

**SCHEDULE L  
NONCONFORMING LAND USE PROVISIONS**

**SECTION 1.0           EXISTING NONCONFORMING STRUCTURES AND USES**

**SECTION 1.1           STRUCTURES AND/OR USES**

Any structure or use which is lawfully existing of the effective date of these land development regulations, or an amendment thereto, except for signs and any other use which is subject to amortization and which does not conform with all the provisions of these regulations may remain and be continued subject to the following regulations:

**A.       Structures:**

1.       Shall not be used, enlarged, replaced or altered in any way which increases its nonconformity except in conformance with this Schedule;
2.       May be restored to a safe condition if declared unsafe, providing that such restoration does not constitute more than fifty (50) percent of the structure's appraised fair market value;
3.       If damaged more than fifty (50) percent of its appraised fair market value shall not be restored except in conformance with this Schedule.

**B.       Uses:**

1.       Shall not be expanded beyond the scope and area of its operation on the effective date of these land development regulations or amendment thereto except in conformance with these regulations;
2.       Shall not be changed to another nonconforming use;
3.       Shall not, if discontinued for a period of six (6) months, be established or re-established on those premises.

**SECTION 1.2           USE, ENLARGEMENT, REPLACEMENT, ALTERATION,  
EXPANSION AND/OR EXTENSION OF AN EXISTING  
NONCONFORMING STRUCTURE AND/OR USE**

Any structure and/or use which is lawfully existing on the effective date of these land development regulations, or an amendment thereto, and which does not conform with Schedules B through K of these regulations, may be used, enlarged, replaced, altered, expanded and/or extended beyond the scope and area of its operation on the effective date of these regulations, or amendment thereto, subject to the following regulations:

- A.       Such use, enlargement, replacement, alteration, expansion and/or extension is hereby**

designated as a conditional use permissible in the specific zoning district in which such existing nonconforming structure and/or use is located.

- B. In addition to complying with all of the procedures, provisions and requirements of these regulations for conditional use approval, all applicants for a conditional use permit involving the use, enlargement, replacement, alteration, expansion and/or extension of an existing nonconforming structure and/or use shall also provide the Administrative Official with adequate and sufficient documentation to establish that the specific nonconforming structure and/or use in question did in fact, lawfully exist on the effective date of these regulations, or amendment, thereto, which resulted in such structure and/or use becoming nonconforming. No application for a conditional use permit involving such a request shall be accepted by the Administrative Official or considered by the Planning and Zoning Commission without such documentation of nonconformity and proof of prior legal existence. Evidence of a valid local business tax receipt shall not in and of itself, establish a prima facie case for the documentation of actual nonconformity and proof of prior legal existence.
- C. All applications for a conditional use permit involving the use, enlargement, replacement, alteration, expansion and/or extension of an existing nonconforming structure and/or use shall be subject to all appropriate safeguards and conditions necessary to ensure that any such approval will not be contrary to the public interest, the intent of this Schedule or injurious to the specific area in which the existing nonconforming structure and/or use is located.
- D. Under no circumstances shall the provisions of this section be construed to mean that any existing nonconforming structure and/or use may be changed to another nonconforming use, or that any provision, requirement and/or regulation contained within this Schedule these regulations can be waived or reduced which can reasonably be complied with by the applicant. In essence, the provisions of this section shall not be construed and/or applied in such a manner as to permit the use, enlargement, replacement, alteration, expansion and/or extension of any existing nonconforming structure and/or use without justifiable reasons based on a legally existing and nonconforming status; or such application that would result in any undue hardship or injurious activity that would deprive adjacent individual property owners of their property rights; or that would be detrimental to the area surrounding the nonconforming premises in general.

**SECTION 2.0            RESERVED**

**SECTION 3.0            PERMITS**

**SECTION 3.1            SITE DEVELOPMENT PERMITS**

Proposed buildings, for which site development permits have been issued prior to their designation as nonconforming by amendment of these regulations, may be completed and used as originally intended only if valid "building permits" have been issued for such proposed buildings prior to the adoption or amendment of these regulations and only then if such proposed buildings are completed, or that substantial progress has been made on the construction or alteration authorized therein within one (1) year after the date on which such "building permit" was issued.

