

ARTICLE 14. NONCONFORMING SITUATIONS

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14.1. PURPOSE AND SCOPE

There exist uses of land, structures, lots of record, and signs that were lawfully established before this Ordinance was adopted or amended, that now do not conform to its terms and requirements. A nonconforming situation occurs when, on the effective date of this Ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matter as density and setback requirement) is not in conformity with this Ordinance, because signs do not meet the requirements of this Ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance.

The purpose and intent of this article is to regulate and limit the continued existence of those uses, structures, lots of record, and signs that do not conform to the provisions of this Ordinance, or any subsequent amendments.

(Ord. 12/1/1997; 7/8/2014, 6-1)

14.2. GENERAL - MINOR REPAIRS AND MAINTENANCE PERMITTED

14.2.1. Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, lots of record, and signs in a safe condition are permitted, provided the minor repair or maintenance

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does not extend, expand, or enlarge the nonconforming aspect. For the purposes of this section, "minor repair or normal maintenance" shall mean:

14.2.1.1. **Maintenance of Safe Condition** - Repairs that are necessary to maintain a nonconforming use, structure, lot of record, or sign in a safe condition; and

14.2.1.2. **Maintenance of Land for Safety** - Maintenance of land areas to protect against health hazards and promote the safety of surrounding uses.

14.3. CHANGES IN TENANCY OR OWNERSHIP.

14.3.1. No change of title, possession, or right to possession of property, whether that property is real estate or an improvement to the real estate, structure or use, involved shall be construed to prevent the continuance of a nonconforming use.

14.4. NONCONFORMING LOTS OF RECORD.

14.4.1. No use or structure shall be permitted on a nonconforming lot of record except in accordance with the standards in this section.

14.4.1.1. **Conforming structures legally established on a nonconforming lot:** When a conforming structure is legally established on a nonconforming lot prior to the effective date of this Ordinance (or any amendment thereto) it may be continued, enlarged, extended, reconstructed, or structurally altered in any way that is in conformance with the standards of this Ordinance.

14.4.1.2. **Nonconforming structures legally established on a nonconforming lot:** When a nonconforming structure is legally established on a nonconforming lot prior the effective date of this Ordinance (or any amendment thereto) it may be continued, enlarged, or redeveloped only in accordance with the standards in **Section 14.6, Nonconforming Structures.**

14.4.1.3. Development of Unimproved Nonconforming Lots.

(a) **All other dimensional standards met.** When an undeveloped lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided that the setback dimensions and other requirements, except area or width, are met -In residential zones, only a single-family dwelling shall be permitted on the nonconforming lot. Nothing contained herein exempts a lot from meeting the applicable provisions of the Bladen County Health Department.

(Ord. 12/1/1997; 7/8/2014, 6-2.1(A-C))

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- (b) **Reduction in another dimension standard.** When the site conditions and lot non-conformity combine to require a reduction in other dimensional standards, side or rear setback standards may be reduced in proportion to the percent of nonconformity of the lot, up to 20 percent. Other or greater dimensional reductions must be requested through the variance process.

- (c) **Combination with another lot- Contiguous Frontage Only.** When two or more adjoining and vacant lots of record with contiguous frontage are in one ownership at the time of the adoption of this Ordinance or subsequent to adoption and said lots individually have a lot area or lot width which does not conform to the dimensional requirements of the district where located, such lots shall be combined to create one or more lots that meet the standards of the district where located. Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the Bladen County Health Department.

(Ord. 12/1/1997; 7/8/2014, 6-1.2.2(A-B))

- (d) **Reduction of a Conforming Lot of Record.** A lot of record reduced to less than the required area, width, or setback dimensions as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

(Ord. 12/1/1997; 7/8/2014, 6-2.3)

- (e) **Lot of Record with Setback Nonconformity.** When the use proposed for an undeveloped nonconforming lot is one that is conforming in all other respects except that the applicable setback requirements cannot reasonably be complied with, the use and setback modification may be requested through a variance with the Board of Adjustment. The variance procedure is outlined in **Section 6-4** of this Ordinance.

