorded in the Office of the Register of Deeds of Washington County, which at the time of adoption of this ordinance fail to comply with the minimum area and/or width requirements of the districts where they are located. Any such nonconforming lot may be used for any of the uses permitted in the district where it is located provided that:

- (1) Where the lot area is below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.
- (2) Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area or width than the minimum requirements of the district where such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance for the district where such lots are located.

Section 10-3 Nonconforming Occupied Lots

Nonconforming occupied lots are ones occupied by buildings or structures at the time of the adoption of this ordinance that fail to comply with the minimum requirements for area, width, yard and setbacks for the district where they are located. These lots may continue to be used without complying with the specific requirements for use or dimensional requirements.

Section 10-4 Nonconforming Open Uses of Land

Nonconforming open uses of land are lots used for storage yards, used car sales, auto wrecking, junkyards, and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located. A legally established nonconforming open use of land may be continued except as follows:

- (1) when a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use;
- (2) nonconforming open use of land shall be changed only to a conforming use;
- (3) a nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming; and,
- (4) when any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district where the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

Section 10-5 Nonconforming Uses of Structures

Nonconforming uses of structures are ones used at the time of enactment of this ordinance for purposes or uses not permitted in the district in which they are located. Such uses may be continued as follows:

- (1) an existing nonconforming use may be changed to another nonconforming use of the same or higher classification, provided that the other conditions in this Article are met. For the purpose of this ordinance, the rank order of uses from higher to lower shall be: 1) residential, 2) public, 3) commercial, and 4) industrial (for example, a nonconforming barber shop may be changed to another barber shop or a nonconforming residential dwelling, but not a manufacturing facility);
- (2) when a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use;

- (3) a nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except:
 - (a) structural alterations as required by law or ordinance to secure the safety of the structure; or
 - (b) maintenance and repair necessary to keep a structure in sound condition; or
 - (c) expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use.
- (4) When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not hereafter be used except in conformance with the regulations of the district where it is located.

Section 10-6 Reconstruction of Damaged Buildings or Structures

Any nonconforming use, except manufactured dwelling units (see Section 10-7 below) which has been damaged by fire, wind, flood or other causes, may be repaired and used as before provided:

- (1) the damage to the building does not exceed 75% of its assessed value;
- (2) repairs are initiated within 12 months and completed within two years of such damage;
- (3) the total amount of space devoted to a nonconforming use may not be increased; and
- (4) reconstructed buildings may not be more nonconforming with respect to dimensional restrictions.