

Article III - General Provisions

- A. No owner or occupant of property in any District shall permit fire-damaged buildings beyond repair or other ruins to remain, but shall remove the same within one (1) year.
- B. Any uses that may be obnoxious or injurious by reason of the production or emission of odor, dust, smoke, refuse matter, fumes, noise vibrations, light, glare or similar conditions, that would be considered dangerous or a nuisance, disturbance or annoyance are prohibited.
- C. Nothing in this ordinance shall be construed to prevent the storage of agricultural equipment in any zone or for the shelter of riding horses for non-commercial recreational uses in any zone, provided that at least one-half acre of open space is available adjacent to the buildings.
- D. Subdivisions shall be regulated by the Town of Limerick, Maine Planning Board Standards for Reviewing Land Subdivision and by 30-A M.R.S.A. §§ 4400 – 4408.
- E. No permit for the erection of any building shall be issued unless there exists a street or road giving access to such proposed structure. Before such permit shall be issued, such street or road be improved to the satisfaction of the Road Commissioner and the Planning Board in accordance with the applicable design and construction standards and specifications of the Town of Limerick. Alternatively, and at the discretion of the Planning Board, a performance bond sufficient to cover the full cost of such improvement as estimated by the Road Commissioner may be furnished to the Town by the owner. Such performance bond shall be issued by a bonding or Surety Company approved by the Road Commissioner and shall also be approved by the Road Commissioner as to form, sufficiency and manner of execution. A satisfactory letter of credit from a financial institution may be substituted for a performance bond.

Where the enforcement of the provisions of this section would entail unnecessary hardship, or where the circumstances of the case do not require the structure to be related to the existing or proposed streets, roads or highways, the applicant for such a permit may appeal from a decision of the Building Inspector, and the same provisions for the grant of a variance shall be applied by the Board of Appeals in considering the appeal. The Board of Appeals may, in considering such appeal, impose any reasonable conditions that will protect any future street, road or highway layout. For the purposes of this section, the term “access” shall mean that the lot upon which such structure is proposed to be erected directly abuts on a street or road and has sufficient frontage thereon to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, and the frontage requirements of this ordinance shall presumptively be sufficient for that purpose.

- F. As determined by the Limerick Planning Board, all fees and costs to the Town associated with the Board’s review of an application or proposal will be charged to the applicant.

G. Land susceptible to flooding or with slopes of greater than 20%, 100-year frequency floodplains as identified by authorized State and federal authorities and land not suitable for development because of soil characteristics, i.e. hydric soils, which may also be hazardous to life, health or property shall not be accepted as part of a proposed subdivision or to meet minimum lot size requirements.

H. Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected,

—constructed, moved, or altered; and no new lot shall be created, unless in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

A. Non-Conformance

B. General

1.A Continuance, Enlargement, Reconstruction: Any legally existing nonconforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.

1.B Transfer of Ownership: Non-conforming structures, non-conforming lots of record, and non-conforming uses that may continue to exist under this Ordinance may also be transferred, and the new owner may continue the nonconforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

1.C Restoration or Replacement: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures:

1. Repairs, renovations or modernizations which do not involve expansion of the non-conforming use or structure.
 2. Such other changes as Federal, State, or local building and safety codes may require, or as may be required by law in order to provide accessibility to persons with disabilities.
 3. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed with one (14) year of the date of said damage or destruction, provided that:
 - (a) The non-conforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces.
 - (b) Any non-conforming structure shall not be enlarged except in conformity with this Ordinance and the Maine State Subsurface Wastewater Disposal Rules.
- And:
- (c) Any non-conforming use shall not be expanded in area.
 - (d) Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

2. Non-Conforming Use

2.A Resumption of Use Prohibited

2.A.1 A lot, building or structure, other than a residential structure, in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.

2.B Resumption of Use of Residential Structure Prohibited

A residential structure in or on which a non-conforming residential use is discontinued for a period exceeding five (5) years, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.

2.C Structure Non-Conforming as to Use

1. Except for single family dwellings, a building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated.
2. A non-conforming use or part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.
3. Non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such residential structures, as permitted in this Ordinance, including the provisions applying to the Shoreland Zone.

