

6.0 NONCONFORMITIES

6.1 CONTINUATION

6.1.1 Any use, activity, lot or structure in existence on the effective date of this ordinance which does not conform to the provisions of this ordinance relating to the district in which the same is situated, may be continued in accordance with the provisions of this section.

6.1.2 Any change in title to any property subject to the provisions of this section, including but not limited to the demise, renewal, expiration, termination or modification of any leasehold interest, may impair the nonconforming status of such property. Application for a special use permit (reference section 20.3.4, *Special Use Permits*) to continue a nonconforming status shall be made within ninety (90) days of a change in title, as described above, otherwise the original nonconforming use, activity, lot or structure shall be deemed abandoned.

6.1.3 Any such use, activity or structure which is discontinued for more than two (2) years shall be deemed abandoned and shall thereafter conform to the provisions of this ordinance relating to the district in which the same is situated.

6.1.4 Whenever any such use, activity or structure is changed to a conforming or a more restricted nonconforming use, activity or structure, the original use shall be deemed abandoned.

6.2 REPAIRS AND MAINTENANCE

6.2.1 On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to such extent that the structure is kept in a usable condition. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with promoting public safety upon order of such official, including, whether by order or voluntary, improvements to promote fire safety and handicapped access (reference section 4.8, *Buildings and Structures: Handicapped Access*).

6.2.2 Nothing in this ordinance shall be deemed to preclude the Zoning Administrator from authorizing issuance of permits for the installation of potable water supply, toilets and other sanitary facilities including such building or structural expansion as may be necessary to house such facilities, provided that:

- a. Such facilities are not duplicative of facilities available within such building or structure;
- b. Any such building or structural expansion shall be limited in area to that necessary to house such facilities; and
- c. That usage of such building or structural expansion shall be devoted wholly and only to such sanitary facilities.

6.3 CHANGES IN DISTRICT BOUNDARIES

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this section.

6.4 EXPANSION OR ENLARGEMENT

6.4.1 The use of any building or structure shall conform to the provisions of this ordinance relating to the district in which the same is situated whenever such building or structure is enlarged, extended, reconstructed or structurally altered.

Nothing in this section shall prohibit the replacement of a nonconforming mobile home with a larger mobile home, provided the mobile home is labelled to indicate compliance with either the Virginia Industrialized Building and Mobile Home Safety Regulations or with the Federal Manufactured Home Construction and Safety Standards adopted by HUD, 1974, as amended; and, further provided that the conditions of section 5.3, *Mobile Homes on Individual Lots*, are met, if applicable.

6.4.2 The expansion, enlargement or extension of any building or structure located or constructed prior to or after the adoption of this ordinance shall be in accordance with the rear, side and front yard and setback regulations of this zoning ordinance.

6.4.3 A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

6.5 NONCONFORMING LOTS

6.5.1 Any lot of record at the time of the adoption of this ordinance which is less in area and/or width than the minimum required by this ordinance may be used in a manner consistent with the uses permitted for a lot having the minimum area and/or width so required; provided that the rear, side and front yard and setback requirements of this ordinance shall be maintained; and provided further that no such use shall be permitted which is determined by the Zoning Administrator to constitute a danger to the public health, safety and general welfare.

6.5.2 In the case of any subdivision approved and defined as such pursuant to the subdivision ordinance, and prior to the adoption of this ordinance and which was of record at the time of the adoption hereof, the rear, side and front yard and setback regulations of the zoning ordinance in effect at the time of such approval shall apply to all lots within such subdivision. In all other cases, the rear, side and front yard and setback regulations of this ordinance shall apply.

6.5.3 For purposes of this section, any lot shown on a preliminary or final subdivision plat which was approved by the proper authority of the applicable jurisdiction in accordance with law prior to the adoption of this ordinance, and which plat was subsequently recorded in due course, shall be deemed to be a lot of record at the time of the adoption of this ordinance.

6.5.4 Lots recorded prior to the adoption of and not in conformity with this ordinance may be resubdivided and redeveloped, in whole or part, at the option of the owner(s) of any group of contiguous lots therein; but every such resubdivision shall conform to this ordinance and all other Town ordinances currently applicable; provided, however, that no such resubdivision, which in the opinion of the Zoning Administrator shall be substantially more conforming to the requirements of section 4, *General Regulations*, and the area and bulk regulations of the district in which such subdivision is situated, shall be denied for failure to comply with the provisions of this ordinance.

6.6 RESTORATION OR REPLACEMENT

6.6.1 Whenever any nonconforming structure, except signs, or structure the use of which is nonconforming is damaged as a result of factors beyond the control of the owner and/or occupant thereof, such structure may be

repaired and/or reconstructed and the nonconforming use thereof continued as provided in this section provided that such repair and/or reconstruction shall be commenced within twelve (12) months and completed within twenty-four (24) months from the date of such damage; and provided further that no such structure shall be enlarged or expanded as a part of such repair and/or reconstruction.

6.6.2 Any such structure which is substantially destroyed as a result of any act or omission within the control of the owner thereof shall be deemed to have been abandoned in accordance with section 6.1.3 of this section.