

ARTICLE 9 NONCONFORMITIES

1. General: Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. A definition of each type is as follows:
 - A. Nonconforming Lot of Record: An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
 - B. Nonconforming Structure: An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
 - C. Nonconforming Use: An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
2. Nonconforming Lots of Record: The Building Inspector shall issue a building permit for any nonconforming lot of record, provided that:
 - A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
 - B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
 - C. Said lot can meet all yard regulations for the district in which it is located, and
 - D. Said lot can meet minimum standards for sewage treatment as required by the County Health Office.
3. Nonconforming Structures:
 - A. Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.

Article 10 – Special Use Permits

- B. **Enlargement, Repair, Alterations:** Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure; provided further, existing mobile home parks not meeting the requirements of these regulations shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of these regulations.

- C. **Damage or Destruction:** In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 50 percent of its appraised value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

- D. **Moving:** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4. Nonconforming Uses:

- A. **Authority to Continue:** Any lawfully existing nonconforming use or part or all of a structure or any lawfully existing nonconforming use of land, may be continued, so long as otherwise lawful.

- B. **Ordinary Repair and Maintenance:**
 - (1) Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

 - (2) Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.

- C. Extension: A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to:
- (1) Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).
 - (2) Extension of such use within a structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming); provided, however, that such use may be extended throughout any part of such structure that was lawfully and manifestly designed or arranged for such use on such effective date.
- D. Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50 percent of its appraised value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- F. Moving: No structure that is devoted in whole or in part to a nonconforming use and no conforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning districts in which it is located after being so moved.
- G. Change in Use: If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special use be changed to another nonconforming use provided that the Board of Zoning Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with Section 8.2(c). Once a

Article 10 – Special Use Permits

change is made to a more appropriate use, the use shall not be returned to the original use or a less appropriate use.

- H. **Abandonment or Discontinuance:** When a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
- I. **Nonconforming Accessory Uses:** No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.
- J. **Nonconforming Residential Uses:** Notwithstanding the provisions of Sections 8.4(C) and 8.4(D), any structure which is devoted to a residential use and which is located in a business or industrial district, may be remodeled, extended, expanded, and enlarged; provided that after any such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.
- K. **Nonconforming Uses:** All existing mobile home or manufactured home parks not meeting the requirements of these regulations shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of these regulations; except that, any existing manufactured home park developed according to a valid special use permit or other approved development plan, shall become a legal, conforming use under these regulations.

5. **Status of Special Uses:**

- A. **Status of Existing Special Uses:** Where a use exists at the effective date of these regulations and is permitted by these regulations only as a special use in the zoning district in which it is located, such use shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use in such zoning district. Such special use shall not be enlarged or expanded unless a special use application is approved as set out in Article 10 of these regulations.
- B. **Status of Future Special Uses:** Any use for which a special use permit has been issued, as provided in these regulations, shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use.