## **SECTION 3.2 BUILDING PERMITS**

Proposed buildings for which "building permits" have been issued prior to their designation as nonconforming by the adoption or amendment to these regulations may be completed and used as originally intended provided they are completed or that substantial progress has been made on the construction or alteration authorized therein within one (1) year after the date on which such "building permit" was issued.

## **SECTION 4.0 EXISTING UNDEVELOPED NONCONFORMING PARCELS OF RECORD**

### **SECTION 4.1 PARCELS OF RECORD**

The Administrative Official may issue a site development permit and/or certificate of completion for an undeveloped parcel of record which lawfully existed prior to the effective date of these regulations, or amendment thereto and which is too small to allow conformance with the area and dimension regulations of this Schedule for lots or tracts subject to the following provisions:

- A. The undeveloped parcel is a lawfully existing undeveloped parcel of record, is located within an SR-1AA, SR-1A, SR-1, MR-1, MR-2, MR-3 or RMOI Zoning District provided that the lot has a minimum lot area of at least five thousand (5,000) square feet, the minimum lot width at the building line is at least fifty (50) feet and the proposed use is for a one-family dwelling. In addition, this provision shall not apply to any parcel shown on a survey which has been filed with and accepted by the City of Sanford Building Official for the purpose of issuing building permits prior to the effective date of these regulations and provided that the parcels included within such survey have at least ten (10) feet of parcel frontage on a street and the survey has been prepared by a registered surveyor.

The following minimum yards shall be provided:

1. Side yards of at least five (5) feet.
  2. Front yards of at least twenty-five (25) feet, unless the parcel is located on a street for which the base building line and designated right-of-way line requirements has been established by these regulations in which case the base building line requirements shall be complied with.
  3. Rear yards of at least fifteen (15) feet.
  4. Street side yards of at least fifteen (15) feet.
- B. Under no circumstances shall the provisions of this section be construed so as to make possible more than the minimum reasonable use of the parcel in question or to increase the number of residential units permitted on a premises having less than the minimum required land area.
- C. If a lawfully existing undeveloped parcel of record cannot comply with all of the requirements of these regulations, including the provisions contained in this section, the Administrative Official shall not issue a site development permit or certificate of completion

until either of the following:

1. The Board of Adjustment has granted a dimensional variance for parcels zoned for one-family and two-family uses;
2. The Planning and Zoning Commission has granted a conditional use for parcels zoned for multiple-family and/or nonresidential uses for the parcel in question.

## **SECTION 4.2 ADJOINING PARCELS**

When adjoining existing undeveloped nonconforming parcels of record are under the same ownership, they shall not be used or sold separately except in conformance with the dimension and area requirements of these regulations provided that this limitation shall not apply to adjoining lots of record located within an SR-1AA, SR-1A, or SR-1 Zoning District and provided that each individual lot has a minimum lot area of at least five thousand (5,000) square feet and a minimum lot width at the building line of at least fifty (50) feet. In addition, this provision shall not apply to any parcel shown on a survey which has been filed with and accepted by the City of Sanford Building Official for the purpose of issuing building permits prior to the effective date of these regulations and provided that the parcels included within such survey have at least ten (10) feet of parcel frontage on a street and the survey has been prepared by a registered surveyor.

## **SECTION 5.0 DIMENSIONAL VARIANCES AND CONDITIONAL USES**

### **SECTION 5.1 PROOF OF NONCONFORMING STATUS**

All applicants for a dimensional variance or conditional use involving an undeveloped nonconforming parcel of record shall provide the Administrative Official with adequate and sufficient documentation to establish that the specific nonconforming parcel in question was a lot or tract of record on the effective date of these regulations, or amendment thereto, which resulted in such parcel becoming nonconforming. No application for a dimensional variance or conditional use involving such a request shall be accepted by the Administrative Official or considered by the Board of Adjustment or Planning and Zoning Commission, without such documentation of nonconformity and proof of prior legal existence. Variances shall be required for single-family or duplex structures. Conditional uses shall be required for multiple-family and nonresidential uses.

### **SECTION 5.2 JUSTIFICATION**

The provisions of this section shall not be construed and/or applied in such a manner so as to permit the use of any existing undeveloped nonconforming parcels of record without justifiable reasons based on a legally existing and nonconforming status; or that would result in any undue hardship or injurious activity that would deprive adjacent individual property owners of their property rights; or, that would be detrimental to the area surrounding the nonconforming parcel in general.