

ARTICLE 8

NONCONFORMITIES

PART 1

NONCONFORMING LOTS OF RECORD

8-101 In Residential District:

A. In any residential district, notwithstanding the regulations imposed by any other provision of these Regulations, a single-family detached dwelling which complies with the restrictions in Section 8101(B) of these Regulations may be erected on a lot that is not less than 60 feet in width and no smaller than 7,500 square feet in area and that consists entirely of a single lot of record which:

1. Has less than the prescribed minimal lot area, width, depth or all three;
2. Is shown by a recorded plat or deed to have been owned separately and individually from adjoining lots of record at a time when the creation of a lot of such size and width at such location would not have been prohibited by the then applicable zoning ordinance;
3. Has remained in separate and individual ownership from adjoining lots of record continuously during the entire time that the creation of such lot has been prohibited by the then applicable zoning regulations.

8-101 B. Construction permitted by Section 8-101(A) shall comply with all of the regulations (except lot area, width or depth), applicable to single-family dwellings in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:

1. The dwelling shall be placed on the lot so as to provide a side yard on each side of the dwelling.

8-101 2. The sum of the widths of the two side yards on each lot shall be not less than the smaller of:

- a. 25 percent of the width of the lot or
- b. The minimum total for both side yards prescribed by the bulk regulations for said zoning district.

- 3. No side yard shall be less than 10 percent of the width of the lot and in no case less than six feet.

8-102 In Districts Other Than Residential Districts:

A. In any district other than a residential district, notwithstanding the regulations imposed by any other provision of these Regulations, a building designed for any permitted use may be erected on a lot of the type described in Section 8-101(A), (1) (2) (3) that is not less than 100 feet in width, 150 feet in depth, and 15,000 square feet of land area.

8-102 B. Construction permitted by Section 8-102(A) shall comply with all of the regulations except lot area applicable in the zoning district in which the lot in question is located; provided, however that the width of any side yard need not be greater than that derived by applying the following formula (wherein the width of any side yard required = x):

x (Actual lot width)	$\frac{\text{Minimum side yard required by district regulations}}{\text{Minimum lot width required by district regulations}}$
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PART 2

NONCONFORMING STRUCTURES

8-201 **AUTHORITY TO CONTINUE:** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions in Section 8-202 through 8-204.

8-202 **ENLARGEMENT, REPAIR, ALTERATIONS:** Any such structure described in Section 8-201 may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that for structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Section 8-101(B) or 8-102(B), whichever is applicable.

8-203 **DAMAGE OR DESTRUCTION:** In the event that any structure described in Section 8-201 is damaged or destroyed by any means, to the extent of more than 50 percent of its valuation, such structure shall not be restored unless it shall thereafter

conform to these Regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Section 8-101(B) or 8-102(B), whichever is applicable. When a structure is damaged to the extent of 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

- 8-204 **MOVING:** No structure described in Section 8-201 shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the Regulations of the Zoning District in which it is located after being moved.

PART 3

NONCONFORMING USES

- 8-301 **AUTHORITY TO CONTINUE:** Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued, so long as otherwise lawful, subject to the regulations contained in Sections 8-302 through 8-310.

8-302 **ORDINARY REPAIR AND MAINTENANCE:**

- A. Normal maintenance and incidental repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing may be performed on any structure that is devoted in whole, or in part to a nonconforming use; provided, however, that this subsection (A) shall not be deemed to authorize any violation of Sections 8-303 through 8-308 of these Regulations.
- B. Nothing in these Regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition where such restoration will not be in violation of Section 8-305 of these Regulations. In addition, all such restoration or strengthening shall be in conformance with the City codes.
- 8-303 **EXTENSION:** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, but are not limited to:

