

## **SECTION 7.0 NONCONFORMING USES, BUILDINGS, STRUCTURES OR LOTS**

### **7.1 NONCONFORMING USES**

**7.1.1** Any lawful use of the land, buildings or structures existing as of the date of adoption of these Regulations and located in a district in which it would not be permitted as a use under the provisions of these Regulations, is hereby declared to be a nonconforming use and shall be subject to the provision of this Section 7.1.

In addition, the provisions of this Section 7.1 and Sections 4.3 and 4.4 of these Regulations shall apply to any use or proposed use made nonconforming by the provisions of these Regulations for which use a bona fide application has been filed for, or building permit, special permit, special exception or variance has been issued prior to the date of adoption of these Regulations, provided construction begins and is completed and the use is fully established in accordance with the provisions of Sections 4.3 and 4.4 of these Regulations.

The provisions of this Section 7.1 shall also apply in the case of any existing or proposed use which is made nonconforming by any amendment to these Regulations subsequent to the date of adoption of these Regulations provided the use existed on the actual date of adoption of such amendment or for which use a bona fide application had been filed for or building permit, special permit, special exception or variance had been issued prior to the actual date of adoption of such amendment.

#### **7.1.2 Change to Non-Conforming Uses:**

- A. A nonconforming use may be changed only to a conforming use, except that the Planning and Zoning Commission may approve the change of a nonconforming use to another nonconforming use provided that it shall, following a duly advertised public hearing, find that the proposed use is more appropriate to the district than the existing nonconforming use; and, in permitting such change, the Commission may require appropriate conditions and safeguards in accordance with the provisions of these Regulations. Whenever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.
  
- B. Change to a Rural Business Use: The Planning and Zoning Commission may, by Special Use Permit, change an existing legal nonconforming use located in the R-1 District, and existing as of the date of the adoption of this amendment, to a conforming Rural Business Use under Sections 5.1.1 (w) and 7.1.2 B of the Zoning Regulations provided such use meets the criteria as listed in this section as well as Section 8.1.

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### **Section 7.1    Nonconforming Uses (cont.)**

- (1) Rural business uses include but are not limited to the following: farmers' market; sales of agricultural products including maple sugar; sales of post and beam buildings, sale of fireplaces stoves and accessories; and other uses determined by the Commission to be similar to and compatible to this list of uses and which in the opinion of the Commission can be operated consistent with the standards established herein and in a manner compatible to the surrounding residential and rural character of the community.
- (2) All approved Rural Business Uses must be located on an arterial road or within 1,500 feet of an arterial road as defined in the Hebron Subdivision Regulations and shall not be located inside established residential subdivisions.
- (3) All approved Rural Business Uses and any new building construction and additions shall be considered compatible with the established architectural character of the neighborhood by using a design that is complementary to the existing neighborhood architectural styles, designs, and forms.

The following building / architectural standards and procedures are in addition to the standards found in Section 8.16 of the Regulations "Design Review Criteria".

- (a) As part of the Special Permit application, the applicant shall provide complete exterior architectural elevations, color renderings and material and color samples to ensure that all new construction is in a residential / agricultural, rather than commercial, scale and design.
- (b) Architectural compatibility to the neighborhood shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and the use of building materials that have colors, shades and textures similar to those existing in the immediate area.
- (c) New construction shall be setback 100 feet from any property line containing a residential building or use.
- (d) The building elevation(s) facing a side or rear yard adjacent to a residential building or use shall not contain a commercial entrance or loading area unless approved by the Commission as part of a Special Permit application. Any such commercial entrance or loading area shall be effectively screened so as to provide a visual and noise separation.

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### **Section 7.1   Nonconforming Uses (cont.)**

(e) All business uses shall be contained within a building unless the Commission specifically approves a method for year-round screening of a storage area.

(4) The site design standards, in addition to the site design standards found in Section 8 of these Regulations, shall be as follows:

(a) Where practicable, existing tree rows and hedgerows, stone walls, and similar features shall be retained in the development of any new use or in any expansion of an existing use.

(b) Parking adjacent to a residential property line shall be separated by a minimum distance of 50 feet to said line and shall be screened by means of berms, and landscaping, fencing or other features as deemed appropriate by the Commission.

(c) Refuse Container Screen: Refuse containers or dumpsters shall be screened from view by placement of a solid wood fence or masonry wall from five (5) to eight (8) feet in height, to be determined by dumpster height. Solid wood fences shall be a minimum of 2" x 6" panels on 6" x 6" posts. All refuse materials shall be contained within the refuse area.

(d) Signage: Sign standards as found in Section 8.2.5(h)(7) shall apply. Signs are permitted only as approved by the Commission, and for each approved lot a business owner may only request approval of the following:

1. One freestanding sign which shall not exceed 9 square feet in area and not be more than 5 feet in height; and,

2. One Wall Sign, Overhanging Sign, or Awning Sign to be displayed for each occupant of a building, provided, however, any such sign shall not exceed 12 square feet in area; and, in the case of an overhanging Sign, such sign shall not extend more than 4 feet from the face of the building.

