

SECTION 2 – NON-CONFORMANCE

A. BURDEN OF PROOF

The burden of establishing that any non-conforming structure, use or lot is a lawfully existing non-conforming structure, use or lot, as defined in this Ordinance, shall in all instances be upon the owner of such non-conforming structure, use or lot and not upon the Town of Sebago.

B. CONVERSION TO CONFORMANCE ENCOURAGED

Owners of all existing non-conforming structures, uses or lots shall be encouraged to convert such existing non-conforming structures, uses or lots to conformance wherever possible and shall be required to convert to conforming status as required by this Ordinance.

C. CONTINUANCE

The use of any building, structure, or parcels of land, which is made non-conforming by reason of enactment of this Ordinance, or which shall be made non-conforming by reason of subsequent amendment, may be continued, subject to the following provisions:

- 1. EXISTING NON-CONFORMING USES OF LAND** – Continuance of non-conforming uses of land shall be subject to the following provisions:
 - a. An existing non-conforming use may not be enlarged or increased, nor extended to occupy a greater area of land than that occupied at the effective date of this Ordinance, or any amendment so as to increase non-conformance.
 - b. If any non-conforming use of land ceases for any reason for a period or more than twelve (12) consecutive months, any subsequent use of land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
 - c. A non-conforming use may be moved within the boundaries of the lot provided the planning board finds that the change on the lot is appropriate in regards to:
 1. Location and character
 2. Fencing and screening
 3. Landscaping, topography, and natural features
 4. Traffic and access
 5. Signs and lighting
 6. Potential nuisance
- 2. EXISTING NON-CONFORMING STRUCTURES** – Continuance of non-conforming structures shall be subject to the following provisions:

- a. No such structure shall be enlarged or altered in any way that increases its non-conformity.
- b. Should any structure, exclusive of the foundation, be destroyed or damaged by any means, exclusive of the planned demolition, said structure may be rebuilt on the existing foundation to the dimensions of the structure which was destroyed provided rebuilding is begun within one year.
- c. A non-conforming structure may be moved within a lot in a manner which would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location is appropriate in regards to:
 - 1. Location and character
 - 2. Fencing and screening
 - 3. Landscaping, topography, and natural features
 - 4. Traffic and access
 - 5. Signs and lighting
 - 6. Potential nuisance

3. EXISTING NON-CONFORMING USE OF STRUCTURES – Continuance of non-conforming structures shall be subject to the following provisions:

- a. No structure devoted to a non-conforming use shall be enlarged or extended without Planning Board approval.
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building.
- c. Any non-conforming use of a structure or premises may be changed to another non-conforming use provided the Planning Board shall find that the proposed use is more consistent with the District's purpose than the existing non-conforming use, at no time shall a use be permitted which is less conforming nor revert back to the previous non-conforming use.
- d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed.
- e. If any such non-conforming use of a structure ceases for any reason for a period more than twelve (12) consecutive months, any subsequent use of such structure shall comply with standards specified by this Ordinance for the district in which such structure is located.
- f. A structure, housing an existing non-conforming use, may be moved within the lot in a manner which would be a more appropriate location, provided that the Planning Board finds that the change in location is appropriate in regards to:

1. Location and character
2. Fencing and screening
3. Landscaping, topography, and natural features
4. Traffic and access
5. Signs and lighting
6. Potential nuisances

- 4. CONSTRUCTION BEGUN PRIOR TO ORDINANCE** – This ordinance shall not require any change in the plans, construction, size or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made, provided that the application has been subject to substantive review or a permit that has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of this Ordinance. Such construction shall start within sixty (60) days after the issuance of the permit.

D. NON-CONFORMING LOTS OF RECORD

A single parcel of land, the legal description of which or the dimension of which are recorded on a document or map recorded in the Registry of Deeds which at the effective date of adoption or subsequent amendment of this Ordinance, does not meet the lot area or width requirements or both, of the district in which it is located, may be built upon as an existing non-conforming lot of record even though such lot may be contiguous with any other lot in the same ownership, provided that all other provisions of this Ordinance are met.

E. TRANSFER OF OWNERSHIP

Ownership of land and structures that remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.