

AVON ZONING ORDINANCE

CHAPTER 6. REVISION HISTORY

CHAPTER 6. NONCONFORMING LOTS, USES AND STRUCTURES

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# AVON ZONING ORDINANCE

## CHAPTER 6. NONCONFORMING LOTS, USES AND STRUCTURES

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### **Section 6-1. Purpose**

The purpose of this Chapter is to provide for the regulation of legal nonconforming lots, uses, and structures and to specify those circumstances and conditions under which they may remain until they are removed. The zoning districts established by this Ordinance are designed to control the future use of land within the Town by encouraging the development and maintenance of desirable residential, business, office, and industrial areas, as well as to promote and protect the public health, safety, and general welfare. The continued existence of nonconforming lots, uses and structures is frequently inconsistent with the purposes for which such districts were established and thus the gradual elimination of such nonconforming lots, uses and structures has been determined by the Avon Town Council to be desirable.

### **Section 6-2. General Standards.**

#### **1. Avoidance of Undue Hardship**

Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building, structure, or development on which construction was lawfully begun prior to the effective date of this Ordinance and upon which construction has actually begun and has been diligently pursued. Where demolition or removal of an existing building has been substantially begun prior to rebuilding, such demolition or removal shall be deemed to be construction.

#### **2. Restoration of Structures to Safe Conditions**

Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety. Such strengthening or restoration shall not however, be used to enlarge, expand or extend such nonconforming building or structure, nor be used as grounds for adding other structures or uses which are prohibited by this Ordinance.

#### **3. Illegal Uses**

Illegal uses and structures existing at the time this Ordinance is enacted shall not be validated by virtue of its enactment.

#### **4. Variances Previously Granted for Uses and Structures**

Any use or structure that becomes nonconforming upon the effective date of this Ordinance and for which a variance was previously granted, shall remain subject to any conditions that were imposed pursuant to the granting of such variance.

#### **5. Special Exceptions Previously Granted for Uses and Structures**

Any use or structure that becomes nonconforming upon the effective date of this Ordinance and for which a special exception permit was previously granted, shall remain subject to any conditions that were imposed pursuant to the granting of such special exception permit.

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### Section 6-3. Nonconforming Lots

#### 1. Single Nonconforming Lots of Record

In any district a permitted use and its customary accessory uses may be erected on any single lot of record after the effective date of this Ordinance, notwithstanding limitation imposed by the provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district. Said lots however, shall be required to meet all other lot development standards for the district in which the lot is located.

#### 2. Lots in Combination

If two (2) or more lots or a combination of lots with continuous frontage and in single ownership are of record at the effective date of this Ordinance, and if all or part of the lots unimproved do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of meeting the minimum requirements of this Ordinance. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

### Section 6-4. Nonconforming Uses

#### 1. Authority to Continue

A lawfully existing nonconforming use may be continued, provided such use adheres to the limitations set forth herein, as well as the requirements of this Chapter and that such use remains otherwise lawful.

#### 2. Ordinary Repair and Maintenance

Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure devoted in whole or in part to a legal nonconforming use. However, this paragraph shall not be interpreted to authorize an unlawful alteration, enlargement, extension, or move of a structure.

#### 3. Structural Alteration

A structure devoted in whole or in part to a legal nonconforming use shall not be structurally altered unless the use thereof shall thereafter conform to the use regulations of the zoning district in which it is located.

#### 4. Enlargement of Structure

A structure devoted in whole or in part to a legal nonconforming use shall not be enlarged or added to in any manner, including the addition of interior floor area, unless the use of such structure shall thereafter conform to the use regulations of the district in which it is located.

#### 5. Extension of Use

A legal nonconforming use shall not be extended, expanded, enlarged or increased in its intensity. However, a nonconforming use located in a structure manifestly designed or intended for such use may be extended throughout any interior part of such structure. No such extension shall be permitted to occupy any land outside of such structure.

#### 6. Moving

A structure devoted in whole or in part to a legal nonconforming use shall not be moved in whole

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or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and its use shall thereafter be conforming to the regulations of the zoning district in which it is located.

### **7. Change in Use**

A legal nonconforming use shall not be changed to any use other than a use permitted in the zoning district in which the use is located. When such a legal nonconforming use has been changed to a permitted use, it shall not thereafter be changed back to any nonconforming use.

### **8. Damage or Destruction**

A structure devoted in whole or in part to, or accessory to, a legal nonconforming use that is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of such structure new shall not be restored unless the use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located.

### **9. Termination by Discontinuance or Abandonment**

- A. When a legal nonconforming use is discontinued or abandoned for a period of twelve (12) months, such use shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.
- B. Where a period of discontinuance is caused by government action, strikes, material shortages, or acts of God, and without any contributing fault of the owner, occupant or agents thereof, such period shall not be considered in calculating the length of discontinuance for purposes of this paragraph.

## **Section 6-5. Nonconforming Structures**

### **1. Authority to Continue**

A lawfully existing nonconforming structure may be continued provided such structure adheres to the limitations set forth herein as well as the requirements of this Chapter and that such structure remains otherwise lawful.

### **2. Repair, Maintenance, Alterations, and Enlargement**

A legal nonconforming structure may be repaired, maintained, altered, or enlarged provided, however, that no such repair, maintenance, alteration, or enlargement shall either create any new nonconformity or increase the degree of the existing nonconformity of all or any part of such structure. For the purposes of this regulation, the vertical or horizontal extension of a structure shall be considered to increase the degree of an existing nonconformity related to a required yard or setback.

### **3. Moving**

A legal nonconforming structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located.

### **4. Damage or Destruction**

Except for single family dwellings, any legal nonconforming structure that is damaged or destroyed to the extent of more than fifty percent (50%) of the cost of replacement of such structure new shall not be restored unless the structure shall thereafter conform to the regulations of the zoning district in which it is located. This regulation however, shall not be interpreted to authorize the creation of a new nonconformity or increase the degree of any nonconformity existing prior to such damage or destruction.

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### **Section 6-6. Nonconforming Signs**

The regulations pertaining to nonconforming signs shall be found in Chapter 18 (Signs).

### **Section 6-7. Nonconforming Lighting**

The regulations pertaining to nonconforming lighting shall be found in Chapter 14-15 (Outdoor Lighting).