

ARTICLE 23-8

NON-CONFORMITIES

SECTION 8.1 INTENT

The intent of the "Article" is to permit any use of a structure, or portion thereof, or of land, lawfully existing prior to the effective date of this ordinance but not in conformance with its provisions, to continue until they are removed but not to encourage their survival. It is further the intent of the "Article" that these non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures, or uses prohibited elsewhere in the same district except as hereinafter provided. Non-conforming uses are affirmed by this ordinance to be incompatible with permitted uses in the district involved.

SECTION 8.2 EXCEPTIONS

- A. A structure or use lawfully begun under a building permit or a special permit issued before the first publication of notice of the required hearing by the Community Development Board on the applicable zoning amendment. **[Amended 6-28-2022 by Ord. No. 1250]**
- B. The alteration, reconstruction, extension or structural change to a one-family or two-family dwelling in any district provided this does not increase the non-conforming nature of such structures.
- C. Non-conforming lots of record and lots shown on a plan endorsed by the Community Development Board under the Subdivision Control Law are exempt from the provisions of this ordinance to the extent as provided in Section 6, Chapter 40A of the General Laws. **[Amended 6-28-2022 by Ord. No. 1250]**
- D. None of the restrictions set forth in this "Article" shall apply to a building or other structure which is non-conforming only with respect to lot area, width yards, or provisions for off-street parking, or off-street loading areas, except that no building or other structure shall be altered, enlarged, reconstructed to extend further into such a deficient front, rear or side yard or to increase its height except in compliance with the District Regulations.

SECTION 8.3 REQUIREMENTS FOR EXPANSION, RECONSTRUCTION OR CHANGE IN USE.

The Zoning Board of Appeals may issue a special permit for any alteration or reconstruction, extension or change of a non-conforming use or structure to provide for a use of different purpose provided that no such extension, alteration, reconstruction or change in use shall be permitted unless the following findings are made:

- A. That such change, extension or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.
- B. That such extended, altered, reconstructed or changed use shall not be in greater non-conformity with open space, yard, height and off-street parking requirements of this ordinance.

SECTION 8.301 RECONSTRUCTION OF STRUCTURES DAMAGED BY FIRE, EXPLOSION OR OTHER CATASTROPHE

A non-conforming structure damaged by fire, explosion or any other catastrophe may be rebuilt provided such rebuilding, reconstruction or restoration shall be undertaken within two (2) years of such catastrophe, and the structure as rebuilt or restored, shall not be in greater non-conformity with the provisions of this ordinance. Such rebuilt, reconstruction or restored structure may be enlarged or changed in use in accordance with the provisions of Section 8.3.

SECTION 8.302 RESTORATION TO ASSURE PUBLIC SAFETY PERMITTED

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of a building, or part thereof, declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

SECTION 8.4 ABANDONMENT AND NON-USE

Any non-conforming structure use which has been abandoned or not used for a period of two years, or more shall not be re-established, except by the granting of a special permit from the Zoning Board of appeals in accordance with provisions of this ordinance. Any other future use of such premises shall conform to the provisions of this ordinance.