

SECTION 10 - NON-CONFORMING USES

10.A. [GRANDFATHERED STATUS FOR LEGALLY NON-CONFORMING USES]

Any *Building* or use of land or *Building* legally existing at the time of enactment of this Regulation, or of any amendments thereto, or authorized lawful permit issued prior to the adoption of these Regulations which does not conform to the provisions of these Regulations for the Use Districts in which it is located, shall be designated a non-conforming use. Such use may be continued but may not be extended or expanded, or changed to a less restrictive use as listed in the LAND USE SCHEDULE in APPENDIX A.

10.B. [LIMITATIONS TO THE CONTINUATION OF NON-CONFORMING USES]

The total structural repairs and alterations that may be made in a *Structure* which is non-conforming in use only shall not exceed fifty percent (50%) of its replacement value at the time of application for the first structural change, unless changed to a conforming use. The foregoing provision in this Subsection with reference to limitations on structural repairs and alterations need not apply to that part of any *Building* used for residence purposes located in any Business or Industrial District, not conforming to the SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF *BUILDINGS* in APPENDIX B, except that no additional *Dwelling Units* shall be permitted in any such *Building* in which structural repairs or alterations are undertaken unless the *Density* provisions of SCHEDULE OF REQUIREMENTS for minimum number of square feet of *Lot Area* per family can be complied with for the district in which such *Building* is located.

10.C. [REBUILDING OF NON-CONFORMING USES AFTER DISASTERS]

Any non-conforming *Building* or *Structure* or one or more of a group of non-conforming *Buildings* or *Structures* which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, act of God or act of any governmental authority, may be reconstructed and used as before, if reconstruction is started with twelve (12) months of such calamity, provided that the restored *Building* covers no greater area or has no greater cubic content and has equal or greater front, side and *Rear Yards*.

10.D. [EXPIRATION OF GRANDFATHERED NON-CONFORMING USES]

A *Building Structure* or portion thereof, non-conforming as to use, which is, or hereafter becomes vacant or remains unoccupied for a continuous period of one (1) year shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

10.E. [GRANDFATHERED STATUS FOR BUILDINGS AND LOTS IN EXISTENCE PRIOR TO 1955]

Any *Building* constructed prior to July 1, 1955, or any *Plot* for which a *Building* permit has been issued prior to that date having area, front, side and/or *Rear Yard* insufficient to comply with the Regulations then in effect shall nevertheless be deemed to be lawfully non-conforming with respect thereto and may be continued.

10.F. [PROHIBITION OF SUBDIVISION FOR NON-CONFORMING USES IN RESIDENTIAL DISTRICTS]

Any *Lot* located within a residence district and supporting a commercial use of land or use of a *Structure* that is non-conforming with respect to the *Permitted Uses* of Appendix A - LAND USE SCHEDULE, where such non-conforming commercial use exceeds either 50% ground coverage or a *Floor Area Ratio* of 0.30 of such *Lot*, shall not be reduced with respect to the original acreage, frontage, width, or configuration of such *Lot* existing at the time that the use first became non-conforming. Such *Lots* may however be modified or combined with adjacent lands provided that the non-conforming use shall not be expanded, intensified or extended into adjacent lands. No new *Permitted Uses*, *Structures* or *Buildings* shall be established on any *Lot* supporting a use of land or use of a *Structure* that is non-conforming with respect to the *Permitted Uses* of Appendix A that would increase the degree of non-conformity or exceed the maximum intensity of use permitted for the district. Intensity of non-residential uses shall be equated on a *Residential Density* basis of not more than 800 square feet of *Gross Non-Residential Floor Area* per *Dwelling Unit*, or such lesser amount deemed appropriate based on the character of the non-residential use. (86-015)

10.G. [DORMITORY USE FOR CERTAIN HISTORIC BUILDINGS IN R-10 DISTRICTS]

In order to preserve historic and legally non-conforming *Buildings* that contribute to the character of the neighborhood, *Building(s)* in the R-10 District originally designed and used for religious and/or educational purposes for a period in excess of forty (40) years may be used for dormitories serving children high school aged or younger with accessory onsite staff living quarters pursuant to a *Special Permit* granted by the Zoning Board. Incidental uses may also be allowed, such as school or educational uses, tutoring and extra-curricular classroom and lecture areas, and art studio space, and other supplemental uses provided that:

1. No structural change is made to the exterior of the *Building* except as is necessary to provide access for handicapped persons, for code compliance, or for customary repair and maintenance; and no increase in legally nonconforming *Floor Area*.
2. Where the existing number and design of *Parking Spaces* and access thereto is legally nonconforming, the Zoning Board may (a) allow such nonconformities to remain, and/or (b) approve an alternate design that decreases the nonconformities and where the Zoning Board

makes a determination that the proposed plan provides for adequate parking. Drive aisles serving fifteen (15) or fewer spaces may be not less than ten (10) feet in width for one way access.

