

## SECTION 29

### NON-CONFORMING BUILDINGS AND USES

#### 29.1 Non-Conforming Lots of Record

In any zone in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any lot of record at the effective date or amendment of these regulations. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both. The lot shall conform to the regulations for the zone in which such lot is now located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.

#### 29.2 Lot Merger

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of these regulations, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of these Zoning Regulations. In such instances, compliance with lot width and area requirements established by the Zoning Regulations is not required, however, no division of any parcel shall be made which creates a lot with width or area below the requirements stated in the Zoning Regulations.

#### 29.3 Non-Conforming Uses of Land, Buildings and Structures

Where at the time of passage of these regulations, lawful use of land existed which would not be permitted by the requirements imposed by the Zoning Regulations the use may be continued so long as it remains otherwise lawful, provided:

No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date or amendment of these regulations.

A building or structure containing a non-conforming use may be altered or improved as made necessary by normal wear and tear, but it shall not be extended or enlarged.

Any building or structure containing a non-conforming use which has been destroyed by fire, explosion, flood, any natural disaster or public enemy may be restored to the same dimensions, height, floor area, and footprint that existed immediately prior to such damage or destruction provided such restoration is completed within three (3) years of such damage.

29.4 Substitution.

Any non-conforming use may be replaced with another non-conforming use, as a Special Permit in accordance with Section 15 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, in terms of parking, volumes and types of traffic, property values, hours of operation, exterior appearance of the building, structure, or lot, or any other factors to be considered by the Commission.

For properties located within the Gateway Conservation Zone, existing nonconforming uses can only be replaced with those nonconforming uses which are permitted within the Gateway Conservation Zone (see Section 10) and meet all other requirements of these regulations.

29.5 Abandonment by Non-Use or Change of Use.

Any non-conforming use shall lose its non-conforming status and shall thereafter conform to these Regulations if said use is abandoned, or if it is altered to a conforming use. For any non-conforming use which has ceased operation or existence for any period of time, the Zoning Enforcement Officer may require evidence that the use was in fact carried on or has otherwise not been abandoned prior to the issuance of a Certificate of Zoning Compliance. Refusal or granting of such a Certificate may be appealed by any aggrieved party to the Zoning Board of Appeals, as provided by State Statutes.

29.6 Voluntary Abandonment.

A person who has the right of re-establishment or reconstruction as provided in this Section may elect voluntarily to abandon such right, in which case the right shall cease to exist. Such abandonment must be evidenced by a document filed with the Land Use Office of the Town of Haddam.