- A. Extension of such use to any structure or land area other than one occupied by such nonconforming use on the effective date of these Regulations or on the effective date of a subsequent amendment hereto that causes such use to become nonconforming.
 - B. Extension of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these Regulations or on the effective date of a subsequent amendment hereto that causes such use to become nonconforming. Such use may be extended throughout that portion of such building or other structure that was lawfully and manifestly designed or arranged to accommodate such use on such effective date.
 - C. Operation of such nonconforming use in such manner as to conflict with or to further conflict with these Regulations, or a subsequent amendment hereto, that results in such use becoming nonconforming is prohibited, and use limitations apply which have been established for the zoning district in which such use is located.
- 8-304 **ENLARGEMENT:** No structure which is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use shall thereafter conform to the regulations of the zoning district in which it is located.
- 8-305 **DAMAGE OR DESTRUCTION:** In the event that any structure which is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50 percent of its valuation, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- 8-306 **MOVING:** No structure which is devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- 8-307 **CHANGE IN USE:** A nonconforming use shall not be changed to any use other than a use permitted in the zoning district in which the use is located. When a

nonconforming use has been changed to any permitted use, it shall not be changed back to a nonconforming use.

8-308 ABANDONMENT OR DISCONTINUANCE:

- A. When a nonconforming use of land, not involving a structure, or involving only a structure which is accessory to the nonconforming use of land, is discontinued or abandoned for a period of 6 consecutive months regardless of any reservation of an intent not to abandon or to resume such use, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
- B. When a nonconforming use of a part or all of a structure which was designed and intended for a use which is permitted in the zoning district in which such structure is located, regardless of how it was originally used or is presently being used, is discontinued or abandoned for a period of 12 consecutive months regardless of any reservation of an intent not to abandon or to resume such use, such use shall not thereafter be re-established or resumed and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
- C. When a nonconforming use of a part or all of a structure which was not designed and intended for any use which is permitted in the zoning district in which such structure is located, regardless of how it was originally used or more recently was being used, is discontinued or abandoned for a period of 6 consecutive months regardless of any reservation of an intent not to abandon or to resume such use, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.

8-309 NONCONFORMING ACCESSORY USES: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

8-310 NONCONFORMING RESIDENTIAL USES: Notwithstanding the provisions of Sections 8-303, and 8-304, any structure which is devoted to a residential use and which is located in a business or manufacturing district, may be remodeled, extended, expanded or enlarged; provided that after any such remodeling, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.

PART 4

STATUS OF CONDITIONAL USES

8-401 **STATUS OF EXISTING CONDITIONAL USES:** Where a conditional use existed at the effective date of these Regulations and was permitted only as a conditional use in the zoning district in which it is located, such use shall not be deemed to be a nonconforming use, but shall without further action, be deemed a lawful conforming use in such zoning district.

8-402 **STATUS OF FUTURE CONDITIONAL USES:** Any use for which a conditional use permit has been issued as provided in Part 6 of Article 10 of these Regulations shall be deemed to be a nonconforming use, but shall without further action, be deemed a lawful conforming use as long as the property remains under the same ownership.

PART 5

TERMINATION OF CERTAIN NONCONFORMING USES

8-501 **NONCONFORMING SIGNS:** Any sign that does not conform to the sign regulations for the zoning district in which it is located shall be removed in accordance with the following schedule:

A. A sign having a total area of 24 square feet or less which is located in any residential district shall be removed within one year from the date such sign became nonconforming with respect to these Regulations.

8-501 B. All other signs located in any zoning district shall be removed in accordance with the provisions of Paragraph C below. (See Exemptions 6-105)

8-501 C. Amortization. Rules and regulations pertaining to amortization of signs shall be as follows:

1. All nonconforming signs must be removed, changed or altered to conform to the provision of this article according to the following schedule:

<u>Original Cost of the Sign</u>	<u>Amortization Period</u>
0 to \$999	48 months (from the date of
\$1,000 to \$2,999	60 months of passage these
\$3,000 or more	72 months regulations)

2. If more than one sign permitted for an activity is or becomes nonconforming, the original cost of all the signs so displayed shall be aggregated for purposes of determining the applicable amortization period.
 3. A sign is or becomes "nonconforming" if it is not in conformance with the provisions of these Regulations on either of the following dates:
 - a. The date of original enactment, or
 - b. Any date on which this article is amended.
- 8-501 4. Signs that have become nonconforming as a result of the passage of these Regulations may be repaired or maintained to serve the business in operation at the time this article was passed, provided, that the amortization period has not expired.
- 8-502 **LAND USES:** All nonconforming uses of land, not involving a structure or involving structures which are accessory to such use of land, shall be eliminated or made to conform with the zoning regulations then in effect in the zoning district in which located within three years from the date such use became non-conforming.