3. The *Building* is connected to the city sanitary sewer system
4. On *Corner Lots*, ground mounted mechanical equipment may be located in a *Front Yard* provided such equipment is not less than ten (10) feet from a *Property Line* and suitably screened from public view.
5. For applications under this Section 10.G, the requirements of Section 2.C.2.e. shall not apply, provided that: total ground coverage shall not exceed 52.5%; any new *Parking Spaces* shall be a minimum of 20 feet away from the longest street frontage and 10 feet away from all other street frontages and residential properties; and not less than 50% of the total perimeter of all *Buildings* shall satisfy the landscape buffer requirement. (87-028, 214-36)

10.H. [CONVERSION OF COMMERCIAL BUILDINGS TO RESIDENTIAL BUILDINGS IN CERTAIN DISTRICTS]

Subject to *Special Permit* Approval by the Zoning Board, any existing *Building* located within any commercial zone listed in Appendix A Table I or in the R-MF or R-H Zone, and used for commercial purposes including *Buildings* that are non-conforming with respect to Appendix B - SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF *BUILDINGS*, may be converted, in whole or in part, to residential purposes provided that (218-14):

1. Notwithstanding the limitations of Appendix B, *Residential Density* shall not exceed one (1) *Dwelling Unit* per 800 square feet of converted gross commercial *Floor Area*. *Residential Density* may not to exceed one (1) *Dwelling Unit* per 600 square feet of converted gross commercial *Floor Area* provided that all required *BMR Units*, except for fractional units, are provided on-site. *Below Market-Rate Housing* shall be provided pursuant to Section 7. of these Regulations. (206-54; 210-27; 220-13)
2. The number of *Parking Spaces* provided shall satisfy the standards of Section 12 of these Regulations provided that the Zoning Board may authorize a reduction in the number of spaces in accordance with the standards of Section 12.D.1(b), and such spaces may include any *Parking Space* originally serving the commercial use including offsite spaces within 500 feet of the site, and spaces that are nonconforming. The Zoning Board may reduce the required parking in the Downtown Core to one (1.0) space per *Dwelling Unit* of one bedroom or less. (208-31; 210-27; 214-22)
3. Existing *Loading Spaces*, ramps and drive aisles which may or may not conform to the dimensional standards of Sections 12.A, 12.B and 12.C may continue to be used. (218-14)
4. Expansion of usable *Floor Area* shall be limited to the infill of unenclosed areas that are below the existing perimeter walls of the *Principal Building*, or to the conversion of portions of Structured parking garage floors for tenant storage, amenity space or uses to further *Below*

Market-Rate Housing objectives. Expansion beyond the walls of the existing *Building* shall be limited to exterior stairways, canopies, architectural features to enhance the residential character, *Usable Open Space*, or other improvements necessary to comply with Building Codes or other Municipal, State or Federal Public Safety Codes, not to exceed two and one-half percent (2.5%) *Building Coverage*. (207-06, 218-14)