(e) In order to preserve the rural and agricultural character of the Rural Business Uses, and to encourage infiltration of storm water, all off street parking areas, loading areas, and access drives shall be constructed with a suitable base material and a crushed stone surface acceptable to the Town Engineer.

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### Section 7.1 Nonconforming Uses (cont.)

(f) No commercial light poles or fixtures shall be permitted and site lighting shall be limited to post and lantern type lighting with a maximum height of eight (8) feet and shall be limited to full cut-off fixtures.

(5) The hours of operation shall not exceed 8:00 am to 8:00 pm and may be further restricted by the Commission based on the location and specific approved use.

(6) The Performance Standards found in Section 5.6.3 of the Hebron Zoning Regulations shall also apply to Rural Business Uses.

**7.1.3 Extension:** No nonconforming use shall be extended throughout a building or structure nor shall such a structure be enlarged or extended unless the use therein is changed to a conforming use. Structural alterations required by law or ordinance or such as may be required for safety are permitted.

**7.1.4 Moving:** No conforming use of a building or structure may be moved to any other part of a parcel of land upon which the use was conducted as of the date of adoption of these Regulations, except those required by law or ordinance.

**7.1.5 Restoration:** Any building or structure containing a non-conforming use, which has been destroyed or damaged by fire, explosion, act of God, or by public enemy may be restored only to the same dimensions, gross square foot area and cubic volume existing immediately prior to such damage or destruction and provided such restoration is commenced within six (6) months of such damage or destruction.

**7.1.6 Abandonment:** Any nonconforming use of land, building, or structure which has been voluntarily abandoned shall constitute a termination of such non-conformity and shall thereafter conform to the provisions of these Regulations.

## 7.2 NONCONFORMING BUILDINGS OR STRUCTURES

**7.2.1** Any lawful building or structure (whether or not it contains a nonconforming use) existing as of the date of adoption of these Regulations and not conforming to the provisions of the Regulations relating to height, floor area, percentage of lot coverage, required yards, parking facilities, density or bulk is hereby declared to be a nonconforming building or structure (whichever the case may be) and shall be subject to the provisions of this Section 7.2.

The provisions of this Section 7.2 shall also apply in the case of any existing or proposed building or structure which is made nonconforming by any amendment to these Regulations subsequent to the date of adoption of these Regulations provided the building or structure existed on the actual date of adoption of such amendment or for which building or structure a bona fide application had been filed for or building permit, special permit, special exception had been issued prior to the actual date of adoption of such amendment.

**7.2.2 Extension and alterations:** No extensions, structural alterations or changes shall be made in any nonconforming building or structure except those required by law or ordinance or such as may be required for safety or unless the enlargement or extension is conforming.

**7.2.3 Restoration:** A legal nonconforming building or structure which is damaged or destroyed by fire, explosion, act of God, or the public enemy, may be rebuilt in conformance with the now existing provisions of these Regulations or only to the same dimensions, gross square foot area, cubic volume, density, bulk and site location existing immediately prior to such damage or destruction, but not to any greater extent than in the previously existing structure.

A legal nonconforming building or structure may be maintained, repaired, restored, rebuilt, replaced or altered provided such work:

- a. results in a building or structure with the same dimensions, gross square foot area, cubic volume, density, bulk and site location existing in the previously existing structure;
- b. does not increase the non-conforming aspect of the structure; and,
- c. complies with other applicable parts of these Regulations for the specific use and zone.

**7.3** Nothing in these Regulations or this Section 7 shall be interpreted as authorization for or approval of the continuance of the use of land, building, structures or premises which such use(s) is in violation of the Zoning Regulations in effect up to the effective date of these Regulations.

**7.4   EXISTING NONCONFORMING LOTS**

**7.4.1   No Increase in Nonconformity.** No lot or parcel shall hereafter be decreased in size, by sale, devise, descent, gift, or otherwise, so that it or any part of it, or so that any use, structure or building thereon, shall fail to comply with these Regulations or shall increase the extent of any nonconformity.

**7.4.2   Use of Nonconforming Lots, Merger.** Except as otherwise provided in these Regulations or as prohibited by Connecticut General Statutes Section 8-26a(b), whenever title to a legally nonconforming lot of record is vested in any person or persons who is or are at the same time the owner of any contiguous land, or whenever a legally nonconforming lot of record is used or developed in common with the use or development of contiguous land, the legally nonconforming lot of record and the contiguous land in common ownership or commonly used or developed, or so much of such contiguous land as will together with the legally nonconforming lot of record result in a conforming lot, shall be deemed merged into a single lot for zoning purposes and shall not thereafter be divided, transferred or improved in any manner which would re-create a nonconformity or increase or enlarge any nonconformity remaining after such merger.

The construction of a permitted building or structure, or the establishment of a permitted use, on a nonconforming Lot of Record shall conform to all applicable provisions of Section 6, District Requirements, other than Lot area and frontage; and shall also conform to all provisions of Section 6.4.2, Minimum Area of Buildable Land, of these Regulations.