CHAPTER 109
NONCONFORMING LOTS, BUILDINGS, AND USES

CROSS REFERENCES
Ch. 103 Administration and Enforcement

109.01 GENERAL PROVISIONS

The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enactment of this resolution or amendment thereto, may be continued, although such use does not conform with this resolution or amendment thereto, as provided for herein.

109.02 NONCONFORMING LOTS

The construction of a conforming building and/or the conduct of a permitted use shall be allowed on any lot of record which has an area and/or lot width less than that required for such building or permitted use in the zoning district in which the lot is located. Variance from any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Board of Zoning Appeals.

Such nonconforming lots must be in separate ownership and not in continuous frontage with other land in the same ownership on the effective date of this amendment to the Zoning Resolution.

109.03 NONCONFORMING BUILDINGS

Buildings and/or accessory buildings, which by reason of size, type, location on the lot, or otherwise in conflict with the regulations of the zoning district in which they are located may be altered, reconstructed or extended only in such manner that the alteration, reconstruction or extension will comply with the development standards of the zoning district in which the building and/or accessory building is located. Such alteration, reconstruction, or extension shall include such additional development and compliance with the development standards of the zoning district as would be required of a new building and/or accessory building to the extent practicable and so that the spirit and intent of the development standards are accomplished. If the nonconforming building has been destroyed to an extent of more than one-half (1/2) its fair market value, then all subsequent building repiar shall be in strict conformance with 109.04 (2) and provided reconstruction is completed within twelve (12) months from the date of the destruction.

109.04 NONCONFORMING USES

The nonconforming use of a lot and/or a structure may be continued, expanded or changed, subject to the following:

1. Change of a nonconforming use shall be allowed to a permitted use of the zoning district in which the nonconforming use is located.
2. On approval of an appeal to the Board of Zoning Appeals following the procedure of a conditional use application, a nonconforming use may be changed to a use found to be more near in character with the zoning district in which the nonconforming use is located, provided:

    a. That the proposed use and/or structure is equally appropriate or more appropriate to the district than the existing nonconformity.
    b. That the nature, predominate character, and the intensity of the use and/or structure is equally or more appropriate than the existing nonconformity.
    c. That the size, dimensional requirements, traffic generation potential, anticipated sign needs, parking requirements, and other regulatory characteristics are no greater than the existing nonconformity.

3. On approval of an appeal to the Board of Zoning Appeals, a nonconforming use may be expanded within an existing structure manifestly arranged or developed for such use.
4. No nonconforming use may be reestablished where such nonconforming use has been discontinued for a period of at least two (2) years.
5. The nonconforming use of any structure damaged by fire, explosion, flood, riot or act of God may be continued and used as before any calamity, provided the building has not been destroyed to an extent of more than one-half (1/2) of its fair market value, and provided that permitted reconstruction is completed within twelve (12) months of such calamity and the reconstruction process is continuous in a reasonable manner until completed.