5. Notwithstanding standards set forth elsewhere in these regulations, useable open space shall be provided on site, with the amount, location and design of such open space subject to determination and approval of the Zoning Board. (93-011; 94-005)
6. Notwithstanding paragraph 10.H.4. above, expansion of a commercial building to be converted, in whole or in part, to residential use shall be permitted under the following conditions: (220-13)
 - a. A parcel is contiguous to, under common ownership with, and in the same zoning district as the commercial building to be converted. (218-31)
 - b. The *Residential Density*, in addition to that derived from conversion per paragraph 1 above, shall not exceed the *Permitted Density* of the contiguous *Lot*. *Residential Density* in addition to paragraph 1 above shall not exceed the as-of-right *Density* of the combined parcels. *Building Coverage* of the expansion shall not exceed that as-of-right for the contiguous parcel. (218-31)
 - c. The height of the expansion shall not exceed one additional Story in case a building is non-conforming with respect to height, but in no event greater than one (1) Story above the height permitted in Appendix B, excluding roof-top structures as permitted pursuant to Section 8-B of the Zoning Regulations; provided that any such addition is set back not less than ten (10) feet from each face of the existing building facing a public street. (218-31)
 - d. The contiguous parcel shall be merged with the *Lot* of the converted commercial building prior to the issuance of a Certificate of Occupancy. (218-31)
 - e. New Dwelling Units constructed by expansion of the converted commercial building shall follow the same density standards as defined in Subsection 10.H.1. above.
 - f. All required *BMR Units*, except fractional units, shall be provided on-site pursuant to Section 7. of these Regulations. (210-27)

10.I. [CONVERSION OF NON-CONFORMING BUILDINGS IN RM-1 DISTRICTS TO RESIDENTIAL USE]

Subject to *Special Permit* Approval by the Zoning Board, any existing *Building* located in the RM-1 Zone that is non-conforming with respect to Appendix A - LAND USE SCHEDULE and Appendix B - SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS, may be converted to residential purposes provided that:

1. Notwithstanding the limitations of Appendix B, *Residential Density* shall not exceed one (1) Dwelling Unit per 2,000 square feet of converted *Gross Floor Area*.
2. The number of *Parking Spaces* provided shall satisfy the standards of Section 12 of these

regulations, and may, subject to determination and approval of the Zoning Board, include existing *Parking Space* serving the nonconforming use including offsite spaces within 500 feet of the site, and spaces and aisle widths that are nonconforming;

3. No expansion of nonconforming *Building(s)* shall be permitted, except modifications not exceeding two and one half percent (2.5%) coverage shall be limited to exterior stairways, canopies, or other improvements necessary to comply with the *Building Code* or other Municipal, State or Federal Public Safety Code;
4. Notwithstanding standards set forth elsewhere in these regulations, useable open space shall be provided onsite, with the amount, location and design of such open space subject to determination and approval of the Zoning Board.
5. *Below Market-Rate Housing* shall be provided pursuant to Section 7. of these Regulations. (220-13)
6. The non-conforming use shall not be extended, expanded or changed to a less restrictive use. (202-08)

10.J. [ADAPTIVE REUSE OF NON-CONFORMING BUILDINGS IN C-N DISTRICTS]

Subject to *Special Permit* Approval by the Zoning Board, sites located in the C-N zoning district, that as of November 28, 2005 have a minimum of two acres containing an existing non-conforming *Building* or *Building(s)*, may be adaptively reused or redeveloped in whole or in part, provided the following special standards are satisfied:

1. All non-conforming uses with respect to Appendix A shall be eliminated and office use shall not exceed 0.1 *FAR* for the entire property. (208-42)
2. The existing amount of *Floor Area* in excess of 0.30 *FAR* shall be reduced by not less than fifty percent (50%).
3. *Building Coverage* may be increased by one square foot for every two square feet of reduction of *Building Floor Area* in excess of 0.30 *FAR*, provided that total *Building Coverage* shall not exceed forty-five percent (45%).
4. Not less than fifty percent (50%) of required parking shall be located beneath the *Building* or integrated into the *Building* and screened from sensitive views to the satisfaction of the Zoning Board.
5. Vehicular access and egress shall both be limited to State Highways.
6. Individual uses and changes of use with a *Floor Area* in excess of twelve thousand (12,000) square feet shall require administrative approval by the Zoning Board. (205-26)

10.K. [EXPANSION OF NON-CONFORMING BUILDINGS IN C-B AND C-WD DISTRICTS]

Subject to *Special Permit* approval by the Zoning Board and notwithstanding the limitations in Section 10, any non-conforming *Building* located within the C-B or C-WD Zoning District may expand usable *Floor Area* provided the following standards are satisfied:

1. Any increase in total *Floor Area* shall not result in an increase in new or additional *Building Coverage* or height; and
2. Any additional *Floor Area* shall be devoted to collaborative work space, common areas or lobbies and shall be in furtherance of *Adaptive Reuse* or *Redevelopment* of the *Building* for modernization, aesthetic, safety, efficiency, and technological capability or sustainability purposes. (218-39)

Expansion beyond the *Building* envelope of the existing *Building* shall be limited to canopies and architectural features which enhance the aesthetic appearance of the *Building*. Said improvements shall not be considered new or additional *Building Coverage* provided same do not exceed two and one-half percent (2.5%) *Building Coverage*.

