

CHAPTER 160 NONCONFORMING LOTS, USES, BUILDINGS, AND/OR STRUCTURES

Section 160-010 Purpose

The purpose of these regulations is to bring all nonconforming uses, lots, buildings and structures to conformity as quickly as possible and in no way to allow the extension or enlargement of the nonconformity unless specifically authorized by these regulations. It is the intent of these regulations, however, to minimize undue hardship for those whose purchase, ownership, or use of the property predated applicable provisions of these regulations.

Section 160-020 Nonconforming Uses

1. No Extension or Enlargement. Any nonconforming use, as defined by these regulations, shall be permitted to continue, notwithstanding any other provision of these regulations or any amendment hereof, provided, however:
 - a. Such use was lawfully existing at the time of its establishment, and has not been abandoned, as defined herein.
 - b. Such use shall not be enlarged or extended as defined by these regulations.
 - c. Such use shall not be altered in such a manner as to increase the nonconformity of such use (see section 3 regarding substitution).
 - d. No nonconforming use shall be moved to any portion of a building, structure, or any part of a parcel of land where such use did not previously exist.
 - e. A nonconforming use, if changed to a use in conformance with these regulations shall not thereafter be changed back to a nonconforming use.
2. Restoration and Repair of Buildings Containing Nonconforming Use. A building or structure containing a nonconforming use may be altered or improved, but may not be extended or enlarged, and may be repaired or reconstructed as made necessary by normal wear and tear or deterioration.

Any building or structure containing a nonconforming use, which has been destroyed or damaged by fire, explosion, flood or any act of God or public enemy may be restored to the same dimensions, floor area and cubic volume lawfully existing immediately prior to such damage or destruction, provided such restoration is commenced within 2 years of such damage or destruction. Failure to commence construction within such time frame shall be construed as an intention by the owner to abandon the nonconforming use.

3. Substitution. Any nonconforming use may be replaced with a use less nonconforming than its present use, following acquisition of a Special Permit by the Zoning Commission in accordance with Chapter 180 of these regulations,

provided that such replacement use is consistent with the public health, safety and welfare; with the character of the neighborhood, adjacent properties and zones; with the appropriate and orderly development of the neighborhood, adjacent properties, and zones; and provided, further that such replacement use creates no greater impact on the property, the neighborhood, adjacent properties and zones, in terms of parking, volumes and types of traffic, property values, hours of operation, exterior appearance of the building, structure or lot, and any other factors considered by the commission, pursuant to chapter 180 of these regulations.

4. Abandonment by Non-Use or Change of Use. Any nonconforming use shall lose its nonconforming status and shall thereafter conform to these regulations if a) said use ceases for a period of 24 consecutive months and b) the owner does not intend to reestablish the nonconforming use or the nonconforming use is changed to a conforming use. For any nonconforming use which has ceased operation or existence for any period of time, the Zoning Enforcement Officer may require evidence that there was no intent to abandon the nonconforming use prior to issuance of a certificate of zoning compliance or issuance of a cease and desist order. Refusal or granting of such a certificate or issuance of a cease and desist order may be appealed by any aggrieved party to the Zoning Board of Appeals.

Section 160-030 Nonconforming Buildings and Structures

1. No Enlargement or Alteration. Any nonconforming building or structure existing as of the effective date of these regulations shall be permitted to continue notwithstanding any provision of these regulations or any amendment hereof, provided, however, that such nonconforming building or structure shall not be enlarged or altered in such a manner as to increase the nonconformity of such building or structure.
2. Restoration and Repair of Nonconforming Buildings and Structures. Nothing in these regulations shall be deemed to prohibit the repair and maintenance of a nonconforming building or structure, provided such repairs or maintenance do not increase the nonconformity of such building or structure. Any nonconforming building or structure which has been destroyed or damaged by fire, explosion, flood, or any act of God or act of public enemy may be restored to the same dimensions, floor area, cubic volume, density, and site location as existing immediately prior to such damage or destruction, provided such restoration is commenced within two (2) years, of such damage or destruction. The commission, for good cause shown, may grant one or more extensions of the preceding time limits.

Section 160-040 Nonconforming Lots

1. No Increase in Nonconformity. Except as set forth in Subsection 2 of this section, no lot or parcel shall hereafter be decreased in size, by sale, devise, descent, gift

or otherwise, so that it or any part of it, or so that any structure or building thereon, shall fail to comply with these regulations or shall increase the extent of any nonconformity.

2. Nonconformity as a result of improving or widening of a State Road.

Any portion of a lot acquired by the State of Connecticut or the Town of New Milford for the purpose of improving or widening a State Road, or for the construction of sewer pump stations or other sewerage facilities associated with improving or widening a State Road, shall not be deemed under any circumstances to render the remaining portion of such lot or the buildings located thereon nonconforming with respect to the minimum lot area, lot frontage, or any yard requirements of these regulations. Any portion of a lot thus acquired by the State of Connecticut or Town of New Milford shall be included as part of the lot as it existed prior to such acquisition for purposes of determining compliance with any provision of these regulations.

3. Use of Nonconforming Lots

The erection of a single family dwelling in any residential zone shall not be prohibited on a parcel of land separately recorded by deed or depicted on a subdivision map approved by the Planning Commission and duly filed in the office of the Town Clerk prior to the effective date of these regulations, or any amendments thereto, which lot fails to meet the lot area, frontage, width or any other applicable requirements of these regulations pertaining to lots, provided further that all buildings are so designed and erected as to conform with the provisions of these regulations.

4. Merger Provision

Where two (2) or more nonconforming lots of record are contiguous and in single ownership at the time of the adoption of these regulations or at any time thereafter, and such lots taken together would form one or more conforming lots, such lot or lots must be joined and used to comply with the lot area, lot frontage and lot width requirement to the extent possible irrespective of subsequent change in ownership.

Nothing in these regulations shall be intended to abrogate the provisions of Section 8-26a of the Connecticut General Statutes.

Section 160-050 Nonconforming Signs

Any sign which legally existed upon the effective date of these regulations or any amendment thereto, and not in conformance with its provision, shall be deemed a nonconforming sign. Such nonconforming sign may be repaired, repainted and relettered, however, no nonconforming sign shall be structurally altered, relocated or replaced except in compliance with these regulations, with the following exception:

- If the nonconforming sign advertises a business located on the same property as said sign, and the business has been in continuous operation, replacement of said sign may be permitted so as not to be more nonconforming, subject to acquisition of a zoning permit.

(Chapter Amended Effective: November 1, 2007)