

TOWN OF HOPKINTON  
ZONING BYLAW

**ARTICLE XIX**  
**Nonconforming Lots, Uses and Structures**  
**[Amended 4-13-1978 ATM, Art. 39, 5-2-2011 ATM, Art. 43]**

**§ 210-127. Continued use of existing uses. [Amended 5-2-2011 ATM, Art. 43]**

Notwithstanding any possible nonconformity, this Chapter shall not apply to the continued use of existing buildings or structures or of land to the extent of its lawful use at the time of adoption of this Chapter.

**§ 210-128. Changes to existing lots, uses and structures. [Amended 5-2-2011 ATM, Art. 43]**

**A. Single and Two Family Residential Dwellings**

Alteration, reconstruction, extension or structural change (collectively "alteration") to a single or two family residential dwelling shall not be considered an increase in the nonconforming nature of the structure and shall be permitted as of right in the following circumstances, if a) the lot conforms to the minimum lot area and frontage requirements of this Chapter, or b) the lot complied with the minimum area and frontage requirements in effect at the time the lot was created, has not been held in common ownership with adjoining land since rendered nonconforming, and has at least 5,000 square feet of area and 50 feet of frontage:

1. Alteration to an existing dwelling which complies with all current size and setback requirements and such alteration also complies with the current size and setback requirements and building height requirements;
2. Alteration to an existing dwelling which encroaches upon one or more required yard width or setback requirement, where the alteration will comply with all current setback and building height requirements.

Alteration of a single or two family dwelling which does not conform to the foregoing circumstances shall require the issuance of a special permit by the Board of Appeals upon a finding that the proposed change is not substantially more detrimental to the neighborhood.

**B. Nonconforming Structures**

A nonconforming building or structure which is not a single or two family dwelling may be altered, reconstructed, extended or structurally changed only after the issuance of a special permit by the Board of Appeals upon a finding that the proposed change is not substantially more detrimental to the neighborhood.

**C. Nonconforming Lots**

A lot which complied with the minimum area and frontage requirements in effect at the time it was created, has not been held in common ownership with adjoining land since rendered nonconforming, and has at least 5,000 square feet of area and 50 feet of frontage, may be built upon for a single or two family dwelling as of right if the dwelling will comply with all applicable regulations of this Chapter.

Construction of a single or two family dwelling or other lawful building on such lots where the proposed dwelling or building will not comply with the applicable regulations of this Chapter is permitted only upon the issuance of a special permit by the Board of Appeals and a finding that the proposed change is not substantially more detrimental to the neighborhood.

**D. Nonconforming Uses**

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1. Alteration, reconstruction, extension or structural change (collectively “alteration”) to a nonconforming use to provide for the use in a manner substantially different from the use to which it was put before alteration or for its use for the same purpose to a substantially greater extent shall require the issuance of a special permit by the Board of Appeals upon a finding that the proposed use is not substantially more detrimental to the neighborhood.
2. A change from one nonconforming use to another nonconforming use shall require the issuance of a special permit by the Board of Appeals, upon a finding that the proposed use is not substantially more detrimental to the neighborhood and that the proposed use is a similar or more restricted use.
3. Where an existing use lacks the required off-street parking facilities for the district in which it is located, such lack shall not render said use nonconforming, but any part of a lot containing such use that is used for parking on the effective date of this Chapter may not be thereafter built upon unless either sufficient additional parking facilities are obtained and made available to keep the ratio of parking space to floor area the same or the remaining number of parking spaces provided conforms to the requirements of this Chapter.

**§ 210-129. Abandonment. [Amended 4-13-1978 ATM, Art. 39]**

A nonconforming use may not be resumed or changed to another nonconforming use after any of the events or periods described below have taken place:

- A. Abandonment of use for two years (for example, removal and failure to replace installations necessary thereto).
- B. Two years during which it has been neither used nor offered for sale.
- C. Failure to resume use or to convert to another approved nonconforming use within two years of purchase.

**§ 210-130. Reversion.**

Once a nonconforming use reverts to a more restricted use, it may not return again to its original less restricted use.

**§ 210-131. Destruction.**

Once a nonconforming use has been destroyed or damaged by fire, explosion or other catastrophe, it may be rebuilt or restored at the same location and again used as it previously was, provided that its owner shall apply for a building permit and start operations for restoring or rebuilding on said premises within 12 months after such catastrophe; and further, provided, that the buildings as restored shall not exceed in volume or area the original nonconforming structure.

**§ 210-132. Existing special permit uses not nonconforming.**

Where an existing building use or land use is situated in a zoning district where it is permitted only upon the granting of a special permit by the Board of Appeals, said use shall not be deemed nonconforming by reason thereof; rather, the special permit shall be deemed to have been granted for the use as it was on the effective date of this Chapter.