(Ord. 12/1/1997; 7/8/2014, 6-2.4)

- (f) **Development of Improved Nonconforming Lots in Residential Districts After Casualty Damage.** If a legally-established single-family attached or detached dwelling is destroyed by casualty on a nonconforming lot in a residential zoning district and it was part of a subdivision or division of land evidenced by plat or deed, or both, recorded prior to the date of adoption of this ordinance, an identical replacement use may be reconstructed within the same footprint as the use destroyed by casualty, even though the lot does not meet the minimum lot area or lot width requirements.

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14.5. NONCONFORMING USES

14.5.1. Nonconforming uses are declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance. Nonconforming uses shall be subject to the standards in this subsection. A nonconforming use occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a manufacturing business in a residentially zoned area is a nonconforming use.)

Cross Reference – Definitions in Article 2

14.5.2 **Continuance of Nonconforming Use.** Unless otherwise specified in this Ordinance, a nonconforming use legally existing at the time of adoption or amendment of this Ordinance may be continued so long as it remains otherwise lawful subject to conditions provided in this Section. The following regulations shall apply to the continuance:

- 14.5.2.1. No nonconforming use shall be changed to another nonconforming use.
- 14.5.2.2. The number of dwelling units in a nonconforming residential use shall not be increased.
- 14.5.2.3. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
- 14.5.2.4. The resumption of a nonconforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.
- 14.5.2.5. No additional structure(s) not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

(Ord. 12/1/1997; 7/8/2014, 6-3.1 and 6-3.2)

14.5.2.6. **Replacement of Manufactured Homes.** Nonconforming Class B or C manufactured homes may be replaced by a Class A manufactured home, or another nonconforming Class B manufactured home, provided:

- (a) The replacement nonconforming Class B manufactured home has a larger habitable floor area or newer construction date than the nonconforming manufactured home being replaced.

14.5.3. **Discontinuance or Abandonment.** A nonconforming use shall not be re-established after discontinuance for a period of 365 consecutive calendar days or more. Efforts to renovate or repair the use are not considered a vacancy, abandonment, or discontinuance, provided all appropriate development approvals are obtained, and provided the renovation or repair is completed within 365 days from commencement or repair or renovation, and the use is re-established within 30 days from the time the renovation or repairs are completed. Failure to complete the repairs or renovation

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within 365 days or re-establish the use within 30 days following repairs or renovation shall constitute discontinuance, and a nonconforming use shall not be re-established.

14.5.4. **Accessory Uses.** Once a nonconforming principal use is discontinued, all associated accessory uses shall cease operations within 30 days.

14.5.5. **Reconstruction after Casualty Damage.**

14.5.5.1. **Destruction or Damage Beyond 50 Percent of Value:**

- (a) In the event any nonconforming use is damaged or destroyed, by any means, to an extent more than 50 percent of its replacement value at the time of damage or destruction, it shall only be restored in a manner that conforms with the provisions of this Ordinance except as outlined in subsections (d) and (e) below.
- (b) New construction (including the establishment of off-street parking, landscaping, signs, and other site features) shall be in accordance with the requirements of this Ordinance.
- (c) A lawfully nonconforming multifamily residential structure located in a residential zoning district, if damaged or destroyed, by any means, to an extent more than 50 percent of its replacement value at the time of damage or destruction, shall be eligible for reconstruction to its prior level of density if a Building Permit for such restoration is obtained within six months of the casualty damage, and repair is actually begun within 12 months after the date of such damage or destruction and is diligently pursued to completion.
- (d) Such structures may be reconstructed to their previous form and location under the following circumstances, as applicable:
 - (i) A single multifamily structure has been damaged or destroyed.
 - (ii) The structures are duplex, triplex or quadraplex housing types.
 - (iii) The structures contain five or more units, are part of a larger complex of similar structures and not more than 50 percent of the total number of principal structures within the complex have been damaged or destroyed to an extent more than 50 percent of their replacement value.
 - (iv) Conforming buffers are established prior to issuance of the Building Permit(s).
- (e) Manufactured homes Class A, B, or C which are damaged or destroyed, by any means, to an extent more than 50 percent of its replacement value at the time of damage or destruction may only be replaced if the manufactured home is a conforming use on a conforming lot. No Class C manufactured

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homes shall be replaced by another Class C manufactured home. Class B manufactured homes shall be replaced only by a Class A manufactured home or a Class B manufactured home which has a larger habitable floor area or newer construction date than the nonconforming manufactured home being replaced.

