ON-LINE ZONING ORDINANCE DISCLAIMER

The Web version of the City of Cambridge, Massachusetts Zoning Ordinance is provided for reference and the convenience of having the Ordinance in a computer-readable format. The print version of the Zoning Ordinance, together with any amendments adopted by the City Council subsequent to the most recent update to the print version, remains the official version of the Ordinance. If any discrepancies exist between the print and web versions of the Zoning Ordinance, the print version, together with any City Council amendments, shall be considered correct. Recent amendments to the Zoning Ordinance may appear on the Web prior to being incorporated into the print version of the Ordinance.

# ARTICLE 8.000 NONCONFORMITY

Text current through Ordinance #1372 of June 15, 2015.

**8.10 EXISTING BUILDINGS**
**8.20 NONCONFORMANCE**

## 810 EXISTING BUILDINGS

**8.11** This Ordinance shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is used at the time of first publication of notice of public hearing by the Planning Board of applicable provisions of this or any prior Ordinance, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or 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.

**8.12** Except as herein provided no building or structure or land shall be used and no building or other structure or part thereof shall be constructed, extended or structurally altered except in conformity with the State Building Code and with the provisions of this Ordinance applying to the district in which said building, structure or land is located.

## 8.20 NONCONFORMANCE

**8.21** Any nonconforming structure or use which existed at the time of the first notice of public hearing by the Planning Board of the applicable provisions of this or any prior Ordinance or any amendment thereto may be continued or changed to be conforming, but when so changed to be conforming it shall not be made nonconforming again.

**8.22** As provided in Section 6, Chapter 40A, G.L., permits for the change, extension, or alteration of a pre-existing nonconforming structure or use may be granted as permitted in Subsections 8.22.1 and 8.22.2 below. Such a permit, either a building permit in the case of the construction authorized in Section 8.22.1 or a special permit in the case of construction authorized in Section 8.22.2. may be granted only if the permit granting authority specified below finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

**8.22.1** The following alterations, reconstructions, extensions, and/or enlargements of nonconforming structures, which do not result in a use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent than the existing use, or which are undertaken to accommodate a new conforming use, shall be permitted after the issuance of a building permit by the Superintendent of Buildings. Any change, extension or alteration of a nonconforming use shall be subject to the provisions of Subsection 8.22.2.

a. Conforming construction to a structure located on a lot that is nonconforming due to its lot size or lot width and where only that lot width and/or lot size is nonconforming, but which structure meets the requirements of Section 5.21.1.

b. Conforming construction where only the requirements of Article 6.000 are nonconforming and where no change to those elements regulated by Article 6.000 are required or proposed.

c. Construction occurring entirely within a structure, including structural changes, provided there is no increase in an existing or creation of a new violation of the requirements of Article 5.000.

d. Relocation, enlargement, or addition of windows, doors, skylights, or similar openings to the exterior of a building provided that the facade of the building upon which such relocation, enlargement, or addition is occurring (1) conforms to the yard requirements of Article 5.000, or (2) faces a street.

e. Demolition of a structure or portions of a structure that (1) reduces the extent of an existing nonconformity, or that (2) does not increase or otherwise affect any existing nonconformity, and that (3) does not create a new zoning violation.

f. Conforming additions, under Article 5.000, to a structure not conforming to the requirements of Article 5.000 provided that no nonconforming element or aspect of the nonconforming structure is extended or increased and further provided that the nonconforming structure is not thereby increased in area or volume by more than ten (10) percent since the structure first became nonconforming.

g. Repair, reconstruction, or replacement of any lawfully established nonconforming portions of a building including but not limited to porches, decks, balconies, bay windows and building additions, provided that the repair, reconstruction or replacement does not exceed the original in footprint, volume, or area, and further provided that the area and/or volume of said portions of the building do not exceed twenty-five (25) percent of the area or volume of the entire building.

h. Construction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000, but no other requirements of Article 5.000 including FAR, in the following cases:

    1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure.

    2. A dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit authorized by this Subparagraph h 2, does not exceed fifteen (15) feet.

i. Any construction, alteration, reconstruction, extension or enlargement otherwise permitted in paragraphs (a) through (h) above where the lot is also nonconforming due to the presence of more than one structure containing a principal residential use

as prohibited in Section 5.53; or any conforming construction where only the requirements of 5.53 are nonconforming.

**8.22.2** The following changes, extensions, or alterations of a pre-existing nonconforming structure or use may be granted in the following cases after the issuance of a special permit. Such a permit shall be granted only if the permit granting authority specified below finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

a. In an Office, Business, or Industrial District the Board of Zoning Appeal may issue a special permit for the alteration or enlargement of a nonconforming structure, not otherwise permitted in Section 8.22.1 above, or the enlargement (but not the alteration) of a nonconforming use, provided any alteration or enlargement of such nonconforming use or structure is not further in violation of the dimensional requirements in Article 5.000 or the off street parking and loading requirements in Article 6.000 for the district in which such structure or use is located and provided such nonconforming structure or use not be increased in area or volume by more than twenty-five (25) percent since it first began to be nonconforming.

b. In an Office, Business or Industrial District the Board of Zoning Appeal may grant a special permit for the issuance of a certificate of occupancy for the occupancy of an existing building designed and built for nonresidential use by any use permitted as of right in a Business or Industrial District in Article 4.000 of this Ordinance, provided such new use will be carried out entirely within the existing building and provided the off street parking and loading requirements in Article 6.000 for the district in which such building is located will not be further violated.

c. In a Residence District the Board of Zoning Appeal may grant a special permit for the alteration or enlargement of a nonconforming structure, not otherwise permitted in Section 8.22.1 above, but not the alteration or enlargement of a nonconforming use, provided any enlargement or alteration of such nonconforming structure is not further in violation of the dimensional requirements of Article 5.000 or the off street parking and loading requirements in Article 6.000 for the district in which such structure is located and provided such nonconforming structure will not be increased in area or volume by more than twenty-five (25) percent since it first began to be nonconforming.

**8.22.3** Any alteration or enlargement of a nonconforming structure or of a nonconforming use not otherwise permitted in Section 8.22.1 and 8.22.2 above shall be a variance.

**8.23** If a nonconforming structure or use shall have been destroyed or damaged by fire, explosion or other catastrophe to such an extent that the cost of restoration would be less than fifty (50) percent of the replacement value of the building at the time of the catastrophe, such buildings or use may be rebuilt or restored and used again as previously. If a nonconforming structure or use shall have been destroyed, damaged, or caused to be moved as the result of a public taking, said structure or use may be relocated or reconstructed on the lot or on an abutting lot in the same ownership, provided that said relocation or reconstruction does not result in the enlargement of the

nonconforming use or structure. Such rebuilding or restoring shall not require a special permit and shall be completed within twelve months after such catastrophe. The building as restored shall not be greater in volume, lot coverage, or floor space, and, if the yard requirements are not met, shall not extend further into the required yards than the original nonconforming structure. If destroyed to such an extent that the cost of restoration would exceed fifty (50) percent of such value, such building or use shall not be restored and may be replaced only by a conforming building or use.

**8.24** A nonconforming use of a building or land which has been abandoned or not used for a period of two years shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when the intent of the owner to discontinue use is apparent, or when the use has been discontinued for a period of thirty (30) days, or when the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment, whichever shall first occur.

**8.25** Construction or operation under a building or special permit shall conform to any subsequent amendment of this Ordinance unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.