

DRAFT FOR ZONING AMENDMENTS FOR REVIEW 12/10/19

RELATED DEFINITION TO BE AMENDED:

1. **Legal Nonconforming Building or Structure:** A Legal Nonconforming Building or Structure is a Building or Structure which, in whole or in part, does not conform to the regulations of the district in which the Building or Structure is located, but existed as a Legal Building or Structure, **or legally replaced a legal building or structure**, prior to the adoption of the regulation(s) that now make the Building or Structure Nonconforming.

ARTICLE XX

LEGAL NONCONFORMING USES, LEGAL NON-CONFORMING BUILDINGS AND STRUCTURES, AND LEGAL NON-CONFORMING LOTS

- A. **Legal Nonconforming Uses:** Any Legal Nonconforming Use may be continued indefinitely subject to the following limitations:
 1. **Resumption after Discontinuance:** When a Legal Nonconforming Use of land, Structures or Buildings has been discontinued for one year, then the land, Structures and Buildings shall be used thereafter only in conformity with this Ordinance.
 2. **Change or Expansion: Any Legal Nonconforming Use** shall not be changed to another Nonconforming Use. Any Legal Nonconforming Use shall not be expanded.
 3. **Superseded by a Conforming Use:** If a Legal Nonconforming Use is superseded by a conforming Use, then it shall thereafter conform to the Use regulations of this Ordinance, and the Nonconforming Use may not thereafter be resumed.
 4. **Restoration, Reconstruction and/or Replacement of Buildings** containing a Legal Nonconforming Use: Nothing herein shall prevent the restoration, reconstruction and/or replacement within 3 years of a Building containing a Legal Nonconforming Use destroyed in whole or in part by fire or other natural disaster so long as this Use does not result in a new or expanded Nonconforming Use.
- B. **Legal Nonconforming Buildings and Structures:** Any Legal Nonconforming Building or Structure may be continued indefinitely and may be altered, expanded, restored, reconstructed and/or replaced subject to the following limitations:

Any Nonconforming Building or Structure located entirely or partly within the Waterfront Buffer of all lakes and ponds over 10 acres in size may be continued indefinitely, altered, **replaced** and/or expanded provided it complies with the following applicable provisions:

1. If the Nonconforming Building or Structure is located entirely within the Waterfront Buffer, then alteration, replacement or repair of the building or structure is governed by the following:

- a. Alteration, **replacement** or repair of the Building or Structure is only permitted within the existing footprint and outside dimensions, consistent with the provisions of Article XX, Section B, 3, provided the result is a functionally equivalent use. No footprint change or vertical expansion of the existing structure shall be allowed. Any expansion that increases the sewerage load to an on-site septic system, or changes or expands the use of a septic system shall require approval by the NH Department of Environmental Services.
 - b. Existing decks and porches located entirely within the Waterfront Buffer may not be covered, enclosed or expanded upward or outward beyond the footprint of the existing deck or porch.
 - c. Improvements may include a new foundation, provided that all of the following conditions are met:
 - i. The new foundation shall be constructed from a vantage point entirely outside the Waterfront Buffer, or from within the structure itself, in a manner that does not disturb any part of the Waterfront Buffer beyond the footprint of the existing building.
 - ii. No living space or basement area is added as a result of the new foundation.
 - iii. No change in the footprint (drip line) of the structure (within the Waterfront Buffer) will result from the new foundation.
2. If the Nonconforming Building or Structure straddles the Waterfront Buffer, then alteration, **replacement** or expansion of the Building or Structure is governed by the following:
- a. Alteration, **replacement** or expansion of that portion of the Building or Structure located within the Waterfront Buffer is governed by the provisions outlined in section B.1., above.
 - b. Alteration or expansion of that portion of the Building or Structure located beyond the first 50 feet inland from the Reference Line level is governed by the following:
 - i. Alteration or expansion is permitted upward, and outward to the side or rear of the Structure away from the lake.
 - ii. Existing, covered porches located beyond the Waterfront Buffer may be enclosed and converted to habitable space and may be expanded upward beyond the footprint of the existing porch.
 - iii. Existing decks located beyond the Waterfront Buffer may be expanded, covered, enclosed and/or converted to habitable space.
3. Building Height: Nonconforming Structures located within the Waterfront Buffer in the Shore Land Overlay District shall not exceed 25 feet in Height above Grade.
4. Alterations and Expansions of all other Legal Nonconforming Buildings and Structures: Any Other Legal Nonconforming Building may be Altered or expanded provided,

however, that such alteration or expansion does not make any existing Legal Nonconforming Building a more Nonconforming Building within the terms of this Ordinance and provided that all other standards of this Ordinance are met. For example, if an existing Structure does not comply with the Front Yard setback requirement, then this Structure could not be expanded to result in a Structure with less Front Yard setback unless a Variance was approved by the Zoning Board of Adjustment. However, the Structure could be expanded upward or to the side along the existing Nonconforming setback provided that the expanded Structure complies with all other standards of this Ordinance. If the expansion constitutes a Substantial Improvement, then the resulting Structure is permitted only if it complies with all of the standards of this Ordinance including the aspect that makes the existing Legal Nonconforming Building or Structure Nonconforming.

5. Substantial Improvement, Restoration, Reconstruction and/or Replacement of Legal Nonconforming Buildings or Structures:

a. Legal Nonconforming Building or Structure destroyed by Fire or Other Natural Disaster: Nothing herein shall prevent the restoration, reconstruction and/or replacement within 3 years of a Legal Nonconforming Building or Structure destroyed in whole or in part by fire or other natural disaster so long as the new Structure is a functionally equivalent use (with regard to number of Bedrooms and Dwelling Units), does not result in a Substantial Improvement (when compared to the original structure), and does not result in a more Nonconforming Building than was originally at the site.

b. Voluntary Replacement or Substantial Improvement of a Legal Nonconforming Building or Structure:

i. ~~For use with ARTICLE XV Floodplain Overlay District: The Substantial Improvement or voluntary replacement of a Legal Nonconforming Building or Structure within the boundaries of the 100-Year Floodplain is permitted only if it complies with all of the standards of this Ordinance including the aspect that makes the existing Building or Structure Nonconforming. This section does not include Building Maintenance within the types of work that comprise Substantial Improvement.~~

ii. ~~For use with all remaining ARTICLES of the Zoning Ordinance: The voluntary replacement or relocation of a Legal Nonconforming Building or Structure, or Alterations to a Legal Nonconforming Building or Structure that result in a 50% increase in the square footage of useable floor area (including decks, porches, basements, garages and attics, in addition to finished floor area) of that Structure is permitted only if it complies with all of the standards of this Ordinance including the aspect that makes the existing Building or Structure Nonconforming. For the purposes of this Section, additions to the square footage of floor area of any Structure shall be cumulative beginning with first improvement following the date of the adoption of this amendment.~~

C. Legal Nonconforming Lots

1. All Legal Nonconforming Lots: Any Lot with less area or frontage than required which is lawfully established, recorded and taxed as a Lot of Record before the enactment or

amendment of this Ordinance, shall be deemed a conforming Lot.