

## ARTICLE IX

### NONCONFORMING USES, STRUCTURES, AND LOTS

Section 9.01 Nonconformity by Initial Enactment or Amendment - The provisions of this Article apply to nonconforming uses, structures, and lots as created by the initial enactment of this Bylaw or by any subsequent amendment.

Section 9.02 Extension and Alteration

1. Except where used primarily for agriculture, including marine agriculture and the catching and taking of marine flora and fauna and the seeding of catchment area, horticulture or floriculture, any nonconforming use of any structure or of any open space on a lot outside a structure, or of a lot not occupied by a structure, shall not be altered or extended except in accordance with this Article IX.
2. Certain nonconforming principal or accessory uses or structures may be extended or altered by Special Permit from the Board of Appeals in accordance with the procedures established by Article X.
3. Any nonconforming one or two family residential structure may be altered, extended, or reconstructed and the use extended throughout the extended, altered, or reconstructed portion provided that any resultant alteration shall not cause the structure to violate the maximum building area and yard regulations of the district in which it is located. Nonconforming structures may be altered or relocated on the same lot if it makes the altered or relocated structure more conforming with respect to the current building and yard regulations.
4. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.

Section 9.03 Residential Lot of Record - Any lot lawfully laid out by deed duly recorded, or any lot shown on a recorded plan endorsed by the Planning Board pursuant to Section 81P or 81U of M.G.L. C. 41, which complies at the time of such recording with the minimum area, frontage, width, and depth requirements, if any, of the zoning bylaws then in effect, may be built upon for residential use provided it has a minimum area of 5,000 square feet with frontage of at least 50 feet and is otherwise in accordance with the provisions of Section 6 of the Zoning Enabling Act.

- Section 9.04                    Reduction or Increase
1. Any nonconforming lot or open space on the lot if already smaller or greater, as the case may be, than that required shall not be further reduced or increased so as to be in greater nonconformity.
  2. No building area or floor area where already nonconforming shall be increased so as to be in greater nonconformity.
- Section 9.05                    Change
1. Any nonconforming use of a structure may be changed to another nonconforming use, provided: the changed use is not a substantially different use, determined by the Building Inspector.
  2. Any nonconforming use which has been once changed to a permitted use shall not again be changed to a nonconforming use.
  3. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.
- Section 9.06                    Restoration
1. Any nonconforming structure or any structure occupied by a nonconforming use, which is totally destroyed by fire or other natural cause, may be rebuilt on its original foundation according to original floor area limitations, and used for its original use. Otherwise, it shall not be rebuilt, except in accordance with the use, dimensional, and density regulations of this Bylaw. Historical buildings may be exempt by special exception of the Board.
  2. Any nonconforming structure or any structure occupied by a nonconforming use, which is damaged by fire or other natural cause, may be repaired or rebuilt according to the dimensions and floor area limitations of the original structure and used for its original use or a conforming use.
  3. Restoration under this section shall be completed within two years of the fire or natural disaster.
  4. This time frame may be extended by one year in the case of natural disasters when the Building Inspector makes a finding that the property owner has made a good faith effort to complete reconstruction within the said two year period. The provisions of this amendment shall be effective as of August 1, 1991.
- Section 9.07                    Abandonment - Any nonconforming use of a structure or lot which has been abandoned for a continuous period of two years or more shall not be used again except for conforming use. For agricultural, horticultural, or floricultural uses, the

abandonment period shall be five years. For purposes of this section, the abandonment period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of 90 consecutive days. The abandonment of the use of a lot where such use was for removal of soil, loam, sand, gravel, quarry or other earth materials, shall be governed by Section 11.02.

Section 9.08            Moving - Any nonconforming structure shall not be removed to any other location on the lot or any other lot unless every portion of the structure, the use thereof, and the lot shall be conforming. Nonconforming historical structures may be moved by special exception of the Board.

Section 9.09            Unsafe Structure - Any structure determined to be unsafe and not subject to Section 9.06, may be restored to a safe condition provided such work on any nonconforming structure shall not place it in greater nonconformity, and provided further, except for historic buildings if the cost to restore any structure shall exceed 50 percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

Section 9.10            Nonconforming Signs - Any sign which is nonconforming at the date of adoption of this bylaw by reason of its size, type, or lighting shall be altered so as to become conforming within five years of the date of adoption of this Bylaw or shall be removed within five years.

(Article IX Nonconforming Uses, Structures and Lots Section 902.3 amended April 2007 ATM)