ARTICLE VII.

Non-Conforming Uses, Lots and Structure

Section 700 General

A non-conforming use, lot or structure is one which existed lawfully, whether by variance or otherwise, prior to the date these regulations or any amendment thereto became effective, and which fails to conform to one or more of the applicable requirements of these regulations or any amendment thereto.

Section 710 Non-Conforming Uses

A. No non-conforming use of land shall be enlarged, extended or altered except in changing the use to one which is permitted in the District in which such use is located. No non-conforming use of an existing structure shall be extended to occupy land outside such structure or space in another structure.

B. No non-conforming use of land shall be moved to another part of a lot or outside the lot, and no non-conforming use of a structure shall be moved to any part of the structure not manifestly arranged and designed for such use at the time the use became non-conforming, and no structure containing a non-conforming use shall be moved, unless the result of such move is to end the non-conforming use.

C. No non-conforming use of land or of a structure shall be changed to any use which is substantially different in nature and purpose from the former non-conforming use, except such uses as are permitted in the district in which they are located.

D. When a non-conforming use has been changed to a conforming use, it shall not hereafter be changed to any use not permitted in the district in which the use is located.

E. Any non-conforming use which has been abandoned shall not thereafter be reestablished. Any structure or land, or structure and land in combination, which has been abandoned, shall not again be devoted to any use other than those uses which are permitted in the district in which the structure of land, or structure and land in combination, is located.

The term abandonment, as used herein, shall mean the discontinuance of a use, when accompanied by an intent not to reestablish such use. Any of the following shall constitute prima facie evidence of intent to abandon:

1) any positive act indicating such intent; or

2) in the case of a structure or of a structure and land in combination, discontinuance of the non-conforming use for 12 consecutive months or for a total of 18 months during any three-year period;

3) in the case of land only, discontinuance of the non-conforming use for 90 consecutive days, or for a total of six months during any one-year period.

Section 720 <u>Non-Conforming Lots</u>

A. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of these regulations, single-family dwellings and customary accessory buildings may be erected on any lot with non-conforming frontage provided no contiguous lots are in the same ownership as evidence by deeds recorded in the Land Records of the City of New London prior to the effective date of these regulations, or any amendments thereto which created such non-conforming lot, provided that construction on and use of each such lot shall comply with all other provisions of these regulations.

B. If two or more contiguous lots or combinations of lots or portions of lots in single ownership are of record at the effective date of these regulations, or any amendment thereto, and if all or part of such lots do not meet the requirements for lot frontage, width or area as established by these regulations, or any amendment thereto, the land involved shall be considered to be an undivided lot for the purposes of these regulations, except as provided in Article VII, Section 720.C herein. No portion of said undivided lot shall be used or sold as a building lot which does not meet lot frontage, width and area requirements established within these regulations, nor shall any division of a lot be made which leaves any remaining lot with frontage, width or area below the requirements stated within these regulations.

C. Where two or more lots or combinations of lots or portions of lots with continuous frontage are in single ownership as described in Article VII, Section 720.B herein and a lawfully erected building containing a primary use is located on such lot or lots, such lots shall be combined in such a way that each primary use is located on a conforming lot and in no case shall any lot be so created or maintained which is non-conforming in area, width, or frontage.

D. If any non-conforming lot contains an existing conforming use within an existing structure, permitted accessory uses may be erected and any existing conforming structure may be modified, altered, or expanded so long as all new construction complies with all other applicable requirements of these regulations.

E. However, no requirement contained within this Article VII, Section 720 shall supersede the provisions of Sections 8-26a, 8-28a and 8-28b of the Connecticut State Statutes.

Section 730 <u>Non-Conforming Structures</u>

A. Any non-conforming structure lawfully existing at the time of the adoption of these regulations may be continued to be used, as long as such use is either permitted within

the district in which it is located or is a legal non-conforming use; such structure may be expanded, modified or altered in accordance with the following provisions:

l) For non-residential structures, such expansion, modification or alteration must bring the non-conforming structure into conformity with district regulations and must not result in the expansion of a non-conforming use. No increase in the area, any dimension or bulk of structure in non-conformity shall be permitted and all new construction shall comply with all requirements of these regulations.

2) For residential structures, such expansion, modification, or alteration is permitted provided that no new non-conformity or increased encroachment results, or no non-conforming use is established or expanded.

B. If destroyed by fire or an act of God, legally existing non-conforming residential structures may be reconstructed to the original size, density of use, and location on the lot. If the structure is located in a flood hazard area, the reconstruction shall comply with applicable flood management regulations. *(Amended 07/26/06)*

Section 740 <u>Maintenance and Restoration of Structure Containing Non-Conforming Uses</u>

In order to assure that structures containing non-conforming uses will be maintained in safe and decent condition for so long as such non-conforming uses continue, nothing in these regulations shall be deemed to prohibit:

A. Work to be done on ordinary repairs, or on repair or replacement of walls, ceilings, floors, fixtures, wiring, or plumbing, in the non-conforming structure or non-conforming portion of the structure, as the case may be, provided that such work does not expand or increase the extent of the non-conformity.

B. Any work required by the codes and ordinances of the City of New London as ordered by any City official charged with protecting the public health, safety or welfare, if such work does not enlarge or extend a non-conforming use or otherwise increase any non-conformity.

Section 750 <u>Conversion or Intensification of Non-Conforming Uses</u>

Other provisions of these Regulations to the contrary notwithstanding, the Commission may allow by Special Permit a) the conversion of legally nonconforming nonresidential uses to residential uses is permitted by special permit but is limited to those residential uses otherwise permitted in the zone, or b) the conversion or intensification of an existing legally non-conforming commercial use (not including professional offices) to a use or uses that are substantially similar to the existing non-conforming use. Special Permits under either a) or b) above shall only be issued upon finding that the proposed use: *(Amended 07/24/13)*

1) Will not adversely affect the surrounding property or uses for reason of;

a. A change in the character of any structure.
b. Location and character or any proposed activities or operations.
c. Signs, lighting, noise, dust, refuse, odor, traffic congestion or hours of operation.

2) Is not materially different from the established use in terms of impacts, or more obnoxious to the surrounding neighborhood, and that the proposed use will result in the non-conforming property being kept in as good or better physical condition; thus, preserving property values in the surrounding neighborhood;

3) Will result in the preservation of structures or open spaces of historical interest or importance where applicable;

4) Does not require an increase in the size of the building containing the use or uses.

5) Does not encroach upon areas within the building already used for conforming uses;

6) Meets the other criteria of these Regulations for Special Permits as provided in Section 810.