2.D Change of Use

1. A Legally existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Board of Appeals.
2. The case shall be heard as an administrative appeal.
3. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use.

4. The performance standards of this Ordinance shall apply to such requests to establish new non-conforming uses.

2.E Use of Land

1. A non-conforming use of land may not be extended into any part of the remainder of the lot of land. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.
2. In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required set-back lines of the specific parcel upon which such operations were in progress when such use became non-conforming, as required by the performance standards for extractive industries.
3. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.
4. The provision of required off-street parking for an existing non-conforming use shall not be considered an expansion of the use.

3. Non-Conforming Structures – Dimensional Requirements

(Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.)

A. Enlargements Controlled

A non-conforming structure shall not be added to or enlarged unless: such addition or enlargement conforms to all the regulations of the district in which it is located; the addition does not increase the non-conformity of the structure; or a variance is obtained. In addition, state laws must be adhered to.

1. The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing deck shall not constitute the expansion of a non-conforming structure. But the addition of a deck shall constitute the expansion of a non-conforming structure and shall meet all the dimensional requirements of this ordinance.
2. The placing of a foundation below a lawfully existing nonconforming

structure shall not constitute the expansion of the structure so long as the first-floor space of the structure is not increased.

3. Construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion and shall be subject to the State Plumbing Laws (Title 30, Maine Revised Statutes Annotated, §3221, Subsection 4) requiring documentation of wastewater disposal capabilities.

B. Discontinuance

Discontinuance of the use of a legally existing non-conforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.

C. Lack of Required Parking or Loading Space

A conforming building or structure which is non-conforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this ordinance for both the addition or alteration and the original building or structure, or a variance is obtained.

4. Non-Conforming Lots of Record

A. Vacant Lots

A vacant non-conforming lot of record may be built upon without a variance provided that:

1. Such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership;
2. A permit to build the proposed structure on the lot could legally have been issued without a variance under the zoning and land use provisions in effect immediately before the enactment of this Ordinance; and
3. All provisions of this Ordinance except lot size and frontage and shore frontage can be met.

If proposed construction on a non-conforming lot fails to meet the applicable requirements of this Ordinance, then no construction shall be permitted on the lot unless a variance from the applicable requirements is first obtained from the Board of Appeals.

5. Built Lots

A non-conforming lot on which a structure was legally built prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions:

1. The structure(s) may be repaired, maintained, or improved, and may be enlarged provided that, as enlarged, they conform with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage.
2. If the proposed enlargement of the structure(s) cannot meet the applicable dimensional requirements, then no permit shall issue for the proposed enlargement unless a variance from the applicable dimensional requirements is first obtained from the Board of Appeals.

6. Contiguous Built Lots

1. If two or more contiguous lots or parcels are in common ownership of record at the time of adoption of this Ordinance, if one or more of the lots do not meet the dimensional requirements of this Ordinance, and if a principle use exists legally on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law and (12 M.R.S.A., Sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.
2. If two or more principal uses existed legally on a single lot of record on the effective date of this Ordinance, each may be sold as a separate lot provided that the above referenced Law and Rules are complied with.
3. When such lots are divided, each lot thus created must conform as nearly as possible to the dimensional requirements of this Ordinance.

7. Contiguous Lots – Vacant or Partially Built

If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one (1) or more of the lots are vacant or contain only an accessory structure or only a structure not legally permitted at the time of adoption of this Ordinance, the lots shall be combined to the extent necessary to meet the dimensional standards, except where rights have vested.

In a Shoreland Zone this provision shall not apply to two (2) or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the Registry of Deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

1. Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or
2. Any lots that do not meet the frontage and lot size requirements of Article 5.B.7 (1) are re-configured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

8. Vested Rights

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise:

1. When the landowner has made a substantial start on construction of structures, or
 2. Development of infrastructure improvements for town approved subdivisions, prior to or within twelve (12) months of the adoption or amendment of this Ordinance, or
 3. In the case of pending applications, when the review process on an application commences.
 4. Such construction must be legal at the time it is commenced, and the owner must be in possession of and in compliance with all validly issued permits, federal, state and local.
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Article VI: Administration

6.A Building Permits

6.A.1 Permit Not Required