Conditions placed on granting of a *Special Permit* pursuant to this subsection by the Zoning Board shall be deemed to supersede and replace any conditions or limitations previously imposed by the Zoning Board or Zoning Board of Appeals. (210-21)

Notwithstanding the above, subject to *Special Permit* approval by the Zoning Board, a legally nonconforming Hotel in the C-B Zoning District may be expanded provided the following standards are satisfied (223-13):

- a. Any addition or expansion shall be limited to one (1) *Story*, thirty (30) feet in height, as measured from the floor elevation of the addition, and 3% of existing *Floor Area* or 10,000 square feet, whichever is less, and not result in any additional hotel rooms for occupancy.
- b. Any additional *Building Coverage* shall be limited to 6% of existing *Building Coverage* or 10,000 square feet, whichever is less, and result in no net increase of impervious coverage.
- c. For every square foot of *Floor Area* added, not less than one (1) square foot of at-grade and/or rooftop landscaping shall be added to the site.
- d. Any *Building* additions shall be suitably screened from adjacent residential uses to the satisfaction of Zoning Board staff.

10.L. [EXPANSION OF NON-CONFORMING BUILDINGS IN RM-F DISTRICT] (220-23)

Subject to *Special Permit* approval of the Zoning Board, any residential building located in the RM-F Zone that was constructed prior to 1984 pursuant to Appendix B Footnote #3 at the time of approval permitting high-rise development, and is nonconforming with regard to density, parking, open space and/or *Yard* requirements, may be renovated pursuant to the following requirements and standards:

1. Minimum *Lot Area* of one (1) acre. The Zoning Board may allow additional contiguous land to be added to the application.
2. There shall be no net increase in the number of bedrooms.
3. There shall be no increase in *Floor Area* except as required to meet applicable building codes.
4. Notwithstanding the limitations of Appendix B, *Residential Density* shall not exceed four

hundred (400) square feet of land area per Dwelling Unit or eight hundred (800) square feet of existing *Floor Area* per Dwelling Unit, whichever is less.

5. The minimum number of *Below Market Rate (BMR) Units* shall be equivalent to twenty percent (20%) of the total units affordable at fifty percent (50%) of the *Area Median Income (AMI)* and shall be provided in accordance with the standards, definitions, and procedures contained within Section 7. of these Regulations.
6. There shall be a minimum of one (1) *Parking Space* per Dwelling Unit, except as set forth in subsection 7 below
7. There shall be a minimum of one (1) *Parking Space* for every three (3) units that are either: (a) restricted as affordable to families earning not more than 30% of the *Area Median Income (AMI)*; and/or (b) restricted to Seniors and/or disabled persons earning not more than 50% of the AMI; or any pro rata combination of the above. Such spaces shall be provided at no charge to such tenants. *Parking Spaces* shall also be provided at no charge to all tenants occupying deed restricted *BMR Units*. A Parking Management Plan and Affordability Plan shall be recorded on the Land Records which accounts for the number of units under 7(a) and 7(b) used to satisfy the parking requirement.
8. Where shared vehicles are provided onsite, the Zoning Board may authorize a parking reduction of four (4) spaces for each such shared vehicle, provided that the number of such vehicles does not exceed 5% of the total units and the Zoning Board approves a Parking Management Plan to be filed on the Stamford Land Records prior to a Certificate of Occupancy. Upon 75% building occupancy, annual reports shall be submitted to the Zoning Board staff detailing the parking demand and which of the available criteria is being used to satisfy the requirements.
9. Existing parking and *Loading Spaces*, ramps, and drive aisles, which may or may not conform to the standards of Sections 12, may continue to be used. Restriping for small cars shall be allowed for up to 30% of the total number of spaces provided.
10. Not less than seventy-five (75) square feet of *Usable Open Space* shall be provided per Dwelling Unit. Such space shall be satisfied at grade, on balconies and/or on roof decks. Up to 25% of required open space may be satisfied within interior amenity areas.