

## Chapter 8: - NONCONFORMITIES

### 8.1 - NONCONFORMING USES

#### 8.1.1 - Existing Nonconforming Uses

The lawful use of land and/or buildings existing at the time of adoption of the various regulations from which this Ordinance derives, although such use does not conform to the provisions of this Ordinance, shall not be affected by this Ordinance; provided, however, that no such nonconforming use shall be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of the various regulations from which this Ordinance derives. If such nonconforming use is discontinued for a continuous period of more than one hundred eighty (180) days, any future use of the land and/or building shall be in conformity with the provisions of this Ordinance.

#### 8.1.2 - Changing Nonconforming Uses

A nonconforming use shall not be changed to any use other than either a permitted use or special use for the district in which the nonconforming use is located. Provided, before the nonconforming use can be changed to a special use, it must have met the conditions and requirements of the special use as contained in this Ordinance, and the nonconforming use must have been issued a special use permit by the Board of Commissioners.

#### 8.1.3 - Restoring Nonconforming Uses

- (1) The lawful use of "land and/or buildings" existing at the time of adoption of this Development Ordinance, although such use does not conform to the provisions of this Development Ordinance, shall not be affected by this Development Ordinance; however, no such nonconforming use shall be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this Development Ordinance.
- (2) A nonconforming use shall not be changed to any use other than either a permitted use of a special use for the zoning district in which the nonconforming use is located. Provided, before the nonconforming use can be changed to a special use, it must be granted a special use permit by the board of Commissioners.
- (3) In cases not covered by subsection (1) above, no provision in this Development Ordinance shall prevent the restoration of a nonconforming building destroyed to the extent of not more than fifty (50) percent of its physical structure by fire, explosion, other casualty or act of God, or the public enemy, if the restoration of such building is commenced within one hundred eighty (180) days of the date such damage and completed within the period of validity of the building permit issued therefore.

### 8.2 - NONCONFORMING SIGNS

#### 8.2.1 - Intent

Signs in existence prior to the adoption of the regulations from which this Development Ordinance is derived and that do not conform to the provisions of this Development Ordinance are declared nonconforming signs. The policy of the Town is that the eventual elimination of nonconforming signs is just as important to the health, safety, welfare, and appearance of the Town as is the prohibition of new signs that would violate this Development Ordinance.

#### 8.2.2 - General Provisions

Nonconforming signs may be continued, provided that they:

- (1) Were erected prior to adoption of the various sign regulations from which this Ordinance derives, and with which they are in violation.
- (2) Are not changed or replaced with another nonconforming sign, nor modified in any way except as noted in section 6.6.7.
- (3) Shall not be expanded or relocated.
- (4) Shall not be re-established after damage or destruction in excess of fifty (50) percent of the sign square footage at the time of the damage or destruction.
- (5) Shall not be modified in any way that increases their degree of nonconformity.
- (6) Shall be removed within ten (10) days of the close of the business that they advertise.

### 8.2.3 – Special Provisions for Off-premises Signs

Off-premises signs and billboards are not permitted as per the adopted Ordinance. Nonconforming sign locations which had off-premises signs established on or prior to January 1, 2006 may be replaced or reestablished provided the following:

- (1) Shall not increase the number of off-premises signs at location
- (2) Shall have a maximum size of Fifty (50) square feet or the original square footage of the sign as established on or prior to January 1, 2006. The more stringent of the two (2) shall apply.
- (4) Shall not exceed fifteen (15) feet in height or the original height of the sign as established on or prior to January 1, 2006. The more stringent of the two (2) shall apply.
- (3) Shall not increase the number of sign facings

### 8.3 - NONCONFORMING LOTS

A nonconforming vacant lot is a lot that does not conform to the dimensional requirements and district regulations for the district in which it is located, either at the effective date of any regulation from which this Ordinance derives or as a result of one (1) or more subsequent amendments to those regulations or this Ordinance. A nonconforming vacant lot may be used for one (1) single-family residence if permitted by the zoning district in which the lot is located provided the minimum front, side and rear yard setbacks can be met.

### 8.4 - NONCONFORMING STRUCTURES

Nonconforming structures may be improved or expanded, provided that any addition to, improvement to or expansion of the nonconforming building must comply with the minimum front, side and rear yard setbacks as well as other dimensional requirements for the district in which it is located, and the addition to, improvement or expansion may not increase the nonconformity of the structure. When a nonconforming structure is damaged by fire, flood, wind, act of God, or condemnation proceedings, the structure may only be repaired and restored to its original dimensions and conditions provided less than fifty (50) percent of the structural fair market value has been damaged.