

ARTICLE IV  
**Nonconforming Uses, Structures and Lots**

**§ 200-8. Nonconforming uses and structures.**

Except as provided in § 200-10D and E, 200-12, 200-17 and 200-20, neither this Zoning Bylaw nor any amendment thereto shall apply to uses or structures lawfully in existence, or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on said Zoning Bylaw or amendment. Such structures and uses shall hereinafter be called "nonconforming uses and structures." The lawful use of any structure or land existing at the time of enactment of this Zoning Bylaw may continue, except as otherwise provided.

**§ 200-9. Intent and interpretation; definitions.**

- A. It is the intention of this Zoning Bylaw that this article shall be construed against the perpetuation, extension, increase or change of nonconforming uses and structures.
- B. An increase in the nonconforming nature of a structure for the purposes of this article will result when the portion added to the structure violates any provision of this Zoning Bylaw applicable at the time of application for the building permit required for such addition. An increase will not result from a mere replacement, without undue delay, of a nonconforming portion. (Example: Any extension to an existing porch, which porch is totally beyond the permissible side lot line requirement before said proposed extension, would constitute an increase in the nonconforming nature of a structure whether the extension was toward the side lot line or parallel to the side lot line, although the closest point of the porch would be no closer to the lot line.)
- C. Definitions.

ALTERATION -- Shall be defined as any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of land, a building or other structure.

EXTENSION -- Shall include without limitation the following: any increase in physical size, intensity of use or hours or periods of operation. [**Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979**]

NONCONFORMING STRUCTURE, BUILDING OR LOT -- Shall be defined as a structure, building or lot that does not conform to a dimensional regulation prescribed by this Zoning Bylaw for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure, building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

NONCONFORMING USE -- Shall be defined as a use of a structure, building or lot that does not conform to a use regulation prescribed by this Zoning Bylaw for the district in which it is located, but which use was in existence at the time the use regulation became effective and was lawful at the time it was established.

SUBSTANTIALLY MORE DETRIMENTAL -- Shall be defined as observable and definably more objectionable to the neighborhood.

**§ 200-10. Reconstruction, alteration, increase, extension or change.**

- A. A special permit by the Zoning Board of Appeals shall be required for any reconstruction, alteration, increase, extension or change of a nonconforming use or structure except as provided in Subsection D.
- B. No special permit required by Subsection A pertaining to a nonconforming structure shall be granted unless there has been a finding by the Zoning Board of Appeals that the contemplated reconstruction, alteration, increase, extension or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Such reconstruction, alteration, increase, extension or change shall be in conformity with dimensional and density requirements not previously violated.
- C. No special permit required by Subsection A with respect to nonconforming use shall be granted unless there has been a finding by the Zoning Board of Appeals that the use to be substituted will be less objectionable than the prior use.
- D. Single- or two-family residential buildings may be reconstructed, altered, extended or structurally changed for continued single- or two-family use providing there is a determination by the Building Inspector that such reconstruction, alteration, extension or structural change in no way increases the nonconforming nature of said structure.
- E. Any nonconforming structure, or portion thereof, which has been reconstructed, altered, extended or structurally changed so as to become conforming shall thereafter be subject to all the provisions of this Zoning Bylaw.
- F. Any nonconforming use which has been changed to a permitted use shall thereafter be subject to all the provisions of this Zoning Bylaw.
- G. Reconstruction of unsafe structures shall be governed by Subsections A and B and § 200-12A.

**§ 200-11. Nonconforming lots.**

Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

**§ 200-12. Abandonment.**

- A. A nonconforming structure, or portion thereof, which has been declared to be unsafe by the Building Inspector may be considered abandoned unless an application for a building permit to reconstruct is filed within one (1) year of said determination.
- B. Nonconforming uses or structures which have not been used for a period of two (2) years of more, or which have been abandoned shall thereafter be subject to all the provisions of this Zoning Bylaw.

**§ 200-13. Restoration.**

Restoration of any nonconforming structure damaged by fire, explosion or other catastrophe shall be governed by § 200-10A, B and D unless the Building Inspector makes a determination that the restoration is only to repair or replace the damaged areas.

**§ 200-14. Reduction or increase in lot size.**

A part of a lot shall not be added to another lot so as to result in a nonconformity or increase in nonconformity of the lot reduced in size.

**§ 200-15. Reduction of parking or loading spaces.**

Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.