

**SCHEDULE L  
NONCONFORMING LAND USE PROVISIONS**

**SECTION 1.0        EXISTING NONCONFORMING SITUATIONS**

**SECTION 1.1        DEFINITIONS**

**Nonconforming use:** A use that was lawfully established that no longer complies with the use and development regulations applicable to the zoning district in which the property is located.

**Nonconforming structure:** A structure that was lawfully erected that no longer complies with the land development regulations applicable to the structure or the zoning district in which the structure is located.

**Nonconforming lot:** A lawfully existing, vacant lot that does not meet the requirements for area and/or dimensional standards in the land development regulations applicable to the zoning district in which the property is located.

**Nonconforming site:** A site that was lawfully developed that no longer complies with the land development regulations applicable to the zoning district in which it is located.

**SECTION 1.2**

Any property, improvements therein, or use thereon, determined to be lawfully existing nonconforming on the effective date of these land development regulations, or an amendment thereto, as proven by documentation of nonconformity and proof of prior legal existence as provided by the applicant, except for any situation which is subject to amortization and which does not conform with all the provisions of these regulations may remain and be continued subject to the following:

A. Non-Conforming Uses

1. Shall not be expanded beyond the scope and area of its lawfully permitted operation.
2. Shall not be changed to different nonconforming use.
3. Shall not, if discontinued for a period of six (6) months, be established or re-established without approval of a Conditional Use.

B. Non-Conforming Structures

1. May be restored to a safe condition if declared unsafe.
2. Shall not be used, enlarged, replaced or altered in any way which increases its nonconformity without the approval of a variance or conditional use, whichever applies.

3. If damaged, may be restored but not expanded except in conformance with this Schedule.

C. Non-Conforming Lots

1. Construction or development shall be permitted by right only if all other area and dimensional requirements can be met.
2. If the property is located within a zoning district that permits single family residential uses by right a building permit may be issued to construct a one-family dwelling on a lawfully existing vacant parcel of record which does not meet the area and dimensional regulations of any of the existing residential zoning classifications (SR-1, SR-1A, SR-1AA, MR-1, MR-2, MR-3 or RMOI) if one of the following is achieved:
  - a. Parcel of record standards shall be applied as follows:
    - (1) Side yards of at least five (5) feet.
    - (2) Front yards of at least twenty-five (25) feet.
    - (3) Rear yards of at least fifteen (15) feet.
    - (4) Street side yards of at least fifteen (15) feet.
    - (5) Minimum living area of 700 square feet.
    - (6) Two onsite parking spaces shall be required for each dwelling.
    - (7) A functional garage shall be required.
3. In the event any setbacks are reduced from the existing zoning district, other requirements may be necessary including, but not limited to, drainage plans, stemwall construction, additional landscaping or other requirements consistent with the infill lot development standards deemed necessary.

D. Non-Conforming Sites

1. If remediation of the existing nonconforming improvements can be achieved with the approval of a Development Plan, the site may be redeveloped subject to the requirements of Article III. Urban Infill Redevelopment flexibility may be exercised in the design of the site, but if staff and the applicant are unable to work out specific details, the application will be forwarded to the Planning and Zoning Commission for review as a Conditional Use pursuant the requirements of these regulations.
2. No remediation of the site can increase the existing nonconformities without the approval of a Conditional Use for Urban Infill Redevelopment.

**SECTION 2.0 REQUIREMENTS AND SAFEGUARDS**

- A. All applications involving nonconforming properties or uses shall include all appropriate safeguards and conditions necessary to ensure that any such approval will not be

contrary to the public interest, the general intent of this Schedule or injurious to the specific area in which the existing nonconforming situation is located.

- B. This section shall not be construed and/or applied in such a manner so as to:
  - a. Permit the use of any existing undeveloped nonconforming parcels of record without justifiable reasons based on a legally existing and nonconforming status.
  - b. Result in any undue hardship or injurious activity that would deprive adjacent individual property owners of their property rights.
  - c. Be detrimental to the area surrounding the nonconforming parcel in general.
  - d. Be changed to another nonconforming use.
  
- C. No provision, requirement and/or regulation can be waived or reduced which can reasonably be complied with by the applicant.

### **SECTION 3.0 PERMITS**

Proposed buildings, for which permits have been issued prior to their designation as nonconforming by amendment of these regulations, may be completed and used as originally permitted only if a building inspection has been requested and passed within the previous six months.

### **SECTION 4.0 ADJOINING PARCELS**

When adjoining existing undeveloped nonconforming parcels of record are under the same ownership which can be reasonably combined to meet dimensional and area requirements shall not be reduced without an appropriate Variance or Conditional Use through a public hearing process. Lots of record may be reconfigured pursuant to Article VI to bring the property close to compliance to its current zoning category.

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