ARTICLE 22

NONCONFORMITIES

22.1 Purpose

It is recognized that, over time, lawful nonconformities may develop as a result of amendments to the Official Zoning Map or Granite Quarry Development Ordinance which change the application of the Town of Granite Quarry development regulations to particular properties. It is important that such properties, while nonconforming, be adequately maintained and permitted to continue, but not expanded or enlarged in any fashion that increases the extent of nonconformity. Where possible, such nonconformities should be made, wholly or incrementally, conforming.

22.2 Application and Exceptions

The provisions of this section apply only to lawful nonconformities, except as noted below. Nonconformities other than lawful nonconformities shall be considered violations of the Granite Quarry Development Ordinance. This article shall not apply, however, to any feature which is the subject of a variance from particular regulations that has been granted by an authorized reviewing board or commission or to applications of flexible development standards or modifications authorized by this Ordinance to such features. Where a variance or flexible development standard determination has been granted in writing for a feature which does not otherwise conform to the requirements of this chapter, that feature shall be deemed conforming. Nonconformities associated with signs are addressed in Article 17.

22.3 Dimensional Nonconformities

22.3-1 Lawfully Established Nonconforming Lots. Lawfully established nonconforming lots having one or more dimensional nonconformities may be used for any permitted or special use allowed in the zoning district in which the lot is located provided that any structure or expansion/addition to an existing structure proposed for the use meets all applicable dimensional and numerical requirements and all applicable procedures are followed. Such lots may be recombined with adjoining lots to increase the extent of their conformity provided new nonconformities are not created.

22.3-2 Structures, including Signs. Structures of any type having one or more dimensional nonconformities may be used for any permitted or special use allowed in the zoning district in which the structure is located, and, upon any change in use, shall comply with the landscaping, buffering, and parking requirements of Articles 11 and 12. Structures may be expanded or enlarged; provided the extent of the applicable nonconformity is not increased or new nonconformities are not created by expansion

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or enlargement. Expansions, enlargements or reconstruction of such structures to an extent equal to or greater than fifty percent of appraised value, shall require such structures to meet all applicable dimensional and numerical requirements, except density, which may be retained at the prior nonconforming level but not increased. For the purpose of this section, the value of any expansions, enlargements, or reconstruction of such structures over a three-year period shall be cumulated in calculating the fifty percent threshold. A structure undergoing renovation (defined in Article 3) having a renovation cost equal to or greater than fifty percent of the structure's appraised value shall not be subject to the above provisions but shall be required to meet the landscaping, buffering, and parking provisions of Articles 11 and 12. Signs shall also comply with the provisions of Article 17, Section 17.13 of this Ordinance.

22.4 Nonconforming Uses

22.4-1 Discontinuation of Nonconforming Uses. A nonconforming use is allowed to continue unless the use is discontinued for any reason for a period of 730 or more consecutive days, and there are no substantial good faith efforts to re-establish the use during this period. Obtaining permits to maintain the existing use or significant continuous efforts to market the property for sale or lease for the existing use (e.g., MLS listing, Realtor contract, etc.) shall be regarded as substantial good faith efforts. A nonconforming use shall be deemed discontinued after a period of 1095 consecutive days regardless of any substantial good faith efforts to re-establish the use. Thereafter, the structure or property associated with the use may be used only for conforming use. Where multiple nonconforming uses occupy the same premises, the reallocation of any combination of the nonconforming uses shall be allowable provided there is no net increase in the gross area of the combined nonconforming uses. Special uses discontinued for a period of 730 or more consecutive days shall be regarded as nonconforming uses and shall not be re-established without new *Special Use Permit* approval in accordance with Article 7 of this Ordinance.

22.5 Nonconformities Associated with Manufactured Homes.

Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner.

22.5-1 Replacement of One Manufactured Home with Another Manufactured Home in an Established Manufactured Housing Park. Such replacement shall be permitted without regard to dimensional nonconformity provided that the replacement manufactured home is constructed to the United States Department of Housing and Urban Development (HUD) standards, the replacement home is placed in the same location as the original home, and such replacement occurs within 365 days of the

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removal of the original manufactured home. In all other situations, replacement shall be prohibited.

22.5-2 Replacement of One Manufactured Home with Another Manufactured Home in Areas Other Than a Lawfully Established Manufactured Housing Park or Area Covered by a Manufactured Home Overlay. Such replacement shall be permitted provided that new dimensional nonconformities are not created, the replacement manufactured home is constructed to the United States Department of Housing and Urban Development (HUD) standards, the replacement home is placed in the same general location as the original home, the replacement home conforms to the development standards listed in Section 10.1-36, and such replacement occurs within 365 days of the last day of occupancy of the original manufactured home. In instances where a replacement home exceeds the external dimensions of the original home, the external dimensions of the replacement home shall not be considered a non-conformity provided the home does not encroach into any required minimum yard other than such area of encroachment existing under the original home. In all other situations, replacement shall be prohibited.

22.6 Maintenance and Repair

In the interest of the public safety and health, structural alterations or remodeling of nonconforming structures or conforming structures on nonconforming lots that are required by any public law, and so ordered by a public officer in authority, shall be permitted. Routine maintenance shall also be permitted for nonconforming situations so long as no expansion of the nonconformity in conflict with the provisions of this Article occurs as a result of the maintenance.

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