14.5.5.2. Damage of 50 Percent or Less of Value.

- (a) In the event a structure housing a nonconforming use is damaged or destroyed, by any means, to an extent of 50 percent or less of its replacement value at the time of damage or destruction, it may be re-built to its previous form if a Building Permit for such repair or restoration is obtained within 180 days of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.
- (b) In no event shall repair or restoration increase, expand, or enlarge the degree of nonconformity.

14.6. NONCONFORMING STRUCTURES.

14.6.1. Nonconforming structures do not conform to one or more of the regulations applicable to the district in which the structure is located. Among other possibilities, nonconforming structures do not satisfy maximum height limitations, density requirements or setbacks.

Cross Reference – Definitions in Article 2

14.6.2 **Continuance of Nonconforming Structures.** Unless otherwise specified in this Ordinance, a nonconforming structure legally existing at the time of adoption or amendment of this Ordinance may be continued so long as it remains otherwise lawful subject to conditions provided in this Section. The following regulations shall apply to the continuance:

14.6.2.1. No nonconforming structure may be enlarged or altered in any way which increases its dimensional deficiencies; however, any nonconforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement of the structure shall conform to the current dimensional requirements. For example, a structure that has a five-foot side yard setback where the Ordinance requires a ten-foot side yard setback cannot be enlarged so as to further encroach into the side yard setback.

14.6.2.2. No nonconforming structure shall be moved, in whole or in part, or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated and with the requirements of the N.C. State Building Code.

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14.6.2.3. Extension, enlargement, reconstruction and/or replacement of nonconforming accessory buildings and structures shall not be permitted under this subsection.

(Ord. 12/1/1997; 7/8/2014, 6-3.1 and 6-4.2)

14.6.3. Restoration after Casualty Damage.

14.6.3.1. Destruction or Damage Beyond 50 Percent of Value.

- (a) In the event a nonconforming structure is damaged or destroyed, by any means, to an extent more than 50 percent of its replacement value cost at the time of damage or destruction, it shall only be restored in a manner that conforms with the provisions of this Ordinance.
- (b) New construction (including the establishment of off-street parking, landscaping, signage, and other site features) shall be in accordance with the requirements of this Ordinance.

14.6.3.2. Damage of 50 Percent or Less of Value.

- (a) In the event a nonconforming structure (or portion of a structure) is damaged or destroyed, by any means, to an extent of 50 percent or less of its replacement value at the time of damage or destruction, it may be re-built to its previous form if a Building Permit for such repair or restoration is obtained within 180 days of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.
- (b) In no event shall repair or restoration increase the nonconformity.

14.7. NONCONFORMING SIGNS.

14.7.1. Conformance Required. Any sign legally in use prior to the effective date of this ordinance or prior to annexation by the Town, which does not satisfy the requirements of this Ordinance is declared nonconforming and such sign shall either be brought into conformity with the provisions of this Ordinance or amortized under Section 14.7.2 The eventual elimination, as expeditiously and fairly as possible, of nonconforming signs is as much a subject of health, safety, and welfare as is the regulation of new signs.

14.7.2. Nonconforming and Prohibited Sign Removal Schedule. All nonconforming and prohibited signs not found in compliance with the requirements of this Ordinance shall be brought into compliance with the requirements of this Ordinance or removed entirely, including the entire sign and any associated components or equipment, no later than the compliance date shown in the Table 14-1 below.

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Table 14-1

Nonconforming Sign Compliance Schedule

SIGN TYPE	TIMEFRAME
Signs allowed without a permit in all zoning districts	1 month
Permanent signs that exceed the maximum copy area and/or maximum height requirements of this article	2 years
Permanent signs not permitted in the zoning district in which they are located	2 years

14.7.3. **Nonconforming Off-Premises Advertising Signs.** Off-Premises advertising signs (such as billboards) shall be subject to the regulations contained in **Section 10.19.6.**