

## **SECTION 10 – NONCONFORMITY**

### **10.1           Continuing Existing Non Conforming Uses:**

The lawfully permitted use of land or structures existing at the times of the adoption of the zoning ordinance or any amendment thereto may be continued, although such use does not conform to the standards of the district in which such land or structure is located. Said uses shall be deemed nonconforming uses.

### **10.2           Non Conforming Use of Land:**

Where no structure is involved, the nonconforming use of land may be continued, provided, however:

10.2.1           That no such nonconforming use shall be enlarged or increased, nor that it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of the zoning ordinance, unless specifically allowed by other provisions in this regulation.

10.2.2           That no such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this regulations.

10.2.3           That if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than 30 days, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of these regulations.

10.2.4           For non-conforming lots in a Light Industrial District 200, the existence of which lot is evidenced by deed or deeds recorded in the land records of the Town of Middlebury on the effective date of these Regulations establishing the Light Industrial District 200, the Commission in accordance with Section 52 may grant a special exception authorizing the use of land or structure permitted in Section 42 within the applicable yard so that the use or structure is not nearer in the lot line than the setback in Section 11 for Light Industrial District 80 (LI-80).

### **10.3           Non Conforming Use of Structures:**

10.3.1           A structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use. Such nonconforming structures shall not be structurally altered or reconstructed unless such

alterations are required by law, provided, however, that such maintenance and repair work as is required to keep a nonconforming structure in sound condition shall be permitted.

- 10.3.2 Such nonconforming structure shall not be structurally altered or reconstructed unless such alterations are required by law, provided, however, that such maintenance and repair work as is required to keep a nonconforming structure in sound condition shall be permitted.
- 10.3.3 A nonconforming use may be extended throughout any parts of the structure which were manifestly arranged or designed for such use at the time of the adoption of the ordinance, provided this extension was made within one year after the date of such adoption.
- 10.3.4 A nonconforming use of structures may be changed to a conforming use or changed to a use less nonconforming than its present use.
- 10.3.5 If any nonconforming use of a structure ceases for any reason for a continuous period of more than one year, or is changed to a conforming use, or if the structure in which such use is conducted or maintained is moved for any distance whatsoever for any reason, than any future use of such structure shall be in conformity with the standards specified by the zoning regulation for the district in which such structure is located.
- 10.3.6 If any structure in which any nonconforming uses are conducted or maintained is removed, the subsequent use of land on which such structure was located, and the subsequent use of any structure thereon, shall be in conformity with the standards specified by the zoning regulations for the district in which such land or structure is located.
- 10.3.7 For nonconforming buildings in a Light Industrial District 200, the existence of which is evidenced by zoning, building or other records in the Town Hall on the effective date of these Regulations establishing the Light Industrial District 200 and which use or uses are permitted in Section 42, the Commission in accordance with Section 52 may grant a special exception authorizing the extension or enlargement within the applicable yard so that the extension or enlargement is not nearer the lot line than the existing building.

#### **10.4 Restoration of Damaged Structures:**

Any structure legally nonconforming in use which is damaged or destroyed by fire, explosion, act of God, or the public enemy may be rebuilt and the use continued, but not to any greater extent than in the previously existing structure.

## **10.5            Non Conforming Lot:**

A parcel of land, which fails to meet the area, shape or frontage of any other applicable requirements of these Regulations pertaining to lots, may be used as a lot, and a building or other structure may be constructed, reconstructed, enlarged, extended, moved or structurally altered thereon, provide that the following requirements are met:

- 10.5.1            The use, building or other structures shall conform to all other requirements of these regulations;
  
- 10.5.2            No owner of the parcel since October 15, 1959 shall have been the owner of contiguous land which in combination of such nonconforming parcel would make or would have made a parcel that conforms, or more nearly conforms, to the area, shape or frontage requirements of these regulations pertaining to lots;
  
- 10.5.3            Or if the nonconformity is due to the fact that the area has been up-zoned and the owner builds on the lot within five years of the effective date of up-zoning;
  
- 10.5.4            A lot which meets all of the area, shape, frontage and other applicable requirements of these Regulations pertaining to lots on November 3, 1977, but thereafter fails to meet all of said requirements because the area has been up-zoned effective December 5, 1977, may be used as a Lot, and a building or other structure may be constructed, reconstructed, enlarged, extended, moved or structurally altered thereon. This provision is intended to supersede Subsection 10.5.3 above with respect to previously conforming Lots in the area affected by the December 5, 1977 Zone change only and will not affect any Lot made nonconforming by a previous or future Zone change. This subparagraph shall not apply to any Lot containing less than 40,000 sq. ft. located in an area zoned R-20 on November 3, 1977, which under the provisions of Section 11, then existing would have required 40,000 sq. ft. because of the absence of sewers, but said Lot shall continue to be subjected to the provisions of Sub-section 10.5.3 above as they applied to said Lot on November 3, 1977.
  
- 10.5.5            A lot which meets all of the area, shape, frontage and other applicable requirements of these regulations pertaining to lots on January 3, 1991 but thereafter fails to meet all of said requirement because the area has been up-zoned effective January 20, 1991 may be used as a lot and a building or other structure may be constructed, reconstructed, enlarged, extended, moved or structurally altered thereon. In addition, any such lots which lack 200 feet frontage or 200 feet width will only be required to comply

with the R-40 District side yard requirements of Section 11 as they existed on January 3, 1991; and any such lots which lack 300 feet in depth will only be required to comply with the R-40 District rear yard requirements of Section 11 as they existed on January 3, 1991. This provision shall supersede Subsection 10.5.3 above with respect to previously conforming or valid nonconforming lots in the area affected by the January 20, 1991 zone change only, and will not affect any lot made nonconforming by a previous or future zone change.