

**ARTICLE 24.**  
**NONCONFORMING LOTS AND USES**

**Section 1. INTENT:**

Within the districts established by these regulations, and any amendments thereto, if any, there may exist lots; structures; uses of land, water or structures; and characteristics of use which were lawful prior to the adoption of these regulations, but which would be prohibited, regulated, or restricted under the terms of these zoning regulations or their later amendment. It is the intent of these regulations to permit these nonconformities to continue until they are voluntarily removed or removed as required by these zoning and subdivision regulations, but not to encourage their continuation. With respect to nonconforming uses, it is the further intent of these zoning and subdivision regulations that nonconformities shall not be impermissibly enlarged upon, expanded, intensified, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

**Section 2. SINGLE-FAMILY DWELLINGS AND DETACHED ACCESSORY STRUCTURES ON NONCONFORMING LOTS OF RECORD IN RURAL OR ALL RESIDENTIAL DISTRICTS:**

- A. In the Rural District tracts or lots smaller than ten (10) acres which were legally established in accordance with the county regulations then in effect prior to March 17, 1994, may be used for single-family residential purposes and residential accessory structures, subject to the standard setback and lot coverage limitations required by Article 9 of these regulations. Single-family residential dwellings may be constructed, and may be reconstructed if damaged or destroyed. Such dwellings also may be expanded and accessory structures may be built subject to the provisions of Articles 18 and 23 of these regulations.
- B. Notwithstanding any other provision contained within these regulations, a single-family detached dwelling or a detached accessory structure which complies with the restrictions in Section 2 (C) below, may be erected in any Residential or Planned Residential District on a lot that has less than the prescribed minimum lot area, width or depth, for such zoning district, if:
  - 1. The lot is shown by a recorded plat or deed and was in conformance with the zoning and subdivision regulations in effect at the time it was created; and
  - 2. Except for lot line adjustments toward conformance with the regulations, the lot dimensions have remained unchanged.
- C. Construction permitted by Section 2 (B) above, shall comply with all of the regulations (except lot area, width and depth) applicable to single-family dwellings and detached accessory structures in the zoning district in which the lot 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. A detached accessory structure shall be placed on the lot so as to provide a side yard on the side of the detached accessory structure nearest to a side property line.
  - 2. Except in the PRU-1B District, the sum of the widths of the two (2) required side yards on each lot shall not be less than the smaller of:
    - a. Twenty-five percent (25%) of the width of the lot, or
    - b. The minimum total for both required side yards prescribed by the bulk regulations for said zoning district.

3. Except in the PRU-1B District, no required side yard shall be less than ten percent (10%) of the width of the lot, and in no case less than five (5) feet wide.
  4. In the PRU-1B Districts, the minimum setback for each required side yard shall be five (5) feet in width.
  5. In all Residential or Planned Residential Zoning Districts, any new building construction, including accessory structures, must comply with the County's building codes, including minimum fire separation requirements.
- D. Except in the PRU-1B District, front and rear yard setbacks shall be required as specified for the zoning district by these regulations or as provided by Article 17, Section 5 herein.
  - E. In the PRU-1B District, the minimum required front yard setback shall be twenty-five (25) feet and the minimum required rear yard setback shall be ten (10) feet. For properties immediately adjacent to a lake, the minimum required rear yard setback shall be five (5) feet.
  - F. Any new accessory structures on legal, nonconforming lots of record shall comply with Article 18, Section 3 of these regulations.
  - G. Any new accessory uses on legal, nonconforming lots of records shall comply with Article 18, Section 7, of these regulations.
  - H. The total number and sizes of accessory buildings and structures on legal, nonconforming lots of records shall comply with Article 18, Section 6, of these regulations.

**Section 3. NONCONFORMING USE OF LAND:**

Where land is being used for a nonconforming use at the time of adoption of these regulations, and such use is the principal use and not accessory to the use of the main building or structure on the premises, such use may be continued. Where such nonconforming use of land is an accessory to the main building or structure on the premises or the main use conducted on the premises, such use may be continued so long as there has not been a discontinuance of the nonconforming main use of the premises. Existing nonconforming uses of land shall not be qualitatively extended or enlarged but may be quantitatively extended, either on the same or adjoining property. The protection afforded to nonconforming uses of land by this section applies only to such land held under ownership for said activity on or before the effective date of these regulations but shall not apply to land newly purchased or leased after said date.

**Section 4. NONCONFORMING USE OF BUILDINGS OR STRUCTURES:**

- A. Except as otherwise provided herein, the lawful use of a building or structure existing at the effective date of these regulations may be continued although such use does not conform to the provisions hereof.
- B. The nonconforming use of a building or structure may be hereafter extended throughout those parts of the existing building or structure which were arranged, designed and constructed for a use which is not permitted in the district in which it is located at the time of the enactment of these regulations.

**Section 5. DISCONTINUANCE OF NONCONFORMING USES:**

Nonconforming uses of land, building(s), structure(s) or portion(s) thereof which become and remain idle or unused for a continuous period of one hundred eighty (180) days or more shall be presumed to have been abandoned and the land, building(s), structure(s), or portion(s) thereof shall not again be used except in conformance with these regulations.

**Section 6. REPAIRS AND ALTERATIONS OF NONCONFORMING BUILDINGS OR STRUCTURES:**

Any lawfully existing building or structure which does not conform to the regulations of the district in which it is located shall be subject to the following provisions:

- A. Repairs: Ordinary repairs may be made to a nonconforming building or structure. Ordinary repairs shall be determined by the County Building Code Official.
- B. Alterations and Enlargements:
  - 1. A nonconforming building or structure may be altered, including structural alterations, or may be enlarged, provided:
    - a. the alterations or enlargements would comply with these regulations and not increase or extend the degree of nonconformity,
    - b. the alterations are required by law or County regulations, and
    - c. the alteration(s) or enlargement(s) would conform with all other regulations herein for the district in which it is located.
  - 2. Any nonconforming structure which is relocated on the same lot shall thereafter conform to the provisions of this Article.

**Section 7. DAMAGE OR DESTRUCTION OF A NONCONFORMING BUILDING OR STRUCTURE:**

Any nonconforming building or structure, which has been damaged by fire, explosion, act of God, or the public enemy to the extent of more than fifty percent (50%) of the value of the structure immediately prior to damage shall not be restored unless in conformity with the provisions of these regulations, and all rights as a nonconformity shall be terminated. If a building or structure is damaged by less than fifty percent (50%) of the value immediately prior to damage, it may be repaired, restored or reconstructed and used as before the time of damage, provided that such repairs, restoration or reconstruction are substantially completed within twelve (12) months of the date of such damage.

**Section 8. CHANGE OF USE:**

- A. Any nonconforming use may be changed to any conforming use or, to any use which is less nonconforming and more similar in character with the uses permitted in the district in which it is located.
- B. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be permitted to become a nonconforming use again.

**Section 9. INTERMITTENT USE:**

The casual, intermittent, temporary or illegal use of land, building(s), or structure(s) shall not be sufficient to establish the existence of a nonconforming use.

**Section 10. EXISTENCE OF A NONCONFORMING USE:**

Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Administrator.

**Section 11. NONCONFORMING USES NOT VALIDATED:**

A nonconforming use in violation of the provisions of prior regulations shall not be validated in any way by the adoption of these regulations.