

ARTICLE IV.

SETBACK MODIFICATIONS AND NONCONFORMITIES

s.400 SETBACK MODIFICATIONS

s.400.1 Sight Distance: Proper sight lines must be maintained at all street intersections. Measured along the centerline of the street, there must be a clear sight triangle with sides as follows:

<u>Street</u>	<u>Clear Sight Triangle Side</u>
Major Thoroughfares	150 feet
Minor and any other streets or access drives	75 feet

No building or construction is permitted in this area except as follows:

- a. No walk, fence, sign, or other structure shall be erected, altered and no hedge, trees, shrubs, or other growth shall be maintained or permitted which may cause danger to traffic on a street or public road by obscuring the view.
- b. At all intersections of streets, private roads and/or access drives a clear sight triangle shall be maintained within which there shall be no visual obstructions other than public utility poles and trees not more than one (1) foot in diameter, such as a wall fence, sign, or other structure, and hedge, shrub, or other growth of more than three (3) feet above the grade of the street and/or access drive or private road as the case may be.

s.400.2 **Accessory or Appurtenant Structures:**
The setback regulations do not apply to:

- a. School bus shelters, telephone booths, cornices, chimneys, steps, or canopies.
- b. Open fire escapes, eaves.
- c. Minor utility fixture, articles of ornamentation or decoration.
- d. Fences; retaining walls.

s.401 HEIGHT MODIFICATIONS:

The height regulations do not apply to:

- a. Structures such as chimneys, standpipes, flagpoles, television antennas or radio towers.
- b. Structures on buildings such as clock towers, cupolas, water tanks, and other mechanical appurtenances, if such structures, at any level, do not cover more than twenty-five (25%) percent of the roof on which they are located.

- C. Parapet walls or cornices used solely for ornamental purposes if not in excess of five (5) feet.

s. 402 BUILDINGS UNDER CONSTRUCTION: If the construction is completed by one (1) year after effective date of the building permit, a building, the foundation of which was completed before the effective date, may be constructed without being bound by the requirements of this Ordinance. In like manner, a building, the foundation of which was completed before an amendment, may be constructed if the construction is completed within one (1) year after the amendment.

s. 403 DIVISION OF BUILT-ON LOTS: No lot may be formed from part of a lot occupied by a building unless each newly created lot will meet all the applicable provisions of this Ordinance.

s. 404 STATUS OF SUBDIVISION OR LAND DEVELOPMENT PLAN:

From the time an application for approval of a subdivision or land development plan whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no enactment or amendment of the zoning ordinance shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the zoning ordinance as it stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in the Zoning Ordinance.

When a preliminary or final subdivision or land development plan has been approved subject to conditions acceptable to the applicant, no subsequent enactment or amendment in the Zoning Ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five (5) years from such approval. Where final approval is preceded by preliminary approval, the five (5) year period shall be counted from the date of the preliminary approval.

s. 406 NONCONFORMITIES

s. 406.1 Nonconforming Structures:

- a. Continuation: Any nonconforming structure may remain although such structure does not conform to the dimensional requirements of this Ordinance.
- b. Restoration: A nonconforming structure which has been damaged or destroyed by fire or other causes or a nonconforming structure which has been legally condemned may be reconstructed, provided that:
 - (1) Reconstructed structure shall not exceed height, area and volume of the structure destroyed or condemned; and
 - (2) Structure reconstruction shall be commenced within one (1) year from

date the structure was destroyed or condemned and shall be carried on without interruption; else the nonconforming structure status shall be void.

- c. **Extension of Alteration:** A nonconforming structure may be extended or altered, provided the extension or alteration, does not create a further dimensional nonconformity, and otherwise conforms with all dimensional requirements of this Ordinance and all other applicable regulations of this Ordinance.

s.406.2

Nonconforming Lots:

- a. **Continuation:** Any nonconforming lot may be continued although such lot does not conform to the lot requirements for the zone in which it is located.
 - b. **Construction:** The provisions of this Ordinance shall not prevent the construction of a structure, provided the yard, height and other applicable dimensional requirements are met, and the use is one permitted in the zone by this Ordinance.

s.406.3

Nonconforming Uses:

- a. **Continuation:** Any nonconforming use may be continued indefinitely although such use does not conform to the provisions of this Ordinance. Unless specifically provided by the Zoning Hearing Board for a particular use, no change of title or possession or any other change in status of a property on which a nonconforming use exists shall prevent the continuance of such nonconforming use.
- b. **Extension:** A nonconforming use may be extended, provided:
 - (1) Any extension shall take place only on the lot or contiguous lots held in the same ownership as that existing at the time the use became nonconforming.
 - (2) No nonconforming use shall be extended to displace a conforming use.
 - (3) Any extension shall conform with the area, building, height, parking sign and other requirements of the zone in which said extension is located.
 - (4) Any increase in volume or area of the nonconforming use shall not exceed an aggregate of more than fifty percent (50%) of such volume or area during the life of the nonconformity which begins as of July 14, 1975. For nonconforming uses whose normal operations involve natural expansion (quarries, landfills, cemeteries, etc.), expansion shall be permitted by right up to fifty percent (50%) of the volume or area of the nonconformity; for expansion beyond fifty percent (50%), a special exception shall be required.
- c. **Change of Use:** Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use only under the following conditions:
 - (1) Such change shall be permitted only as a special exception under the

provisions of Section 804.

- (2) The applicant shall show that the nonconforming use cannot reasonably be changed to a permitted use.
- (3) The applicant shall show that the proposed change will be less objectionable in external effects than the existing nonconforming use with respect to:
 - (a) Traffic generation and congestion, including truck, passenger car and pedestrian traffic;
 - (b) Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration;
 - (c) Storage and waste disposal;
 - (d) Appearance.
- (4) The proposed use is a permitted use in one or more of the zones of this Zoning Ordinance.

d. **Abandonment:** If a nonconforming use of a building or land ceases and is abandoned for a continuous period of one (1) year or more, subsequent use of such building or land shall be in conformity with the provisions of this Ordinance. For the purposes of this Ordinance abandonment shall commence when reasonable efforts to re-establish (such as lease, rental, sale, etc.) a nonconforming use have ceased. If nonconforming use of land ceased for any length of time for any reason, subsequent use of such land shall be in conformity with the provisions of this Ordinance.

e. **List of Nonconforming Uses:** Immediately after passage of this Ordinance or any amendment thereto, the Zoning Officer shall prepare a complete list of all nonconforming uses existing at the time of the adoption of the Ordinance or its amendment. Such list shall contain the legal description or the County Assessor's tax map number and the nature and extent of the nonconforming use.