

ARTICLE IV. NON-CONFORMANCE

SECTION 1. PURPOSE

The purpose of this Article is to promote land uses which conform to the terms of the Town's ordinances, except that non-conforming conditions which existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements of this Article.

Non-conforming terms are defined in Appendix A.

SECTION 2. GENERAL ALLOWANCES

- A. Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Article.
- B. Repair and Maintenance: Normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require, are allowed without a permit.

SECTION 3. NON-CONFORMING LOTS

A lot of record which, as of the effective date of this Ordinance (or amendment thereto), is vacant and non-conforming, with respect to lot size and frontage, may be built upon, provided all other provisions of this Ordinance (except lot size and frontage) can be met. Any necessary variances relating to setback or other requirements, not involving lot size or frontage, may be obtained by action of the Board of Appeals.

SECTION 4. NON-CONFORMING STRUCTURES

- A. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.
 - 1. Foundations. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that the completed foundation does not extend beyond the existing dimensions of the structure, and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.

2. Setbacks from Lot Lines and High-water line. No structure, which is less than the required setback from a property line, or the normal high-water line of a water body, or the upland edge of a wetland, shall be expanded toward the property line or the water body or wetland.

B. Expansions (Shoreland District):

1. If any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.
2. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:
 - a. that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection C;
 - b. that the completed foundation does not extend beyond the exterior dimensions of the structure; and
 - c. that the foundation does not cause the structure to be elevated by more than three (3) additional feet.
3. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

C. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the "greatest practical extent", the Planning Board shall consider, among other factors, the size of the lot, the slope of the land, the potential for soil erosion, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

- D. Reconstruction or Replacement: Any non-conforming structure, which is located less than the required setback from the normal high-water line of a water body, or upland edge of a wetland, or from the property line, or which otherwise fails to meet the dimensional requirements of this Ordinance, and which is removed or damaged or destroyed by more than 50 percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced within one year of the date of said damage, destruction or removal. The Planning Board may grant up to a one-year extension for good cause shown. Such reconstruction or replacement shall be in compliance with the setback requirements to the greatest practical extent as determined by the Planning Board. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.
- E. Change of Use of a Non-Conforming Structure (Shoreland District): The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will not have a greater adverse impact on the water body or wetland, or on the subject or adjacent properties and resources than the existing use.

SECTION 5. NON-CONFORMING USES

- A. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming uses may, after obtaining a permit from the Planning Board, be expanded within structures existing as of the effective date of this Ordinance, or on the effective date of a subsequent amendment that causes such use to be non-conforming.
- B. Resumption Prohibited: A lot, building or structure, in or on which a non-conforming use is discontinued for a period exceeding one year, or is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension of that time period.
- C. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the Planning Board finds, after receiving a written application, that the proposed use is equal, or more appropriate, to the district than the existing non-conforming use, and that the proposed use will have no greater adverse impact on adjacent properties and resources than the existing use.

The determination of appropriateness shall include: consideration of the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-

products, fumes, odors, or other nuisances likely to result from such change of use.