

5.0 NONCONFORMING USES, STRUCTURES AND LOTS

5.1 INTENT

A. It is the intent of this Article to set forth the conditions under which uses, structures and lots, that do not conform to requirements of this Chapter but which were lawful prior to the effective date of those requirements, may be continued, repaired, rebuilt, expanded or modified.

B. Any lot, structure or use which was in violation of the Zoning Ordinance of the City of Saratoga Springs prior to adoption of this Chapter shall not be regarded as lawfully non-conforming under this Article and shall not be entitled to any of these rights.

C. This Article shall not be construed to permit any unsafe use or structure or to restrict any proper procedures to regulate, prohibit, abate or remove any unsafe use or structure.

5.2 DETERMINATION OF CONFORMITY

Upon written request, the Zoning Officer shall make a written determination as to whether a particular use, structure, or lot is conforming or non-conforming based on available property records. The Zoning Officer may require such additional information as necessary to make this determination.

5.3 NONCONFORMING USES

5.3.1 CONTINUATION

A lawfully pre-existing, non-conforming use may be continued subject to the provisions of this Section.

5.3.2 DISCONTINUANCE

A non-conforming use shall be deemed discontinued if it is not operated for at least thirty (30) days in a calendar year and any future use of the property shall conform to this Chapter.

5.3.3 DAMAGE OR DESTRUCTION

A structure containing a non-conforming use that is damaged or destroyed by any unintentional cause may be restored, rebuilt or repaired to its original dimensions and occupied by the same use provided that the building permit for reconstruction is obtained within one (1) year after the damage occurs and a Certificate of Occupancy is obtained within two (2) years from the date of issuance of building permit.

5.3.4 EXTENSION OR EXPANSION OF USE

A non-conforming use shall not be extended or physically expanded. Extension or expansion of a non-conforming use shall include expansion of the area or volume occupied by a non-conforming use, including expansion into previously

underutilized, vacant or newly constructed space, or the increase of any parking related to the use.

5.3.5 CHANGE IN USE

If a non-conforming use is to be replaced or augmented by another use, the new and any future use shall conform to this Chapter.

5.4 NONCONFORMING STRUCTURES

5.4.1 CONTINUATION

A non-conforming structure may be maintained in reasonable repair subject to the provisions of this Article.

5.4.2 DAMAGE OR DESTRUCTION

A non-conforming structure that is damaged or destroyed by any unintentional cause may be restored, repaired or rebuilt to its nonconforming dimensions provided that the building permit for reconstruction is obtained within one (1) year after the damage occurs and a Certificate of Occupancy is obtained within two (2) years from the date of issuance of building permit.

5.4.3 RENOVATION, ALTERATION OR REPAIR

Any non-conforming structure may be renovated, altered or repaired within its present dimensions.

5.4.4 EXTENSION OR EXPANSION OF STRUCTURE

A. A non-conforming structure may be extended or expanded provided the proposed extension or expansion does not violate any dimensional requirements other than the current nonconformity.

B. A non-conforming structure may not be extended or expanded to increase nonconformity unless dimensional relief is granted by an area variance from the ZBA.

5.5 NONCONFORMING LOTS

A. A lot which lawfully existed and was in compliance with the provisions of the Zoning Ordinance applicable on the date that such lot was recorded in the Saratoga County Clerk's office but which does not conform to the current dimensional requirements of this Chapter shall be considered a legal non-conforming lot of record as follows in "B" and "C".

B. Minimum lot size and minimum average lot width requirements shall not apply to any lawfully recorded lot which was under different ownership from any adjoining land on or before July 6, 1961.

C. The owner of any lot in a residential district which does not conform to the district's minimum lot size and minimum average lot width requirements may erect a single family residence or accessory building if the lot legally existed on

or before January 19, 1970 and is not under the same ownership as any adjoining land.

D. Lawfully nonconforming lots of record, which are located within approved subdivisions, shall be considered legal nonconforming lots and can be developed in accordance with the dimensional requirements that were effective on the day that such lots were created, provided that the approved subdivision plat was properly filed in the Saratoga County Clerk's office.

E. Development of any lawfully nonconforming lots existing outside of approved subdivisions shall comply with the dimensional requirements that are currently in effect.

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